Town of Newfane
Local Waterfront Revitalization Program

Adopted:
Town of Newfane, Town Board, March 26, 1997

Approved:
NYS Secretary of State Alexander F. Treadwell, January 14, 1998

Concurred:
U.S. Office of Ocean and Coastal Resource Management, March 6, 1998

This Local Waterfront Revitalization Program (LWRP) has been adopted and approved in accordance with provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a routine program change has been obtained in accordance with provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources, 41 State Street, Albany, New York 12231.

Town of Newfane

Resolution of the Newfane Town Board
Adopting the Town of Newfane
Local Waterfront Revitalization Program

WHEREAS, the Town of Newfane 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 and Draft Environmental Impact Statement were prepared and circulated by the Department of State with potentially affected State, federal, and local 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, a Final Environmental Impact Statement was prepared and accepted by the Newfane Town Board; and

WHEREAS, the Newfane Town Board has reviewed the proposed State Environmental Quality Review Act (SEQRA) Findings Statement attached hereto;

NOW, THEREFORE, BE IT RESOLVED, that the Newfane Town Board hereby adopts the SEQRA Findings Statement and directs the Town Supervisor to execute the Findings Certification thereon; and

BE IT FURTHER RESOLVED, that the Town of Newfane Local Waterfront Revitalization Program is hereby adopted and that the Town Supervisor is authorized to submit the Local Waterfront Revitalization Program to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

STATE OF NEW YORK)
)
COUNTY OF NIAGARA) **SS:**
)
TOWN OF NEWFANE)

I, Beverly R. Collins, Town Clerk of the Town of Newfane, Niagara County, New York, DO HEREBY CERTIFY, that I have compared the attached copy with the original Resolution of the Newfane Town Board Adopting the Town of Newfane Local Waterfront Revitalization Program adopted by the Town Board of the Town of Newfane at a meeting held on the 26th day of March, 1997, and that the attached is a true and correct copy of the original which is on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Newfane, this 7th day of May, 1997.

Beverly R. Collins
Town Clerk

- SEAL -

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

ALEXANDER F. TREADWELL
SECRETARY OF STATE

January 14, 1998

Honorable Timothy R. Horanburg
Supervisor
Town of Newfane
Town Hall
2896 Transit Road
Newfane, NY 14108

Dear Supervisor Horanburg:

It is with great pleasure that I inform you that I have approved the Town of Newfane Local Waterfront Revitalization Program. 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 valuable resources of the coastal area.

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

I look forward to working with you, as you endeavor to revitalize and protect your waterfront.

Sincerely,

Alexander F. Treadwell

Alexander F. Treadwell

AFT:pmf

DEPARTMENT OF COAST
MAR 12
RECEIVED

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

MAR - 6 1998

George R. Stafford
Director
Division of Coastal Resources
and Waterfront Revitalization
New York Department of State
41 State Street
Albany, New York 12231

Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management (OCRM) concurs with your request to incorporate the Town of Newfane Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Change (RPC). We received comments from seven Federal agencies, none of which objected to incorporating the LWRP as a RPC. This approval assumes you will make no further changes to the document in addition to the ones submitted.

Pursuant to your RPC submission, OCRM has identified the following new or revised enforceable policies: (a)(1); (a)(2); (a)(5); (b)(1); (b)(2);(c); (d)(2); (e)(1); (e)(2); (f)(1); (f)(3); (g)(1); (g)(4); (h)(5). Other changes to the state's enforceable policies based on the LWRP are essentially the same as those found in state law under 19 NYCRR, Part 600.5.

In accordance with the Federal Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the enforceable policies contained in the revised Town of Newfane LWRP after you publish notice of our approval.

Sincerely,

for James P. Lawless
Jeffrey R. Benoit
Director

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SECTION 1

WATERFRONT REVITALIZATION AREA BOUNDARY DEFINITION

1.0 LWRA BOUNDARY DEFINITION

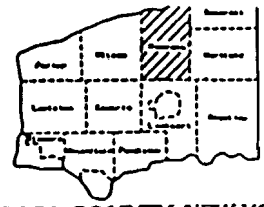
Description of LWRA Boundary

The major east/west component of the LWRA falls between the south shore of Lake Ontario and the southern right-of-way of Lake Road, or NYS Route 18, which has been designated the State's scenic highway touring trail (Seaway Trail). This was the principle justification for including its ROW within the LWRA. To the east of Eighteen Mile Creek and the Hamlet of Olcott lies ±320 acres of dedicated Niagara County Parkland, about 90 acres of which (along its western border) has been developed as Krull Park and the remainder of which is leased for farmland. The portion of Krull Park north of NYS Route 18 has been developed as a public beach. Like the county parkland parcel, virtually all the LWRA lands adjacent to Eighteen Mile Creek, i.e., that falling between the Lockport/Olcott Road (NYS Route 78), West Creek Road and Drake Settlement Road (the southern boundary) and including Palmer Airfield, lie south of the NYS Route 18 ROW. The creek itself is navigable up to Burt Dam, an abandoned hydroelectric facility lying approximately two miles upstream from the creek's mouth. The only other significant protrusion of the LWRA south of Route 18 is the +500 acre strip of land containing Hopkins Creek (which lies about 1- l/2 miles west of Eighteen Mile Creek) and runs south until it intersects Coomer Road. The east and west town lines form their respective LWRA boundaries. These areas incorporate all of the coastal resources of Newfane and constitute its LWRA as shown on Map 1.

MAP 1

TOWN OF NEWFANE

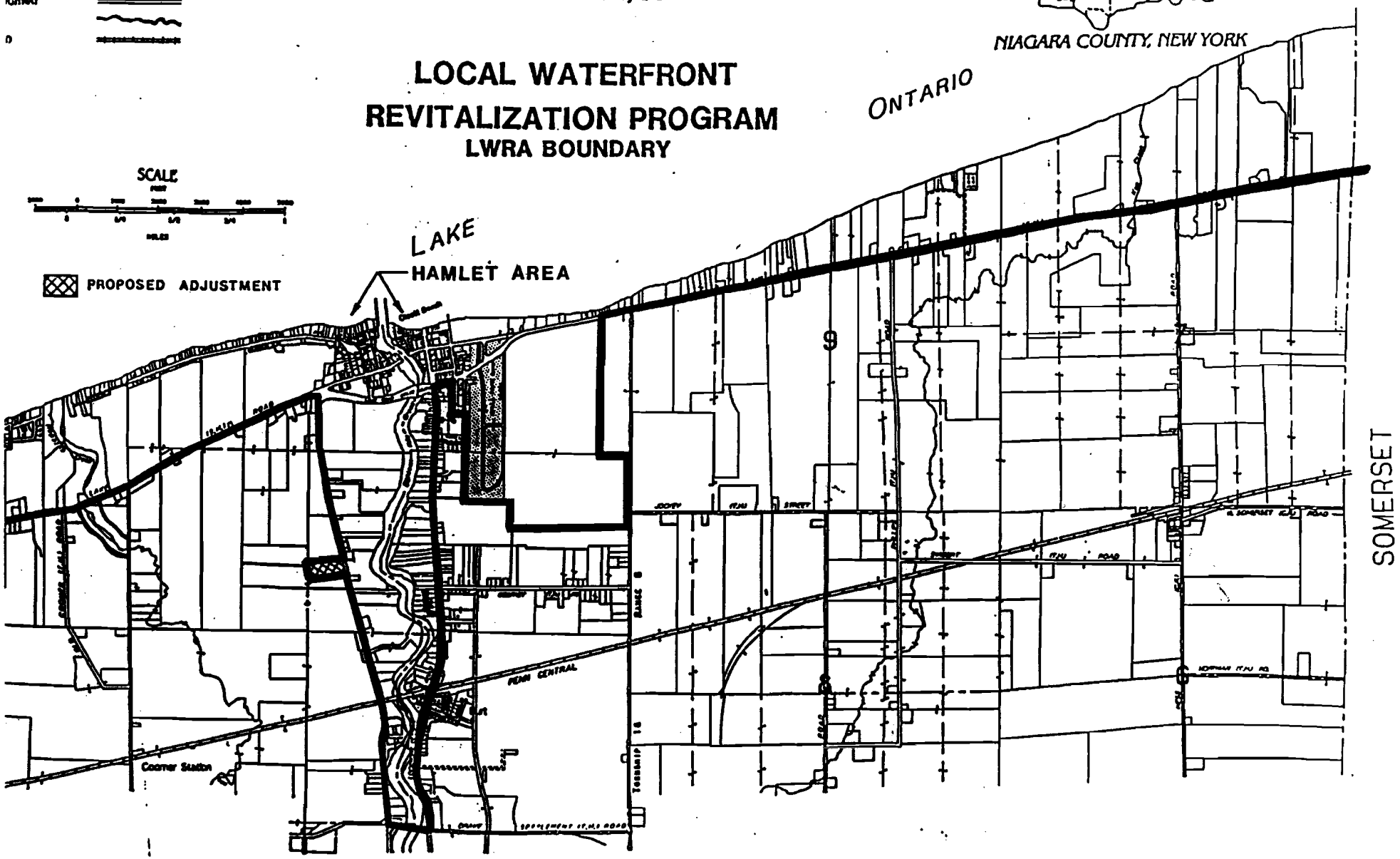
NIAGARA COUNTY, NEW YORK



NIAGARA COUNTY, NEW YORK

LOCAL WATERFRONT REVITALIZATION PROGRAM

LWRA BOUNDARY



SECTION 2

INVENTORY AND ANALYSIS

2.1 NATURAL RESOURCES

2.1.1 Geography

Newfane is situated in the Iroquois Plain below the Niagara Escarpment. Located in the north part of Niagara County, this plain is the final formation before Lake Ontario. It is primarily composed of sandy, fine-textured soils overlaid with glacial till. The area is underlaid with Queenston Shale bedrock (about 1200 feet thick) which consists of brick-red shale of various composition (including occasional clay and sandy particles).

The plain is relatively flat in Newfane varying only 60 feet from the south boundary of the LWRA-Drake Settlement Road to Lake Ontario (330 feet to 270 feet at the lake). This represents a general 0.5% slope in the area that leads to steep bluffs lining the lake and Eighteen Mile Creek. The lake level is about 245 feet resulting in 25 foot bluffs along most of the shoreline. Only a small portion of the waterfront at Olcott near Hopkins and Keg Creek are naturally accessible to the water due to the extensive bluffs. The steep bluffs are unstable and subject to erosion, especially along the lake where wave and weather have historically diminished the shoreline.

Predominate soils in the coastal area are part of the Howard-Arkport-Phelps Association. These are deep, well drained soils occasionally stratified with underlying sand and gravel and often possess a fine to very fine sandy loam surface. They are exceptionally good for farming and contain some of the best, highest yield fruit farms in the county. Subordinate soils include Claverack and Dunkirk which are similar and possess a sandy or silt loam surface layer. Primary problems of these soils are erosion from surface blowing, slope deterioration and high permeability creating potential pollution problems from septic systems. This requires proper farm cultivation practices, vegetative cover and sewer service to control development and extensive soil usage.

The area along Eighteen Mile Creek is similar to the coast in soil types but also includes soils common to the Niagara Collomer Association. These are somewhat poorly drained soils composed of a silt loam surface and silty clay loam subsurface. These soils are also good for farming, but represent significant restrictions to development due to drainage needs, sanitary sewer requirements and instability.

Table 1 indicates the relative amounts of soil coverage in each section of the LWRA. While all of the soils are good to excellently suited for farming, Arkport, Howard and Dunkirk soils are most acceptable of the group for development, Hudson soils are most poorly suited due to runoff/permeability/stability problems and the rest are marginally adaptable to development. Only Arkport and toward soils possess characteristics suitable for septic systems. Generally, these soils are fair to well suited

for wildlife habitats that need woodland and grain crop/pasture characteristics (eg: pheasant, rabbit, fox, woodchuck, grouse, squirrel, deer, raccoon) and poorly suited for wetland wildlife habitats (eg: characteristics suitable for ducks, herons, muskrat, beaver, etc.).

TABLE 1

PREDOMINANT SOILS

NEWFANE LWRP

	Olcott	Coastal Area West	Coastal Area East	18 Mile Ck. West	18 Mile Ck. East
Arkport	41.3%	27.1%	50.6%	1.2%	0.8%
Claverack	--	13.0%	--	--	--
Collamer	1.4%	--	22.6%	1.6%	--
Dunkirk	--	--	10.3%	--	--
Hilton	--	--	--	22.0%	43.2%
Howard	55.9%	46.8%	2.8%	55.7%	9.1%
Hudson	--	--	--	--	23.5%
Phelps	--	11.3%	--	8.5%	1.5%
Sub-total:	98.5%	98.2%	86.3%	89.2%	78.1%
Other[1]	1.4%	1.8%	13.7%	10.8%	21.9%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Soil Survey of Niagara Co., U.S. Dept. of Agriculture
Soil Conservation Service (1972).:

[1] "Other" represents various soils in minor amounts (less than 2X each) - Appleton, Canandaigua, Cosad, Cazenovia, Galen, Lockport, Niagara, Reinbeck and Alluvial.

2.1.2 Fish and Wildlife Habitats

Fish

Three principal habitats exist in the Newfane LWRA - Lake Ontario Shoreline, Eighteen Mile Creek and Keg Creek. The entire Lake Ontario shoreline is considered a significant spawning area for warmwater fish that attracts thousands of sport fishermen each year. These include game fish such as bass, pike, pickerel and muskellunge; pan fish such as yellow perch, bullhead, sunfish and crappie; and some coarse and forage fish that attract game fish (alewife, drum, etc.). Cold water species (smelt, trout and salmon) are also known to feed along the shoreline and habit area creeks. Eighteen Mile Creek is renowned as the location of exceptional spring and fall salmon and brown trout migrations. Limited to the lower section by the Burt Dam (two miles south of Olcott), the salmon runs attract snag fishermen in the fall. Brown trout and northern pike utilize the lower creek for spawning and refuge. Upstream of the dam is a warmwater habitat for pan and forage fish. Keg Creek is also known for spring migrations of rainbow trout, coho salmon and, occasionally, spawning runs of white sucker. Both creeks present favorable habitats for warmwater fish feeding and attract bass and others in minor numbers.

As a result of these habitats, the NYSDEC has established the area as a location for receipt of its Lake Ontario fish stocking program. In 1990, 167,600 lake trout, 35,000 brown trout, 9,780 rainbow trout, 97,420 coho salmon and 180,000 chinook salmon were released at Olcott and 11,100 steelhead trout were released at Keg Creek (NYSDEC, 1990). This represented 53% of the Lake Ontario stocking in Niagara County (949,610 in 1990). Increases are expected in subsequent years.

Fowl

The Lake Ontario shoreline is a minor natural habitat for wintering waterfowl offering open water, woods and marsh/wetland areas suitable for nesting (primary areas are along the Niagara River). Typical species observed during the 1977 NYSDEC survey included mallard, scaup, common goldeneye and merganser. They represented about 5% of the regional population surveyed and the smaller of the areas identified.

The LWRA has also been identified as a prime pheasant habitat. Areas of crop farming and brush land offer both cover and appropriate feedstock for the birds. While these areas have been reduced by development and changing farm practices (elimination of hedgerows and brush), a few areas along the coast still exist to the east of Olcott. Remaining woodlands along Eighteen Mile Creek, Keg Creek and Hopkins Creek offer cover and conditions for nesting of small birds such as sparrows, and songbirds.

Wildlife

There are no significant regional wildlife habitats within the LWRA. Focal areas offering characteristics sympathetic to wildlife cover include wooded areas, brushland and wetlands. Most of these are sparse and disrupted by either development or active farming and do not provide continuous forage/nesting opportunities. The prime area of potential is the wooded and adjacent wetland areas along Eighteen Mile Creek. This may offer enough space and continuity to support beaver, raccoon, muskrat, waterfowl and other small mammals. No deer wintering areas are evident.

Woodlands are likely to contain red maple, beach, hemlock, white oak, chestnut and hickory indigenous of the Oak Hickory biome prevalent in the county. Wetlands, primarily in Eighteen Mile Creek and Hopkins Creek are known to contain big burred, cattails, pondweed, wild celery and purple loosestrife (NYSDEC, 1976). Lilies are also evident along Eighteen Mile Creek near Burt Dam. Other potential plant species include bluebottles, gentian and a variety of ferns.

The majority of mammals found in the area include those tolerant of human activity. These are fox, squirrel, skunk, opossum, moles and mice which easily find cover in brush, fields and ground.

2.1.3 Flood, Erosion and Wetlands

Flood areas along the Newfane shoreline are limited by the steep bluffs that line most waterfront areas. Principal low lands subject to flooding exist in Olcott (along the shore west of Eighteen Mile Creek) and along Hopkins and Keg Creeks. Minor flooding also is possible along the east shore of Eighteen Mile Creek in Olcott. Although these areas are subject to periodic 100 year flooding (FEMA Flood Maps, 1981), only the Olcott area poses any threat to development (Map 2).

Shoreline erosion in the waterfront represents major problems as area soils and shale bedrock are quite susceptible to deterioration in steep areas. Major Lake Ontario shoreline damage occurred in 1973 as a result of heavy storms. Significant bluff erosion was noted and Federal grants were made available to coastal residents for erosion protection facilities. Each landowner was offered up to $5000 each. However, the diversity of implementation and lack of continuity in the program compromised its effectiveness. Some owners have established successful bank protection through terracing, planting and shorewalls, while an adjacent property that did not participate has eroded undermining the protection structures. Still others used much less effective means that have had little success. The use of large stone rip-rap (boulders), interlocking concrete planks and, to a lesser extent, filled drums have

been successful in slope stabilization along with the use of vegetative cover. Unprotected areas have lost 10-15 feet of shoreline relative to the protected areas. Map 2 indicates the sections of Lake Ontario and Eighteen Mile Creek that are continuing to possess high erosion potential.

The majority of the Lake Ontario shoreline contains "natural protective features" that reduce shoreline erosion and protect property. They are comprised of the steep bluffs and occasional beaches. The area (Map 2) is identified on NYSDEC Costal Erosion Hazard Area maps and covers most of the lakefront outside of Olcott Hamlet (from the west town line to West Olcott Beach/end of the bluff and from Lockport Street/Route 78 to the east town line). A "structural hazard area" along Lake Ontario from Phillip Road west approximately 2500 feet west. Erosion is identified at a rate of 1.0 feet per year (NYSDEC Coastal Maps) and would require a 65 foot development setback from the top bluffs (Article 34; 6NYCRR Part 505). Town of Newfane ordinances require a 100 foot setback along lakes and streams.

Map 2 also documents wetlands within the LWRA. Numerous wet areas exist in the area and are characteristic of soil deposits and glacial formation of the Iroquois Plain. Most are too small for state designation and offer little benefit to plant/wildlife species. Major wetlands include Eighteen Mile Creek and Hopkins Creek. The Hopkins Creek wetland (approximately 30 acres) is closed to the lake most of the year. It is well established and offers plant and wildlife habitat opportunities, with little benefit for fisheries, unless the mouth of the stream is open during a period when lake fish would attempt to spawn. The Keg Creek wetland runs along the creek from Lake Ontario to Route 18 and occupies the low adjacent lands. Situated among farm land, it is better suited to fish habitats and is known for spring spawning and spring and fall fish runs that attract numerous anglers (low summer flows limit the season). Heavy pedestrian traffic during runs often trample and litter the area threatening the characteristics that attract the fish. Vehicular traffic and parking congest the road and cause hazards to travelers.

The Eighteen Mile Creek wetland (60± acres) stretches from the Route 18 bridge to Burt Dam. Open to Lake Ontario, the wetland is continually flushed from lake inundation and upstream flow. It is 8-12 feet deep along its narrow channel and lined with alluvial flats (2 to 3 feet deep) that support characteristic plants and afford both wildlife and fish habitat. While some warm water fish spawning occurs, annual fish runs of stocked salmon attract substantial anglers. The Burt Dam thwarts salmon spawning attempts, but is the focus of thousands of fish snaggers annually to take advantage of the run. The result, however, is extensive littering of fish carcass abandoned along the creek. The upper reaches not only present major habitat opportunities, but also offer dramatic aesthetic/scenic values of land forms and flora. The primary threats to this wetland are from development (marina) pressures north of Route 18 and extensive upstream pollution that has contaminated sediment with

metals. U.S. Army Corps of Engineers' evaluation of stream sediment and water quality (1981) documented the extensive pollution problem as far north as the mouth of the creek.

2.1.4 Water Resources

Principal water resources in the coastal area include those already identified – Lake Ontario, Eighteen Mile Creek, Hopkins Creek and Keg Creek. There are four other streams along the waterfront that are intermittent drainage ways flowing sporadically during the year.

Lake Ontario is an open, deep body of water with a diversity of uses (recreation, power generation, ship transport, industrial use, water supply, etc.). In the Newfane area, it is primarily a recreational resource. Area and regional residents utilize the lake for swimming, fishing, boating and tourism for a large part of the year. These uses form the economic basis of the area and have historically been the attraction for Town Coastal Development. Much of the shoreline development has located along the waterfront to take advantage of either water access or scenic opportunities afforded by the lake.

The lake water quality is classified as an "A" segment (swimmable, fishable, water source). As the last downstream lake in the Great Lakes system, it contains the culmination of upstream pollutants and fluctuates in water level (4 feet) as part of the joint U.S./Canadian control of the system. The lake is subject to rural farm runoff (fertilizer, pesticides), industrial discharge and toxic seepage, municipal treatment plant surcharges and septic leachate. In the 1970's, Lake Ontario experienced a number of recorded fish kills and sporadic beach closings due to toxic absorption and high coliform bacterial levels, respectively. Although not recurrent since 1976, this problem is of paramount importance to the community and its dependence on recreation use of the lake.

Eighteen Mile Creek is a major lake tributary draining 93 square miles of land from Lockport to Lake Ontario. The last 2.5 miles (Drake Settlement Road to the lake) is in the LWRA outflowing into Lake Ontario at Olcott. The creek is divided into three major segments:

1. Olcott Harbor (Route 18 to Lake Ontario) – The harbor is used actively for boat recreation, launching and lake access and is classified as a "B" segment. The entrance is protected by two Federal piers and maintained by USCOE dredging annually (12 feet depth). This confluence of lake and creek has been a historical focus of Town water activity and the initiative for settlement at Olcott.

2. Eighteen Mile Creek Wetland (Burt Dam to Route 18) – Previously described (2.1.3), this segment is used for fish and wildlife habitat, bank fishing and boat/sport fishing. The Burt Dam (an old hydro-electric dam) restricts upstream fish spawning, but is the focus of annual fish runs that attract fishermen to the culmination of salmon migration. It carries a Class C designation.

3. Upper Creek (Drake Settlement Road to Burt Dam) – The area above the dam support selected pan and forage fish and is used for bank fishing. Limited access restricts usage. The area has been subject to industrial discharge from firms in Burt.

The water quality of Eighteen Mile Creek has long been a problem as it is the culmination of extensive upstream industrial and municipal discharges. In addition, permeable soils along the creek enable rural septic leachate and farm-runoff to infiltrate the water and bottom sediment. This has resulted in extensive bottom pollution and occasional water pollution that effect water uses. Wetland plants/vegetation provide some beneficial effect in precipitating and entrapping heavier pollutants and restricting their flow to Lake Ontario. This also keeps creek sediments concentrated though and compromises its fish and wildlife attributes. The creek also offers dramatic scenic opportunities from the surrounding banks and from water level (by boat) of vegetation, slopes and water.

Keg Creek is a small stream in the eastern LWRP. It provides excellent fishing opportunities during annual fish migrations. Low water flows in the summer months do not allow for extended use. The creek drains farm land to the south and is subject to runoff problems. Also an undesignated wetland (Route 18 to Lake Ontario), it offers marginal habitat benefits due to the lack of surrounding supportive land characteristics. It is a "D" classified stream of poor quality.

Hopkins Creek in the western portion of the LWRA includes the segment from Coomer Road and across Route 18 to Lake Ontario. Closed much of the year by siltation at the mouth, it offers limited use opportunity. Its closure has created a well-established wetland at the mouth that has wildlife and scenic benefits, but little fishing opportunity. It also provides drainage and flood relief for surrounding lands. Due to the major fish activity in other area streams, there is little doubt that the opening of this creek would further encourage fish spawning/feeding. However, it would also compromise the continuity of the wetland. The creek segment also carries a "D" classification.

The value of the water resources to the Newfane and county economy is of major importance. Recent studies by Niagara County attest to the impact on the community. They indicated that county fishing and boat recreation along Lake Ontario resulted

in the highest yields and greatest angler days in the State for salmon, trout, black bass and panfish (December 1976-1977).

Between 1980 and 1987 resident fishing licenses increased from 1,012 to 2,374 while non-resident licenses increased 79 to 11,184 (predominantly Ohio, Pennsylvania and Ontario). Average daily expenditures in the area were indicated to be $20-25 per day resulting in $10-12 Million in annual revenues generated for area businesses. These are expected to grow during the 1990's.

Boat launchings and moorings also Increased with 54.6% of 1981 county launches occurring in Olcott. By 1989, the number of launches at Olcott increased to 10,048, nearly a 59% increase from 1981.

The Niagara County Study projected a need for facilities to accommodate 1420 new daily launchings and 1200 new boat slips within the next five years. This is nearly 3.2 times the 1980 daily launches in the county of 440 per day. A substantial amount of this estimated demand will be focused on Olcott due to its current dominance in county boating/fishing activity. This has created significant pressures for development of access and mooring facilities. If only one-half of the existing county demands were focused on Olcott (25% of the county rather than 54.6%), then 1500 additional fishermen could be anticipated, generating 350 daily launches; requirements for eight new launch ramps; 300-400 new mooring spaces; and $3 Million in new expenditures in the area. This development would require substantial improvements to area water-oriented and support facilities.

Olcott Harbor is the most developed of all waterfront resources. The entrance is protected by two Federal Piers (protection and fishing) maintained by the U.S. Army Corps of Engineers which dredges and disposes of material in an open lake site 1.5 miles north of the harbor. The harbor contains 30 public slips (with parking for 60 trailered vehicles) and 88-90 private slips. The Town Marina possesses the only public launch ramps in the area. There are no public slips or parking on the east side of the harbor. Expansion opportunities in the harbor include the Town Marina (20-30 slips and parking), the basin on the west side south of the Yacht Club and additional slips along the east side of the harbor. There are major impediments to each of these opportunities that would need removing before expansion could take place. These include:

- Shallow bedrock in the west harbor basin would require blasting. The basin is lined with developed property.

- The east harbor shore is privately owned and steeply sloped necessitating acquisition and major slope renovation for any access.

- The harbor channel still contains an old bridge abutment, left from removal of the Main Street bridge, and a shallow flat that is a hazard to navigation and limits expansion in the narrow part of the harbor toward Route 18.

- The harbor area adjacent to the Federal Piers is subject to wind and wave actions that damage moored craft. An outer breakwall at the harbor entrance is needed to effectively use this area (west harbor basin and east shore to Main Street).

2.2 COASTAL CULTURAL RESOURCES

2.2.1 Land Use

Olcott has historically been a focal point of maritime, tourism and recreation activity since the early 1900's. Originally a commercial harbor for freight transfer and trade, the Erie Canal significantly reduced its importance in marine commerce. Commerce facilities eventually gave way to dockage, fishing and marine repair uses. This rose to its height during the 1930's and 1940's when regional transit/trolley service brought thousands of tourists to Olcott for swimming and recreation at the hotel and its beach and pier (now Krull Park). The commercial center (East Main Street) was alive with amusements, restaurants and tourist service/commerce. This has declined until there is only the fishing and marine activity left to support the community. The hotel is seldom used, commercial-recreation facilities on East Main Street are deteriorated and under utilized, facilities on each side of Eighteen Mile Creek are isolated from one another and marine structures are in disrepair. In addition, the fully developed and deteriorated state of much of the adjacent waterfront area discourages revitalization efforts and private investment. Deteriorated residential and commercial areas east and west of the harbor must be redeveloped to accommodate parking and support services necessary to enhance marine uses.

The LWRA is predominantly composed of rural uses. Development is concentrated in the communities of Olcott and Burt and in low-densities along the Lake Ontario Shoreline and the east side of Eighteen Mile Creek. The only other concentrations of development in the Town of Newfane are the hamlets of Newfane and Wrights Corners south of the LWRA. The identified coastal area contains 1968.9 acres and represents 6.0% (32,920 acres on 53 square mile, total town area) of the Town and 36.1% of areas in hamlets (5459 acres of hamlets in Town).

Map 3 depicts categorical land uses within the LWRA as collected from field surveys (October 1984). Detailed acreage as identified were calculated from Town assessment maps and summarized in Table 2. The Hamlet of Olcott is 212.6 acres and represents 10.8% of the LWRA area. However, it contains 33.2% of developed land (residential, commercial, industrial), 14.6% of the public/semi-public land

(recreational) and 53.0% of the dwelling units. The hamlet is predominantly residential (36.2%), while the rest of the LWRA is agricultural (42.7%) and woodland (20.0%). All commercial uses in the LWRA are in Olcott.

TABLE 2 ·

LAND USE
(Acreage)

	Olcott	**%**	**Remaining Area**	**%**	**Total LWRA**	**%**
Residential	77.0 Ac.	(36.2%)	226.8 Ac.	(12.9%)	303.8 Ac.	(15.4%)
Dwelling Units	342		261		603	
Seasonal	--		38		38	
Multiple Family	--		4		4	
Commercial	39.1	(18.4%)	--	(--)	39.1	(2.0%)
Industrial	--	(--)	6.8	(0.4%)	6.8	(0.3%)
Agricultural	--	(--)	841.1	(47.9%)	841.1	(42.7%)
Woodlands	--	(--)	169.8	(9.7%)	169.8	(8.6%)
Public/ Semi-Public	57.3	(27.0%)	335.6	(19.11%)	392.9	(20.0%)
Roads/ Utilities	30.7	(14.4%)	95.2	(5.4%)	125.9	(6.4%)
Public	30.5	--	85.1	--	115.6	--
Private	0.2	--	10.1	--	10.3	--
Vacant	8.5	(4.0%)	81.0	(4.6%)	89.5	(4.6%)
Total:	212.6 Ac	(100.0%)	1756.3 Ac	(100.0%)	1968.9 Ac	(100.0%)

Residential

Residential uses comprise 15.4% of the coastal area. These are primarily single-family units concentrated in Olcott at a density of 4.4 dwellings per acre. The remainder of the LWRA is lower density singles at 1.3 units per acre. Thirty-eight (38) seasonal units exist adjacent to Hopkins and Keg Creeks and one recent apartment (four units) has been built near Phillips Road (east of Olcott). Most of the dwellings are in fair to good condition except for a concentration of crowded, deteriorating units in east Olcott (north of Route 18). Areas of deficiency are shown on Figure 1. Conditions were improved with assistance of an approved HUD Small Cities Block Grant for renovation of the Target Area ($750,000). Low-density residences also line the east side of Eighteen Mile Creek south to Burt and the southern-most part of the west side. These are on large lots in good condition.

Commercial/Industrial

All of the area commercial development is in Olcott. These include marine service around the harbor, seasonal tourist facilities along East Main Street (bar, amusements, old hotels, etc.), a bait/tackle shop on Route 18, gas station on Lockport Street and a new restaurant/motel on Route 18. The East Main Street commercial area was quite deteriorated and was scheduled for district renovation as part of the above mentioned HUD Grant (Figure 2). While area attractiveness and economic viability will be improved with this program, parking and diversity of services still remain major problems. Commercial uses represent only 2.0% of the LWRA.

Industrial uses are located in Burt and represent 0.3% of total coastal land (6.8 acres). Among these is the Burt Dam, a hydroelectric facility which has been renovated by a local consortium and currently generates power.

Recreation

Existing recreation opportunities in the coastal area are heavily oriented toward water activities. The primary facilities are publically owned and reside in Krull Park, the Town Marina and Fisherman's Park. These uses total 329 acres and comprise 83.7% of all public/semi-public uses and 16.7% of total LWRA lands. They are developed as follows:

- Krull Park (318 acres, County owned) – The park possesses 45 acres of development which includes 1680 feet of shoreline in Olcott. It was the site of the old Olcott Hotel and pier that attracted tourists each summer. It currently contains a beach, parking, playground, ball fields and a gently terraced slope to the water.

- Newfane Marina (6.78 acres, Town owned) – The park is a public launch site on the west side of Eighteen Mile Creek at the Route 18 bridge. It contains six ramps, parking (50-60 spaces), restrooms and 30 seasonal and 25 transient docks in excellent condition.

- Fisherman's Park (3.8 acres, Town owned) – This steep site on Eighteen Mile Creek at Burt is a fishing access with 30 parking spaces off Route 78.

Other private recreation opportunities include the numerous marina facilities in Olcott Harbor. Many of these are under-utilized and in need of improvement. The lake and coastal creeks also represent significant recreational resources for fishing and boating activity. These facilities are heavily used in spring, summer and fall. Each year, six annual fishing derbies are held at Olcott which attracts thousands of anglers and burdens area services.

Agriculture

Farming represents the largest single use in the Newfane waterfront (42.7% of total lands). The area contains some of the finest orchards in Niagara county yielding apples, cherries, peaches and pears. Orchards line the lake shore east and west of Olcott and are afforded some protection from existing Agricultural Districts. The area west of Olcott is part of the Newfane-Wilson Agriculture District (4,190 acres of which 7.8% or 325 acres is in Newfane) and the area east of Phillips Road is part of the Newfane Somerset/Hartland Agriculture District (12,735 acres of which 4.1% or 516 acres is in the LWRA). This does not eliminate development pressures and care should be taken to preserve this valuable resource.

The best farming and prime soils are located north of NYS Route 18. The entire area is viable farmland except where development around Olcott exists. The 841+ acres actively farmed in the LWRA represents 0.6% of the 152,713 acres of cropland in Niagara County and 5.0% of the 16,925 acres in local agricultural districts. Local proposals for residential use have requested up to 50 acres for subdivision coincident with sewer/water west of Olcott. This represents less than 6.0% of LWRA agricultural lands (0.3% of farmland in local districts) and poses no significant threat to this key waterfront resource. If development occurs, it will displace a small amount of farmland in order to protect the waterfront for public access (e.g., shoreline).

Limited crop farming is also conducted along the west side of Eighteen Mile Creek. Some of this land has been removed from active production and is being reclaimed by brush.

Other uses in the LWRA include woodlands (20.0%), roads/utilities (6.4%) and vacant land (4.6%). The lake shore also contains some private roads (10.3 acres - 8.2%of all roads) which provide lakefront access. Originally used for seasonal cottages, the roads now serve year-round residences that will likely generate increased municipal service demands in the future.

2.2.2 Zoning

Zoning within the LWRA is shown on Map 4. It includes a diversity of residential and commercial uses reflecting the prominence of Olcott development for residential classes (R 6, R-20) and marine business (MB). Generally, Olcott includes the highest density classes within the LWRA. The R-6 residential district allows 6,000 square feet lots (single-family), churches, schools, parks, clubs, utilities and marine business by special permit.

The ordinance provides preference for water-dependent and water-enhanced uses over non-water related activities and establish consistency between local development regulations and LWRP policies and plans. The ordinance includes an LWRP reference in its defined purposes to incorporate the LWRP in development reviews, additions to the special exception section for coastal uses and supplemental regulations for development setbacks along the shoreline consistent with flood/erosion hazard protection.

Acceptable coastal uses are concentrated in the Marine Business District (MB) along Eighteen Mile Creek in Olcott. The marine business district MB district provides for marinas, marine sales/services, boat launches, shoreline structures and other water-related facilities. The special permit section (Article VIII) is used to insure priority of these activities over other, non-related uses (all MB are by special permit consideration).

The area outside of Olcott (Hopkins Creek to Transit Road) and along Eighteen Mile Creek is zoned R-20 to the east and R-12 to the west. This allows low-density residences on 20,000 and 12,000 square foot lots respectively. This is generally compatible with existing agricultural uses in the area and reflects the availability of sewer and water west of Olcott. The area south of Route 18 has recently been re zoned (to a depth of 1,000 feet) to Highway Commercial to provide for expansion of a permitted restaurant and hotel and include camping. This is also the area along the creek identified for upstream marina expansion. This zone does not allow marine business, but does provide for water enhanced and support uses. A small section of Village Business zoning exists at Burt (at the railroad right-of way). It allows recreation and parking facilities, but neither water-dependent or water-enhanced uses are part of the district.

The remainder of the LWRA is designated ARR (Agriculture Recreation Residence). This is primarily a farming district (residences require a 40,000 square foot lot), but provides for a full range of commercial and industrial uses by special permit.

The ordinance provides for the review of all development in the coastal area and triggers LWRP review as part of building permit or site plan consideration and, simultaneously, coastal assessment review (part of Local Law No. 1, 1977 as amended).

2.2.3 Public Access

Opportunities for public access to water resources in the Newfane coastal area are limited by both topographic and ownership restrictions. The Shoreline of Lake Ontario and Eighteen Mile Creek are lined with steep bluffs of 25 to 60 feet in height that significantly impair the ability of residents, fishermen and the public from reaching the water.

As a result, many residents with shoreline property have built stairways to the shore to access private docks. Principal areas of natural access are in Olcott, Burt, Hopkins Creek, Keg Creek and a few isolated areas along Lake Ontario where drainage channels have cut through the steep slopes. Natural access areas are shown on Map 5.

While natural access is limited, problems of shoreline/foreshore ownership (Map 5) present much more formidable restrictions. By linear feet of shoreline (Table 3), only 14.5% resides in public or semi-public ownership. The Lake Ontario shoreline is 9.6% public, but Krull Park accounts for 50.8% of the total. The rest is in semi-public ownership (church, utility, etc.) and two street ends (Lockport-Olcott Road and Transit Road). The rest of the 6.5 mile Lake Ontario shore is in private ownership. This includes areas adjacent to Hopkins and Keg Creeks, the beach west of Olcott Harbor and the bulk of the shoreline. While there is no public access along Hopkins and Keg Creeks (except at Route 18), fishermen are often allowed private access during fish migrations.

Along Eighteen Mile Creek, there are equally few places of access. Public/semi-public ownership represents 20.3% of the 5.4 Mile shoreline including the Town Marina (in the west side of the harbor), Main Street street ends (each side of the harbor), Ontario Street street end (east side of Olcott Harbor), the Town Fishing Park at Burt and semi-public access (utility property) at the Burt Dam. The two Town parks have improved stair/walk access to the water and parking facilities. The rest of the creek shore is under private ownership.

The primary access problem tn the LWRA is in Olcott Harbor where there is a conflict of natural access availability and lack of public ownership/access to allow water usage. The harbor shore is mostly privately owned (34.2% public/65.8% private) by marina operators who restrict water access. The bulk of public access is on the western side of the harbor (the Town Marina) and this is often over-burdened during the fishing season. The only access on the eastern shore is by town street ends that offer little access due to their isolation and high slope to the water.

TABLE 3

Shoreline Ownership
Newfane LWRA

	Olcott	**Remaining Area**	**Total LWRA**	**%**
Lake Ontario				
public	2150′	1160′	3310′	(9.6%)
private	2320′	28740′	31060′	(90.4%)
Sub-total:	4470′	29900′	34370′	
(%):	(13.0%)	(87.0%)		(100.0%)
Eighteen Mile Creek	2000′	3855′	5855′	(20.3%)
public	3850′	18945′	22795′	(79.7%)
private				
Sub-total:	5850′	22800′	28650′	
(%):	(20.4%)	(79.6%)		(100.0%)
Total Public:	4150′	5015′	9165′	(14.5%)
Total Private:	6170′	47685′	53855′	(85.5%)
Grand Total:	10320′	52700′	63020′	(100.0%)
% Total:	16.4%	83.6%	100.0%	

The other major access problem is the Federal Fishing Piers that flank Olcott Harbor and maintain its opening. Built as a US Army Corps of Engineers project, they have never had full public access. The west pier is adjacent to the Olcott Yacht Club

(private). The club has graciously provided fishing access and parking opportunities since construction of the piers, but this often overtaxes their facilities.

Public access to the east Federal pier must be improved. The pier is currently usable by the general public but lacks parking opportunities in a fully developed area (Krull Park is the nearest parking). In addition, the pier is also isolated by private property and unclear right-of-way titles. As a result, it has never enjoyed public use.

2.2.4 Visual/Historic Resources

The extensive bluffs along the Newfane shoreline offer a considerable number of local and area visual opportunities to Lake Ontario. The portion of Krull Park along the lake offers the most dramatic of these due to lake adjacency and the high elevation of the park bank above the lake. The area east along Route 18 to Transit Road also presents vistas of the lake that attract area tourists. The end of Transit Road (north of Route 18) contains a vista similar to Krull Park. However, little opportunity exists for view due to the lack of parking/pull-off facilities. Other local vistas are shown on Map 5.

Areas of view/vista along Eighteen Mile Creek include the view of the gorge from the railroad right-of-way at Burt and the Burt Dam. Both offer elevation changes that present a limited vista. Similar views of the upper creek are afforded from West Creek Road and Drake Settlement Road. The view up Eighteen Mile Creek from the harbor or from a boat in the creek provide an excellent natural/pastoral setting. This is only occasionally broken by boat dock or boardwalk over the shallow areas of the creek. The lush vegetation and treed slopes create a picturesque scene in the creek gorge.

Route 18 travelers are also presented with numerous opportunities for sighting of the lake, orchards in bloom and creeks. The view of Hopkins Creek from the road is particularly pleasant with steep treed sides in contrast to the adjacent fields. In general, Route 18 represents a continuous visual access point for area vistas and natural visual resources (orchards, woods, creeks). These features should be promoted as part of the State Scenic Trail/Seaway Trail which Route 18 is designated.

Numerous local vantage points exist along Lake Ontario that are available only to adjacent, private owners. This was a major attribute in residential location along the lake. The only principal detraction of visual resources in the LWRA exists in the harbor itself. The poor condition and layout of private dockage and waterfront marine facilities tend to reduce the visual opportunities and compromise the aesthetics of the harbor area.

The tributaries to Lake Ontario are also areas of historic cultural development in the region. The coastal area is reported to possess a number of important archaeologic sites in or adjacent to the LWRA (NYS Archaeological Site Inventory Map). These include two pre-historic burial mounds along Eighteen Mile Creek, a proto-Iroquoian village site near Hopkins Creek, transient camp sites at Olcott Orchard and Keg Creek and the Olcott Bridge Site. In general, Eighteen Mile Creek, Hopkins Creek and Keg Creek are sensitive archaeologic areas.

There are no historic resources of state-wide significance in the LWRA. Local resources, which may be eligible for historic designation, are shown on Map 5 and include:

- Cemetery on Route 18 near Phillips Road
- Olcott Hotel on Main Street in Olcott and the old deteriorated hotel pier in Krull Park
- Grist Mill site in Burt adjacent to the Town Park
- Olcott Amusement Park on Main Street
- Van Horn Mansion on Route 18 in Burt

Any actions involving the above sites must respect their prospective historic value. Evidence of archaeological importance must be properly surveyed and documented by proper authorities prior to continuation of construction. The Niagara County Historian or the New York State Office of Parks, Recreation and Historic Preservation should be contacted for appropriate procedures and eligibility requirements for historic designation.

2.3 PUBLIC SERVICES/INFRASTRUCTURE

2.3.1 Water

Public water supplies are universally available in the coastal area (Map 6). It is provided by the Niagara County Treatment Plant from the Niagara River and distributed throughout the LWRA via Town distribution mains. The system has been undergoing rehabilitation over the last five years and possesses good capacity and pressure to most areas. Primary supply is via a 10-inch transmission main on Transit Road and 8-inch trunk mains on Lockport-Olcott Road and Route 18. A 150,000 gallon storage tank in Olcott provides reserve capacity for the hamlet.

The only prospective supply problem in the coastal area is the existence of old, small (4 inch) mains in the hamlet of Olcott – the old housing area west of the harbor and the commercial area along Main Street east of the harbor. These are in need of improvement/enlargement to insure local capacity in the future. These laterals would

also be inadequate for commercial fire flows should the area be targeted for new development. It will be necessary to replace these smaller lines to guarantee adequate marine and commercial protection as part of LWRP plans.

2.3.2 Sanitary Sewers

Sanitary sewers in the LWRA are provided by a mixture of public and private systems. Olcott and the residential areas between Hopkins Creek and the Newfane Treatment Plant (east of Transit Road) are part of Town Sewer District #2 and its facilities (Map 7). These are comprised of gravity and force mains/lift station to serve Olcott and the adjacent area. West Creek Road, Route 18 east of the plant and west of Olcott and the outlying areas are served by private septic systems with varying success.

Areas with public sewers flow to the Town treatment plant which handles all town sewered areas. The plant has a 1.6 million gallon per day capacity and can accommodate all domestic or residential waste generated in the area. It has restrictions on industrial solids and is near its limit at this time. The Town has a local sewer use ordinance and industrial pretreatment standards that reflect state standards. The plant outfalls into Lake Ontario and is currently well within state treatment standards.

As noted in the section on geology (Section 2.1.1), the soils along Eighteen Mile Creek and certain subordinate soils along Lake Ontario are subject to septic pollution and represent a development limitation. There is, therefore, a need to extend sewer facilities within the LWRA to protect water resources and, simultaneously, limit urban development to areas that are sewered. Since new development will be targeted for the Olcott area, new service priorities should be coordinated with LWRP projects and secondary considerations given to the remaining parts of the LWRA to insure the continued quality of area water resources. Any industrial proposals in the area must satisfy pretreatment standards or include provisions for upgrading treatment plant facilities.

2.3.3 Transportation

Primary vehicle access to the coastal area is provided by Route 18 and Lockport-Olcott Road (Route 78). Route 18 is the Seaway Trail/State Designated Touring Route along Lake Ontario and Route 78 is the north-south arterial connecting the area to the City of Lockport and south to the Thruway (I-90). Both of these roads are in good condition and are adequate to handle LWRA traffic. There is also a small airfield on West Creek Road that can handle light planes and charter flights.

Recent arterial improvements in Olcott have both helped and hindered the hamlet. Route 18 was rerouted to bypass the hamlet and remove through traffic from area streets. However, it effectively isolated the east and west sides of the harbor and diverted many tourists from commercial exposure. This has resulted in commercial deterioration and land use shifts that the LWRP must address. These have left Olcott with traffic problems which include:

- Isolation of the Town Marina from Route 18 (due to the bridge profile) creating major congestion problems because the marina is at a "dead-end" on West Main Street without circulation opportunity.

- Land acquired for the bypass cut off access opportunities to shorelands along the east harbor (Route 18 to East Main Street). This restricts the ability to access and expand dockage in this area or obtain land for parking.

- The general lack of access and circulation through the hamlet has significantly reduced economic trade in the Olcott commercial area (East Main Street) and created competitive development opportunities on Route 18 (new restaurant/motel near West Creek Road and pressures of expansion of this area).

- The isolation of both sides of Eighteen Mile Creek have separated parking and marine facilities leaving the Town Marina (west side) without support facilities and leaving commercial and private marine facilities (east side) without parking and boat launch opportunities. The resultant segregation of services has compromised both.

The two major issues are the provision of access/circulation to Route 18 for the Town Marina and the provision of parking on the east side of the harbor. Each side must now be independent of the other for all practical purposes. The Town is currently pursuing the acquisition of property west of the Town Marina to expand parking and gain egress to Route 18. This must be far enough west to reach West Washington Street (to Jackson Street) to satisfy the New York State Department of Transportation's requirement of adequate clear sight distance from vehicles on the Route 18 bridge over Eighteen Mile Creek. On the east side of the harbor, various parking and street improvements were completed as part of the HUD Small Cities Block Grant (Figure 3). These included street resurfacing, drainage and traffic safety improvements and new parking facilities.

Residential development In the LWRA is primarily accessed by private, dirt roads. As seasonal homes in the area have been converted to year-round units, there has been increasing demands for public dedication of these roads. Increased development of areas outside of Olcott will bring increased pressure on the Town for infrastructure improvements.

Finally, traffic on LWRA roads are subjected to considerable congestion during seasonal fish migrations (spring/fall). The area of Route 18 near Hopkins and Keg Creeks become restricted by shoulder parking from fishermen. The same is true along Eighteen Mile Creek at the Route 18 bridge and near the Burt Dam. In addition, Olcott streets become clogged at Fishing Derby time with boat trailers and campers as inadequate parking/storage cause overflow onto residential streets. As year-round fishing increases, camping and parking facilities will be needed to reduce street congestion and allow adequate traffic circulation in the area.

2.3.4 Solid Waste

The disposal of solid wastes in the coastal area is exclusively by private contract. Sludge from the Newfane Sewer Treatment Plant is handled by the Town's new sludge composting facility.

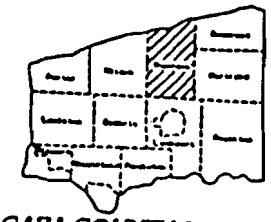
Brush and debris is disposed of at the Town facility on Philips Road. Only used for compostable (decomposable) materials, debris is cut up/chipped and landfilled on site. The facility is more than adequate for townwide needs. Usable bulking agents are utilized in the composting facility.

The Town also provides for fish cleaning facilities at the Town Marina. All wastes are conveyed to the treatment plant for processing. No creek/ harbor dumping is allowed.

MAP 2

TOWN OF NEWFANE

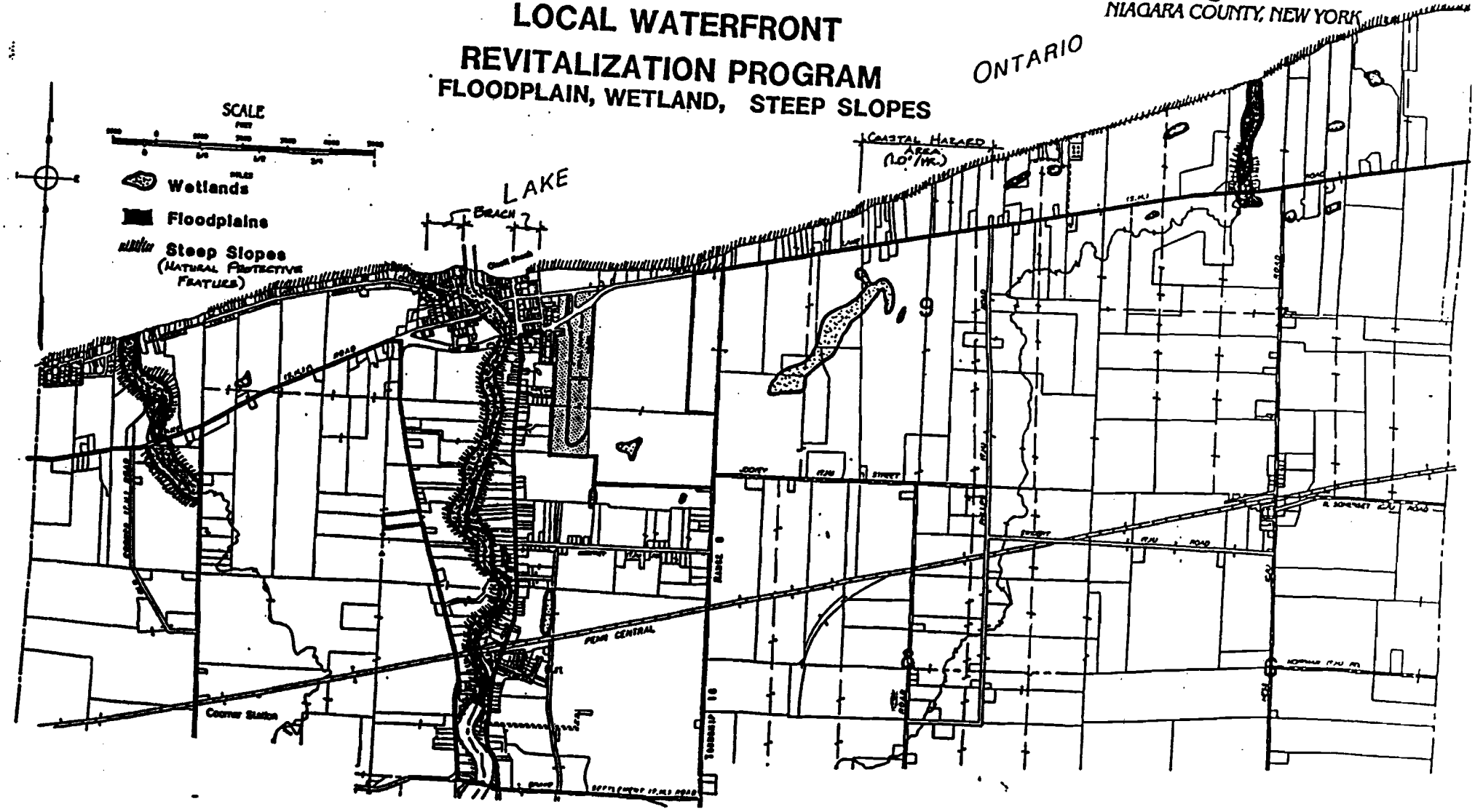
NIAGARA COUNTY, NEW YORK



NIAGARA COUNTY, NEW YORK

LOCAL WATERFRONT REVITALIZATION PROGRAM

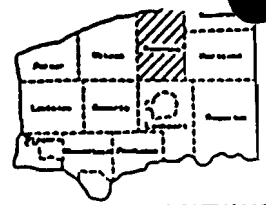
FLOODPLAIN, WETLAND, STEEP SLOPES



MAP 3

TOWN OF NEWFANE

NIAGARA COUNTY, NEW YORK



NIAGARA COUNTY, NEW YORK

LOCAL WATERFRONT REVITALIZATION PROGRAM

LAND USE

SINGLE RESIDENCE
SEASONAL
APARTMENTS
PUBLIC/SEMI-PUBLIC
COMMERCIAL
INDUSTRIAL

ORCHARDS
FOREST LAND
VACANT

LAKE ONTARIO

Coomer Station

PENN CENTRAL

igure 1

istribution of Households Having Low to Moderate Incomes nd Living in Structures Needing Rehabilitation

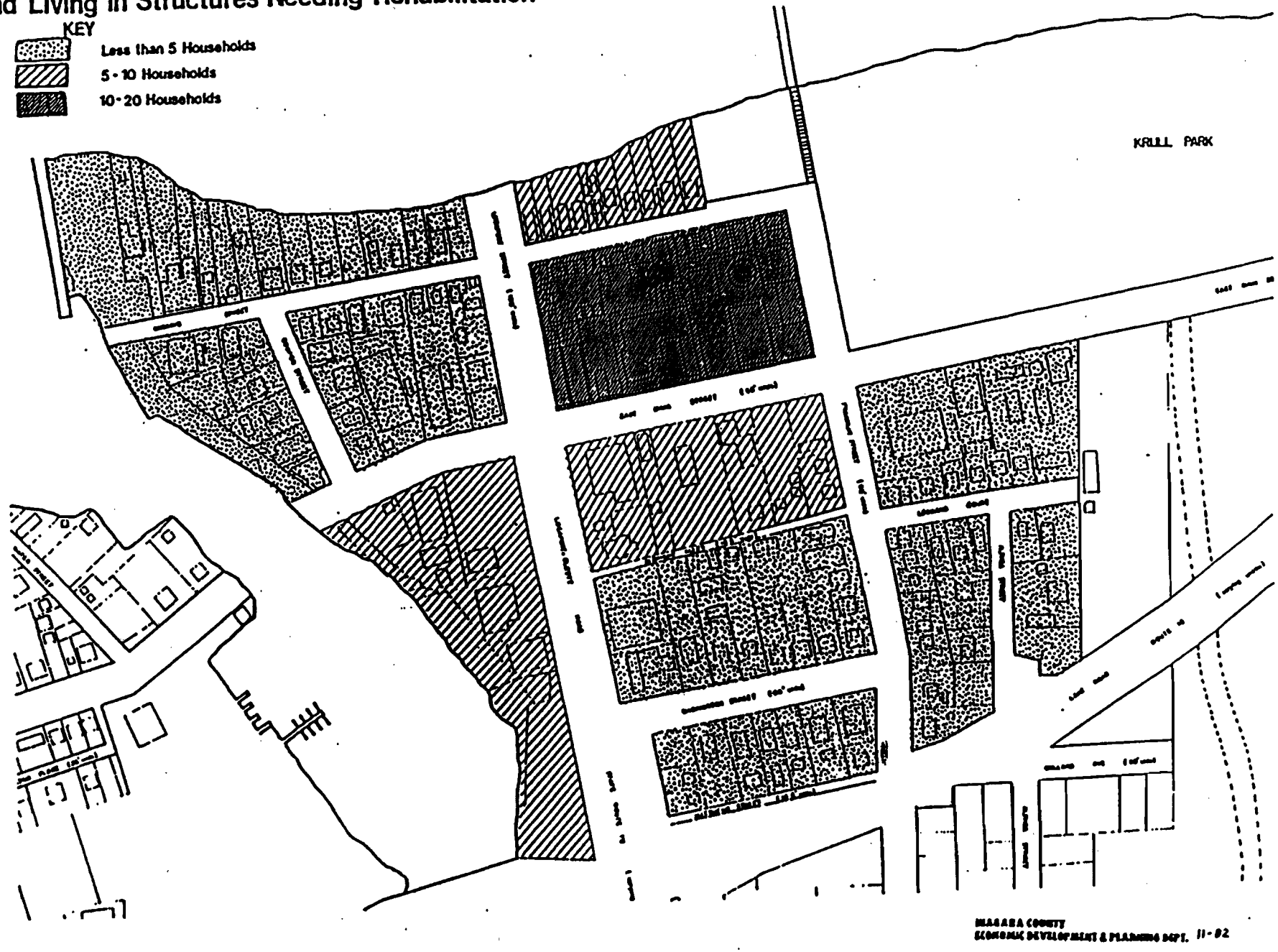
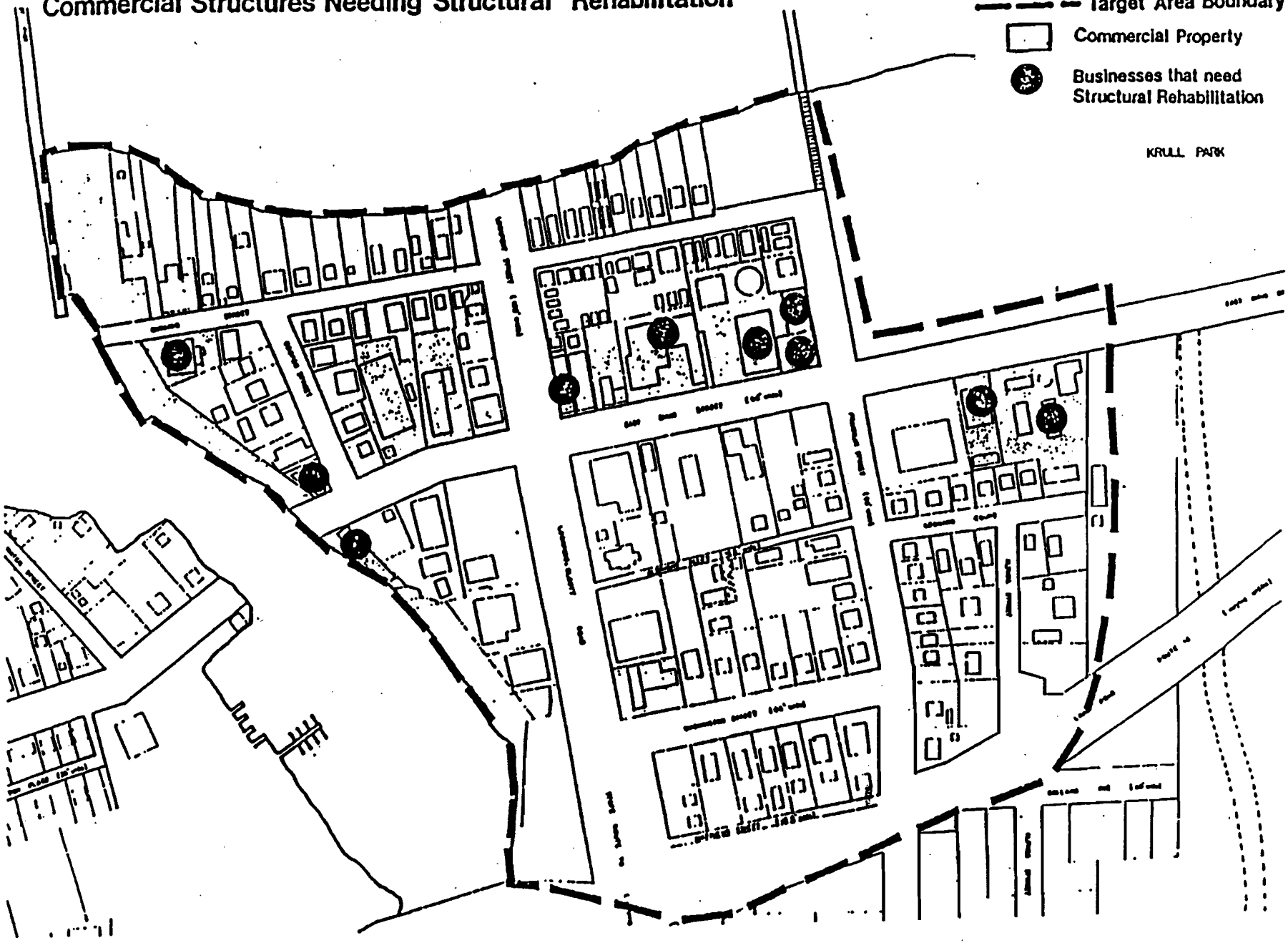


Figure 2

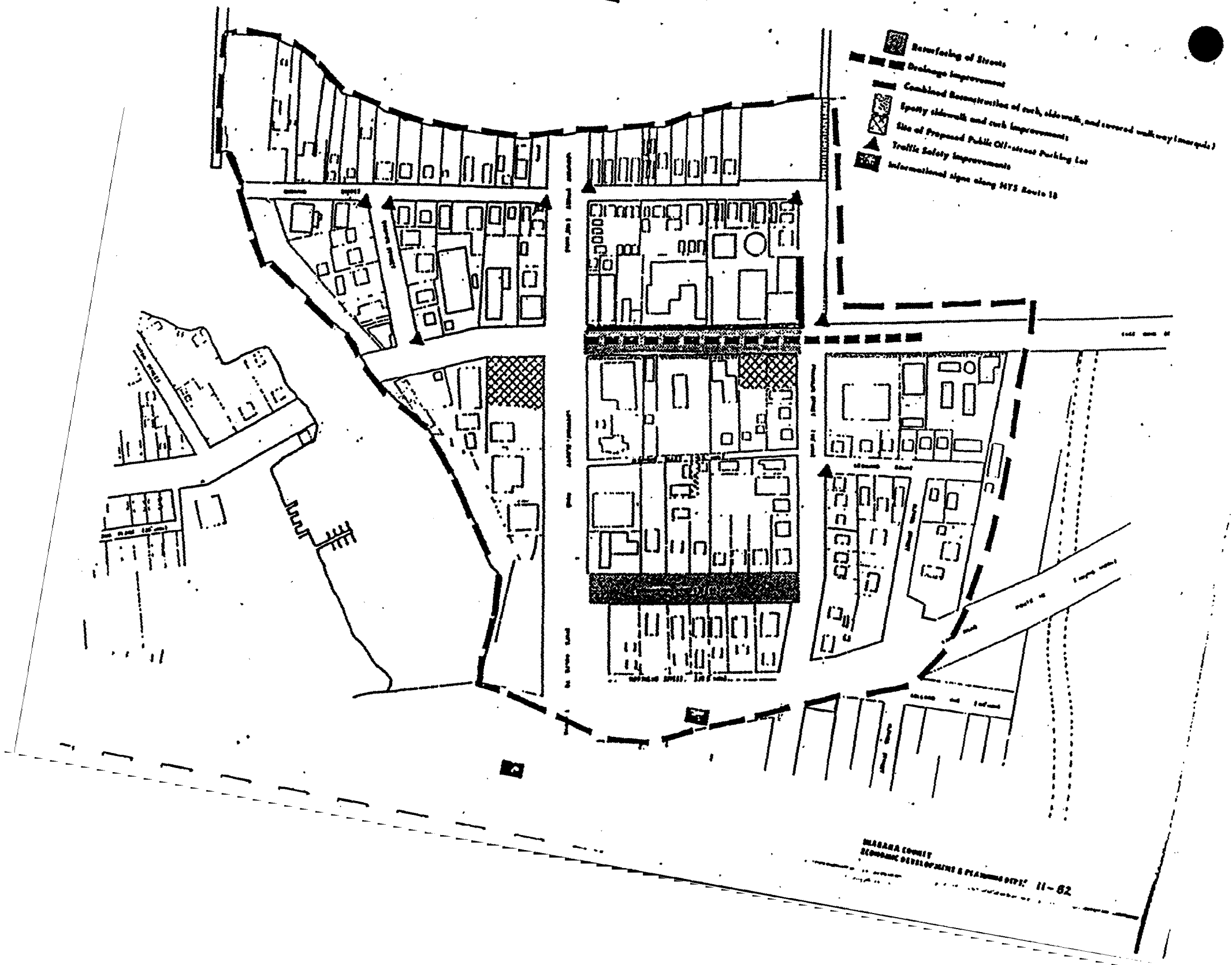
Commercial Structures Needing Structural Rehabilitation



Source: Niagara County Dept. of Economic Development and Planning, Door to Door Structural Survey; October 1982.

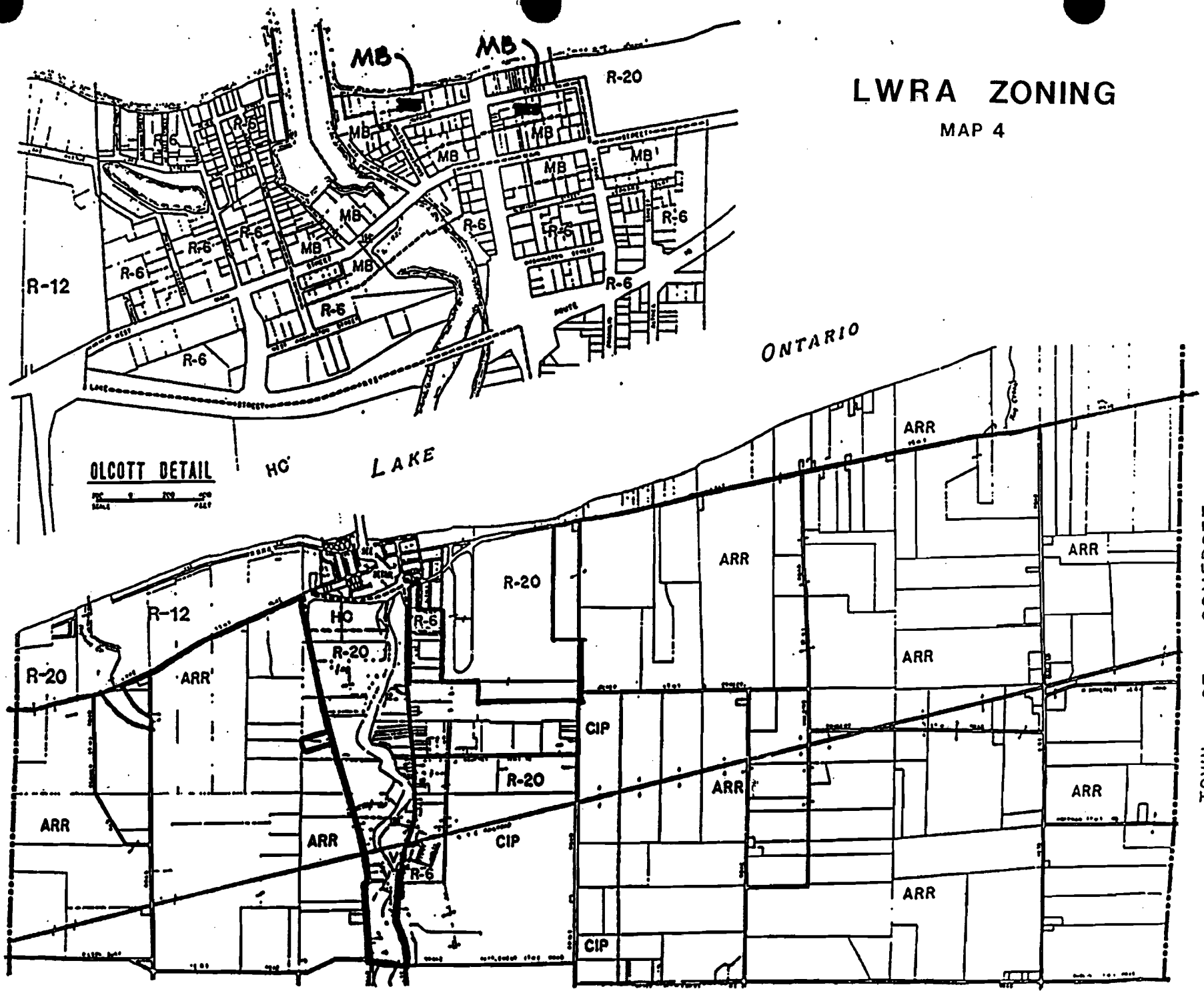
Figure 3

Proposed Public Facility Improvements



LWRA ZONING

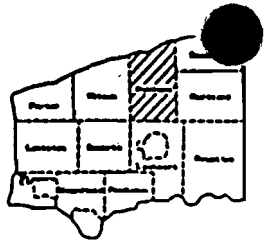
MAP 4



MAP 5

TOWN OF NEWFANE

NIAGARA COUNTY, NEW YORK



LOCAL WATERFRONT REVITALIZATION PROGRAM
SHORELINE ACCESS
HISTORIC SITES

TOWNSHIP LINE
GREAT LOT LINE
PROPERTY LINE
STATE HIGHWAY
COUNTY ROAD
TOWN HIGHWAY
STREAM
RAILROAD

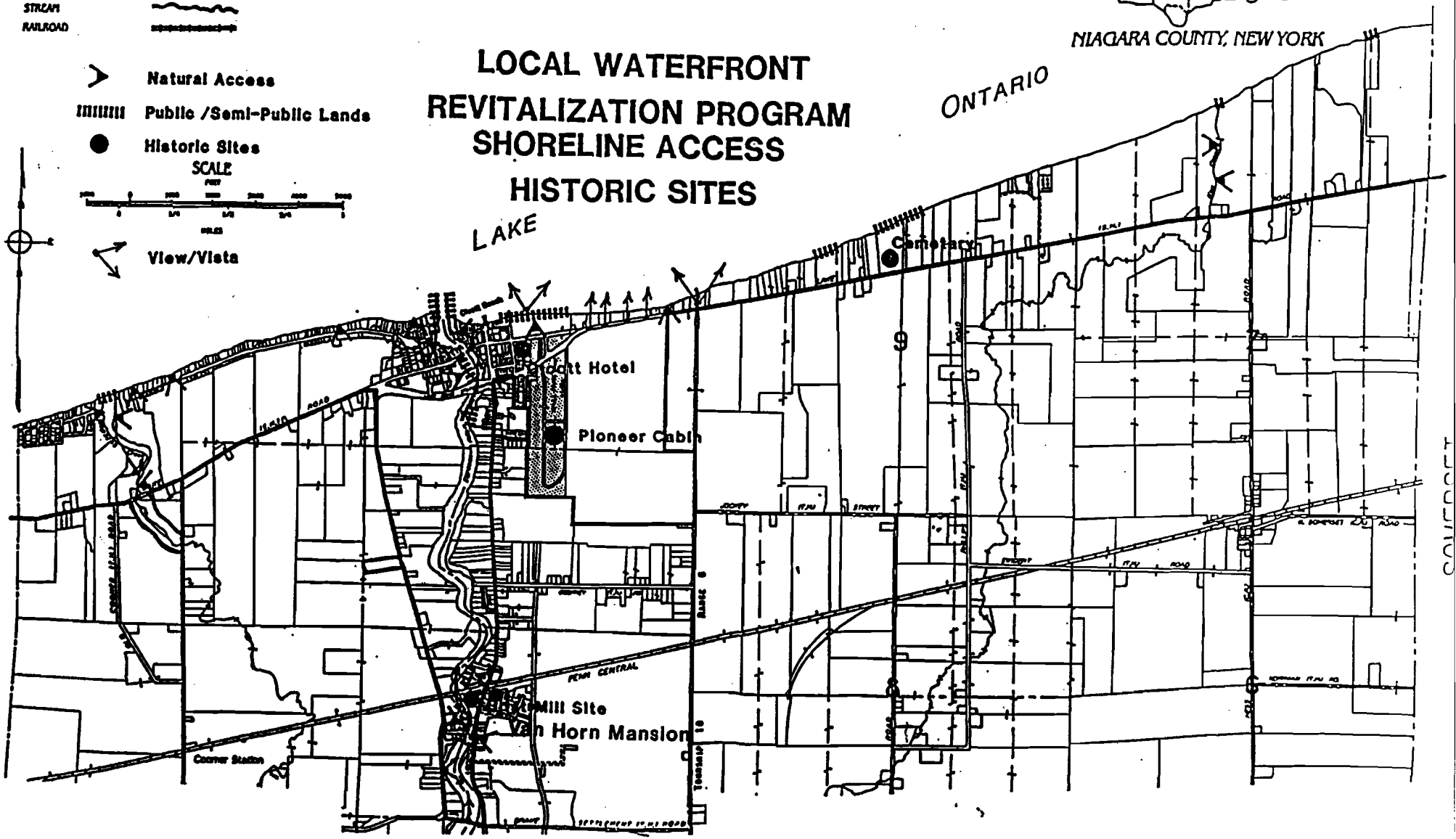
Natural Access

Public /Semi-Public Lands

Historic Sites

SCALE

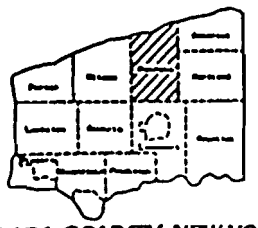
View/Vista



MAP 6

TOWN OF NEWFANE

NIAGARA COUNTY, NEW YORK



NIAGARA COUNTY, NEW YORK

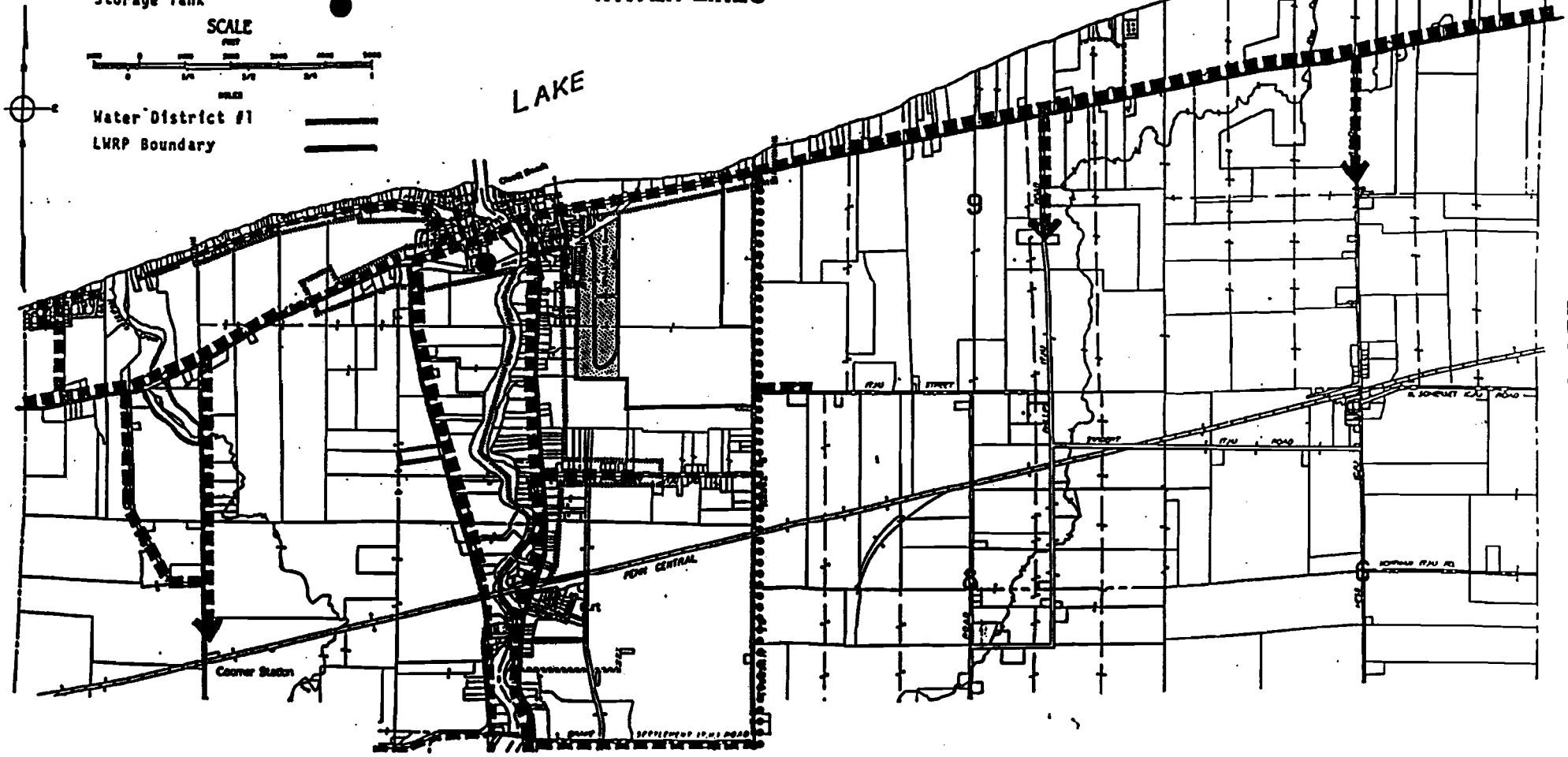
LOCAL WATERFRONT REVITALIZATION PROGRAM

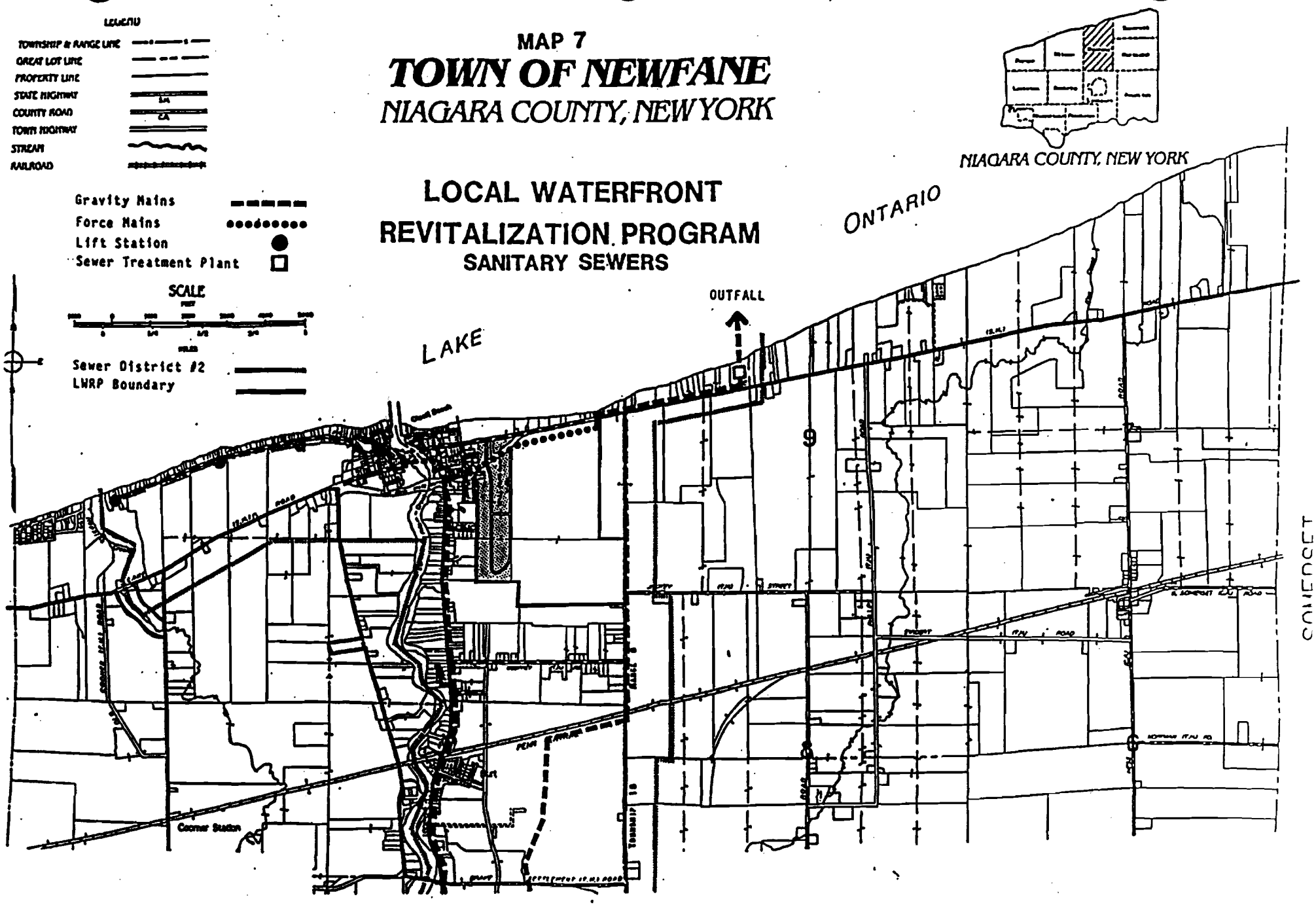
WATER LINES

LEGEND

- TOWNSHIP & RANGE LINE
- GREAT LOT LINE
- PROPERTY LINE
- STATE HIGHWAY (SR)
- COUNTY ROAD (CR)
- TOWN HIGHWAY
- STREAM
- RAILROAD
- County Transmission Main (10") ●●●●●●
- Trunk Main (8")
- Lateral (6")
- Lateral (4")
- Storage Tank
- Water District #1
- LWRP Boundary

SCALE




MAP 7
TOWN OF NEWFANE
NIAGARA COUNTY, NEW YORK
LOCAL WATERFRONT
REVITALIZATION PROGRAM
SANITARY SEWERS
LEGEND
TOWNSHIP & RANGE LINE
GREAT LOT LINE
PROPERTY LINE
STATE HIGHWAY
COUNTY ROAD
TOWN HIGHWAY
STREAM
RAILROAD
Gravity Mains
Force Mains
Lift Station
Sewer Treatment Plant
SCALE
Sewer District #2
LWRP Boundary
NIAGARA COUNTY, NEW YORK
ONTARIO
LAKE
OUTFALL
Coomer Station
SOMERSET

SECTION 3

STATE AND LOCAL COASTAL POLICIES

3.1 DEVELOPMENT POLICIES

POLICY 1 **Restore, revitalize, and redevelop deteriorated and under utilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.**

Policy 1A

Concentrate redevelopment efforts in the Hamlet of Olcott and its harbor through the revitalization of marinas and marine service facilities and expansion of these facilities in the harbor and adjacent areas. Proceed with development of the Outer Harbor breakwaters and new marina development.

Policy lB:

Encourage the restoration of the Olcott Hotel for tourist and recreation related facilities and the revitalization of deteriorated residential and commercial facilities in Olcott and Burt. Promote development of additional overnight accommodation.

Policy lC:

Promote the restoration of use of Eighteen Mile Creek for fishing, recreation and limited boating activity.

Policy lD:

Encourage the development of parking, navigation, highway and other services to support major waterfront uses.

Explanation of Policy:

At the confluence of Eighteen Mile Creek and Lake Ontario, Olcott has demonstrated the need for significant marine activity (54.6% of all county boat launches). Existing facilities are often overburdened and incapable of meeting current demands for launching, dockage, parking and sport fishing services. The harbor offers the regional attraction and marine services to capitalize on redevelopment efforts. Restoration of the diverse functions and facilities in the harbor is the top priority of the waterfront program.

Restoration and development of marine and recreation facilities (water-dependent) should be first concentrated in the Olcott Harbor of Eighteen Mile Creek. Adjacent

uplands are reserved for uses which depend on their proximity/access into these uses, will enhance their existence or will provide support services (see Policy 2). As the harbor will not accommodate all future needs for marine services, areas immediately adjacent to the harbor should be given first consideration in expansion of facilities to capitalize on existing marine development. This includes the area outside the Federal Piers (outer harbor).

The Lake Ontario shoreline in Olcott should also be included in designated water-related redevelopment efforts. Efforts should focus on swimming and marine commerce. The areas west of the Federal Piers and in Krull Park need to be preserved for their natural beach and swimming opportunities. The area east of the Federal Piers is appropriate for expansion of marina and safe harbor development. The Army Corps of Engineers has proposed construction of an outer harbor project consisting of construction of a system of breakwaters to create a boat basin and harbor of refuge on Lake Ontario at the mouth of Eighteen Mile Creek. An 800 ship marina and waterfront boardwalk would be developed in conjunction with this project.

The following additional guidelines shall be used to determine the consistency of proposed actions with this policy:

a. Priority will be given to uses which depend on a location in or adjacent to the waterfront including marine facilities, hydroelectric power generation, water related recreation.
b. Actions must enhance existing and intended uses in the Olcott Harbor area or at least not detract from or compromise efforts to restore and revitalize development in the Olcott Harbor area.
c. Redevelopment and other actions should improve the deteriorated condition of the harbor and adjacent residential and commercial areas and not cause further deterioration.
d. The action should serve as a catalyst for private investment in the area and reinforce the economic base of the Olcott Harbor area.
e. Development actions should be coordinated to achieve multiple benefits of enhancing existing water-related uses, revitalizing deteriorated uses, restoring economic opportunities in the Olcott Harbor area and integrating land and water uses.
f. Actions in the LWRA should improve adjacent and upland views of the harbor and the lake and must not effect local vistas.
g. New development actions should be compatible with the scale, intensity and architectural character of the area.

Related Policies: 21, 27.

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

Policy 2A:

Promote the location of marine, recreation and support facilities in or adjacent to Olcott Harbor.

Policy 2B:

Promote the use of swimming, lake commerce and marine services along Lake Ontario within the Olcott area.

Policy 2C:

Encourage the siting of water-enhanced uses in upland areas east of the Olcott Harbor, adjacent to the Town Marina and along Route 18 (hotel, restaurants, camping, etc.).

Policy 2D:

Encourage the siting of uses requiring large quantities of water or a water-oriented location at Burt.

Explanation of Policy:

Most of Newfane's waterfront is severely limited in shore line development due to the existence of steep bluffs which inhibit access and increase development costs. The only continuous area of natural access is located in the Olcott Harbor area. This is also an area of existing beaches, parks (Town and County) and infrastructure. The past patterns of haphazard development in Olcott has not adequately provided for water-dependent uses resulting in a mixture of marine and residential uses along the coast and a high competition for space in a limited geographic area. The only way to insure the stability and prosperity of uses compatible with the water-oriented location of the harbor is to actively promote and enhance their prominence in siting along the shoreline.

The focus of boating and sport-fishing recreational activities in the Olcott Harbor area capitalizes on both traditional harbor uses and the availability of existing marine facilities. As such, appropriate water-dependent uses to be promoted and afforded preferential siting as water-dependent in the Olcott Harbor include:

a. Recreational activities which depend on access to coastal waters (fishing, boating).

b. Facilities needed to store and service boats (marinas, marine service/repair).

c. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (parking, snack bars, public restrooms, first-aid stations, etc.) although sited inland, as much as possible, from the shore.

The availability of beaches and the park along Lake Ontario in Olcott provides the best opportunity for swimming. Potential lake access also makes this area more compatible for outer harbor expansion and siting of shipping facilities due to limited harbor space. As a result, the following water-dependent uses are identified for preferential siting on the Lake Ontario shoreline:

a. New harbor of refuge and marina (ACOE Outer Harbor Project).
b. Structures needed for navigational purposes (lighthouses).
c. Flood and erosion protection structures (breakwaters, bulkheads).
d. Recreational activities which depend on access to coastal waters (swimming, boating).

Other uses, although viable for waterfront siting, cannot be accommodated within the limited area available in Olcott. The only notable exception is the hydroelectric facility at Burt (Burt Dam) for local power generation and user of large amounts of water (Eighteen Mile Creek) for processing.

Uses which will be enhanced by a waterfront location and further the siting of water-dependent uses will be encouraged to locate in areas adjacent to the Olcott shore. These include restaurants, marine/fishing supplies (ships store, tackle, bait) and tourist/recreational uses that will be able to capitalize on a waterfront view and/or promote and complement in-water facilities. However, these should not be afforded preference over water-dependent uses. In other parts of the LWRA, recreational uses such as tourist facilities, golf courses, parks, etc., may be sited in the coastal area to incorporate a coastline or waterfront view.

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 nonpermanent structures are uses or facilities which would be considered "temporary" non-water dependent uses.

The following additional guidelines will be used to determine the consistency of proposed actions with this policy:

a. The Town will use its zoning powers, authority to issue water/sewer permits and SEQRA (6NYCRP Part 617) to identify and allow preferential locations for water-dependent uses.
b. Prospective uses will be sited in areas appropriate to their water access needs and consistent with requirements for public services (e.g. considerations of needs for a sheltered site, navigation channel access, sewer/water service, etc.) to resolve conflicts between competing uses.
c. New uses will be developed so as to be compatible and complementary with adjacent uses and not compromise the character or environmental quality of the community.
d. Promotion efforts shall focus on the revitalization or development of underutilized sites to enhance area use.
e. The Town will utilize all means of incentive and promotion, where applicable, to encourage the siting of water-dependent uses including capital programming, property tax abatements, loan guarantees/rate reductions, favored lease arrangements for publically owned land and others.

POLICY 3 **Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to or in support of the waterborne transportation of cargo and people.**

NOT APPLICABLE

Explanation of Policy:

Previously a commercial port was considered, but has been dropped due to non-feasibility.

POLICY 4 **Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique Maritime identity.**

NOT APPLICABLE

Explanation of Policy:

Olcott Harbor is not a smaller harbor as defined by this policy.

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 necessitates its location in other coastal areas.**

Policy 5A:

Concentrate development/redevelopment efforts in the Olcott area where public services and facilities are adequate to accommodate such uses.

Policy 5B:

Encourage improvement of public sewer and water facilities commensurate with planned coastal development in the Olcott area.

Explanation of Policy:

Olcott and the immediately adjacent areas are the only portions of the LWRA where sewer, water and transport facilities are available. It is also where substantial investments have been made in parks, harbor access/navigation, private development and marine services. Development contrary to this policy would compromise those investments and initially cause either added public costs or the under utilization of existing facilities.

These services have been carefully programmed to accommodate planned growth. The concentration of redevelopment in Olcott, therefore, reinforces existing development and promotes their complete utilization before any expansion should take place. Through capital programming, the Town will concentrate new development in sewered areas and insure the consistency of actions with this policy.

This policy will be fostered through the strengthening of the Olcott area, promoting an orderly growth/redevelopment pattern, reducing the need for new services in outlying areas, capitalizing on sufficient open space and encouraging energy conservation through the integration of community uses (residential, commercial, recreational).

Any large-scale development or action that encourages future development should be considered in relation to the following guidelines:

a. Congestion and circulation in Olcott are existing problems that should not be compounded by new development.

b. Principal water supplies are sufficient for new development although areas in Olcott east and west of the harbor require larger mains.
c. The sewage treatment plant is adequate for residential and commercial uses but is limited for industrial solids.
d. Development sites should be within 500 feet of public sewer and water.
e. All other services (police, fire, health, parks, etc.) are adequate to handle new development in the Olcott area.

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

a. Economic activities which depend upon sites at or near locations where natural resources are present.
b. Development which by its nature is enhanced by a non urbanized setting, e.g., a resort complex, campgrounds, second home developments.
c. Development which is designed to be a self-contained activity, e.g., a small college, an academic or religious retreat.
d. Water dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
e. Development which because of its isolated location and small-scale have little or no potential to generate and/or encourage further land development.
f. Uses and/or activities which because of public safety consideration should be located away from populous areas.
g. Rehabilitation or restoration of existing structures and facilities.
h. Development projects which are essential to the construction and/or operation of the above uses and activities.

In the Olcott area where development and redevelopment is encouraged by this policy, the condition of existing public water and sewage infrastructure may necessitate improvements. Those Town, State and Federal agencies charged with allocation of funds for investments in water and sewer facilities should give high priority to the needs of the Olcott area so that full advantage may be taken of the array of other existing infrastructure components in promoting waterfront revitalization.

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

NOT APPLICABLE

Explanation of Policy:

The Town currently utilizes site plan review procedures, a local SEQR law, the joint USCOE/NYSDEC permit application and will incorporate the LWRP in local codes/regulations. The Town also uses one-stop review (coordinated by the supervisor for large projects) joint submission of proposals/permits when multiple agencies are involved and conducts consolidated public hearing procedures, where applicable. Other efforts are considered beyond the administrative and financial capability of the community.

3.2 FISH AND WILDLIFE POLICIES

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.**

Explanation of Policy:

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 appplying 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.

Policy 7A:

The Eighteen Mile Creek - Lake Ontario Significant Coastal Fish and Wildlife Habitat shall be protected, preserved, and, where practical, restored so as to maintain its viability as a habitat.

Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows, or alters water depths in Eighteen Mile Creek would adversely affect the fish and wildlife resources of this area. These impacts would be especially detrimental during fish spawning and nursery periods (late February-July for most warmwater species and steelhead, and September-November for most salmonids), and wildlife breeding seasons (April-July for most species). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers) could adversely impact on fish or wildlife species. Of particular concern are the potential effects of upstream disturbances, including water withdrawals, stream bed disturbances, and effluent discharges. Hydroelectric facilities on the creek should only be permitted with run-of-river operations. Barriers to fish migration, whether physical or chemical, could have a significant impact on fish populations in the creek. Disturbances of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area. Enhancement of motorboat access to the area above Route 18 would significantly increase human disturbance of the habitat, reducing its potential value to many fish and wildlife species. Existing woodlands bordering Eighteen Mile Creek should be maintained to provide bank cover, perching sites, soil stabilization, and buffer areas.

Policy 7B:

The Hopkins Creek wetland will be protected as a locally important habitat for seasonal fishing and wildlife.

Explanation of Policy:

The fish habitats of Newfane are its most valuable resources in that they are the primary attraction for sport-fishing and boating. Eighteen Mile Creek supports cold water fish migrations in the spring and fall and limited warm water breeding. Hopkins and Keg Creeks provide seasonal migrations and support breeding in the upper reaches. These habitats provide critical area fish feeding and nursery opportunity and are of substantial recreation value to the area that would be impossible to replace.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions destroy or significantly impair the viability of an area as a habitat. When the action significantly reduces a vital resource (e.g., food, shelter, living space) or changes environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism, then the action would be considered to "significantly impair" the

habitat. Indicators of a significantly impaired habitat may include: reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The range of generic activities most likely to affect significant coastal fish and wildlife habitats include but are not limited to the following:

1. Draining wetlands, ponds: Cause changes in vegetation, or changes in groundwater and surface water hydrology.
2. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).
3. Grading land: Results in vegetation removal, increased surface runoff, or increase soil erosion and downstream sedimentation.
4. Clear cutting: May cause loss of vegetative cover, increase fluctuations in amount of surface runoff, or increase streambed scouring, soil erosion, sediment deposition.
5. Dredging or excavation: May cause change in substrate composition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanisms.
6. Dredge spoil disposal: May induce shoaling of littoral areas, or change circulation patterns.
7. Physical alteration of shore areas through channelization or construction of shore structure: May change volume and rate of flow or increase scouring, sedimentation.
8. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, tox material pesticide, sewage effluent, urban and rural runoff, leachate of hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

The range of physical, biological and chemical parameters which should be considered include but are not limited to the following:

1. Physical parameters such as: Living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (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,

normality rates, reproductive rates, behavioral patterns, and migratory patterns.

3. Chemical parameters such as: Dissolved oxygen, carbon dioxide, ph, dissolved solids, nutrients, organics, salinity, pollutants (heavy metals, toxic and hazardous materials).

When a proposed action is likely to alter any of the biological, physical or chemical parameters as described in the narrative beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, would be inconsistent with the above policy.

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

Policy 8A:

Protect Eighteen Mile Creek from future upstream pollution and the introduction of hazardous wastes from adjacent industrial uses and municipal surcharges through monitoring and permit review program by state and local agencies.

Policy 8B:

Encourage the clean-up of hazardous sediment accumulation in Eighteen Mile Creek which threatens critical fish/wildlife habitats.

Explanation of Policy:

Testing of sediments in Eighteen Mile Creek by the US Army Corps of Engineers (September 1981) demonstrated that toxic levels of contamination exist in the wetland and harbor. Samples were determined to be polluted with high levels of arsenic, iron, manganese, mercury and zinc. The concentration level increases with samples taken upstream. Twice in the late 1970's, fish in Lake Ontario were banned from consumption due to contamination of the food chain that began appearing in fish catches. In order to protect critical fish habitats in the LWRA, it is not only necessary to eliminate the introduction of hazardous wastes, but also remove the existing accumulation that is being trapped in creek sediments.

Most upstream industries are now regulated with respect to waste. Newfane industries are currently sewered as are those in Lockport. However, fertilizer

from rural runoff and surcharges during wet weather from the Lockport Sewer Treatment Plant add modest amounts to the existing problem. These continue to drift downstream and settle in the creek where accumulation levels increase.

Hazardous wastes are unwanted by-products of manufacturing and generally characterized as being flammable, corrosive, reactive or toxic. They are defined as wastes, individually or in combination, that may cause illness, increase mortality or pose a hazard to human health or environment due to their characteristics. The adopted NYSDEC list of hazardous wastes is contained in 6NYCRR Part 371.

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 expansion of access to Eighteen Mile Creek, Hopkins Creek, Keg Creek and the Lake Ontario shoreline for fishing and improvement of fish stock (Hopkins Creek).

Policy 9B:

Support and encourage increases in the NYSDEC fish stocking program at Olcott.

Explanation of policy:

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wildlife photography, bird watching and nature study. The promotion of access to coastal wetlands via boat and bank trails from Fisherman's Park, the renovation of the old railroad trestle over Eighteen Mile Creek and the improvement of fishing access to Keg and Hopkins Creek support this policy. The expansion and diversification of fish stocking on Eighteen Mile Creek will help substantiate the wetland and encourage its use (warm water species feeding/spawning).

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources in marine and freshwater coastal areas and which takes into consideration other activities dependent on these resources. Also such efforts must be done in accordance with dependence on these resources. Such efforts must be done in accordance with existing state law and in keeping with sound resources management considerations. Such considerations include biology of the species, carrying capacity of the resources, public demand, costs and available technology.

The following additional guidelines should be considered in determining the consistency of a proposed action with these policies:

a. Consideration should be made by Town, Federal and State agencies as to whether an action will impede existing or future utilization of recreational fish and wildlife resources.
b. Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of those resources or cause impairment of a habitat (see Policy 7).
c. Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) must be done in accord with existing State Law.
d. Stocking programs will be directed toward areas where known habitats will support and enhance fish population.
e. The siting of public access facilities should be given a higher priority if facilities will be located in areas already affording public access (i.e. the development will improve and upgrade an existing facility) and areas where supporting infrastructure exists.

Related Policies: 19, 20, 21.

POLICY 10 **Further develop commercial finfish, shellfish and crustacean resources in the coastal areas by: (i) encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities; (ii) increasing marketing of the State's seafood products; and (iii) maintaining adequate stocks and expanding aquaculture facilities. Such efforts shall be in a manner which ensures the protection of such renewable fish resources and considers other activities dependent on them.**

NOT APPLICABLE

Explanation of Policy:

Policy 10 is not applicable to Newfane which has no history of commercial fishing. The ban on fish eating of Lake Ontario species and the sports fishery objectives for this area suggests a conflict between commercial utilization of lake fish and the sports fishery industry. The possibility of a commercial fish processing facility for scrap fish exists, however, the necessary infrastructure (i.e. port, sewer, water, and land availability) is not adequate.

3.3 FLOODING AND EROSION 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.**

Policy IIA:

In-water structures (e.g. docks, bulkheads, breakwalls, etc.) along Lake Ontario and in Olcott Harbor should be constructed to withstand continuous inundation and be coordinated with Federal and State agencies for consistency in design and effectiveness.

Explanation of Policy:

The entire lakefront of Newfane is subject to erratic erosion due to storms, wind, steep slopes, and lack of soil stability. While significant efforts were directed toward Lake Ontario shoreline protection in the mid-1970's following storms, varying results and degrees of property owner participation have not solved the problem. Some homes left unprotected are perilously close to the bluff endangering lives and property. While the policy is only applicable in the 2500 foot hazard area west of Phillips Road, it is useful to the entire lakefront. Solutions to this problem will follow a dual approach:

a. Restrictions on new structures to insure adequate set back from the shore to guard a 40-year investment (minimum 100' feet) will be insured through site plan review.

b. The review of proposed structures in developed areas will be coordinated to retard erosion consistent with 6NYCRR Part 505.

In-water structures are defined as structures which are wholly or partially in the water, whether physically connected to the land or not. Typically, they include

fixed and floating boat docks, launch ramps/rails, shoreline protection; breakwalls, etc.

Flood hazards are concentrated in Olcott (along the beaches) and along Hopkins and Keg Creeks due to the existence of bluffs elsewhere. Structures will be sited in accordance with the Federal Emergency Management Agency flood maps (360504-005B and 0010B) and conform with applicable Federal and state regulations for use and construction in flood hazard and flood prone areas.

Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures will be taken, including disaster preparedness planning.

POLICY 12 **Activities or development in the coastal area will be undertaken 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 protective capacity.**

Explanation of Policy:

The coastal area contains shoreline bluffs and beaches along Lake Ontario which are natural protective features that reduce erosion and help safeguard human life and property. The bluffs also coincides with the Phillips Road erosion hazard area (see Inventory and Analysis) and are subject to an average erosion rate of 1.0 feet per year in this area. Excavation, protection structures, coastal development and waterfront actions must respect the fragile nature and protective value of these features and not diminish or destroy their capacity. Their natural capability will be preserved through site plan review and adherence to state regulations for Coastal Erosion Hazard Areas.

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

Explanation of Policy:

Erosion protection structures are widely used throughout the coastal area. However, because of improper design, construction and maintenance standards, many fail to give the protection which they are presumed to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

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.**

Explanation of Policy:

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and the placing of structures in identified floodways so that the base flood level is increased causing damage in otherwise hazard-free areas.

Guidelines and criteria that will be utilized to advance this policy include:

1. An assessment of the effectiveness of proposed structural erosion control systems will be made to insure adequate design and protect adjacent property.
2. Erosion control systems will be viewed in a comprehensive manner rather than a piecemeal system of individual approaches. In areas of high erosion potential this will serve to address the issue of differential erosion.
3. Site plan and developmental reviews will contain provisions to address erosion through structural control measures, if required.

POLICY 15 **Mining, excavation or dredging in coastal waters 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.**

Explanation of Policy:

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in near shore 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 of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

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.**

Explanation of Policy:

This policy recognizes the public need for the protection of human life and existing investment in development or new development which requires a location in proximity to the waterfront area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long-term costs prior to expending public funds.

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

Explanation of Policy:

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the waterfront area as well as the costs of protection against those hazards which structural measures entail. As identified in the Inventory and Analysis, erosion areas apply to the Lake Ontario Shoreline (particularly the hazard area near Phillips Road) and flood areas apply to Olcott, Keg Creek and Hopkins Creek.

Recognizing the high cost and potentially adverse impacts of such structural measures as groins, dams and bulkheads, Newfane addresses this policy by identifying "non-structural measures" appropriate to its shoreline, including:

1. Within identified Coastal Erosion Hazard Areas:

    a. the use of setbacks as provided for in Environmental Conservation law (Article 34, 6NYCRR Part 505),
    b. the strengthening of coastal landforms by the planting of appropriate vegetation on bluffs, the reshaping of bluffs to reduce the potential for

slumping and to permit the planting of stabilizing vegetation, and the installation of drainage systems on bluffs to reduce run-off and internal seepage of waters.

2. Within identified flood hazard areas:

   a. the siting of new development or activities outside the flood hazard areas to avoid the risk of damage; and
   b. the flood proofing of buildings or their elevation above the base flood level.

This 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 or development, and to the hazard.

3.4 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.**

Explanation of Policy:

Proposed major actions may be undertaken in the LWRA if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the State and the Town have 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 and flows, shoreline damage, hydro-electric power generation, and recreation.

3.5 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 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 l9A:

Protect, maintain and enhance access at existing parks (Krull Park, Town Marina, Fishermen's Park) and improve vehicular and pedestrian circulation and awareness of these public opportunities.

POLICY 19B:

Improve access to the Federal Piers and conduct the necessary legal steps to insure permanent future use of these facilities.

Policy 19C:

Insure that new development in Olcott area provides for public access to the shoreline, where applicable, or at least does not reduce the opportunity for waterfront access.

Policy 19D:

Encourage access to Eighteen Mile Creek fishing areas and the downstream side of Burt Dam.

POLICY 19E:

Encourage access to fishing and wildlife observation areas along Hopkins and Keg Creek.

Explanation of Policy:

The access problems in Olcott are the lack of easy access to the Federal Pier and the lack of parking and circulation opportunities to support existing public access. Other existing coastal resources that need improved access include Eighteen Mile Creek (both at Olcott Harbor and near Burt Dam), Hopkins Creek and Keg Creek (seasonal fish migrations). Scenic resources at Route 18 and Transit Road should be improved (turn-off/parking, etc.) at the street end. The Town has acquired, through NYS Dept. of State grant funding, the north side of Ontario Street to expand the waterfront side of the park and protect lake access.

Actions that will advance this policy include:

- Parking expansion at Fishermen's Park and the Town Marina.

- Improve parking for access to East Federal Pier.

- Insure that private Ontario Street development provides for public access to Krull Park.

- Provide fishing access to Eighteen Mile, Keg and Hopkins Creeks via trails and/or easement access on adjacent properties.

In order to facilitate this policy, actions in LWRP that are part of or adjacent to the shoreline shall demonstrate that public access to water-related facilities and resources will be protected or enhanced prior to authorization. Guidelines for this include:

a. The existing access from Town and County parks and public lands or facilities to Lake Ontario and its tributaries shall not be reduced, nor shall the possibility of increasing access in the future be eliminated, unless estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access.
b. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:

   (1) 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.

   (2) 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.

c. The Town of Newfane 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.
d. 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 for the accessway.
e. Newfane will closely monitor improvements on Ontario Street, the Olcott Yacht Club, Town Marina and Burt Dam to protect and enhance public access opportunities (see projects described in Task IV).

POLICY 20 **Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.**

Policy 20A:

Construct public boardwalk and marina as part of Outer Harbor Project.

Policy 20B:

Encourage restoration of the hotel pier in Krull Park for access to fishing opportunities adjacent to public lands.

Policy 20C:

Obtain access and use of the west beach (west of the Federal Piers) for public use.

Explanation of Policy:

In coastal areas where there are little or no recreation facilities providing specific water-related recreational activities, access to the publicly-owned lands of the coast at large should be provided for numerous activities and pursuits which require only minimal facilities for their enjoyment. Such access would provide for walking along a beach or a city waterfront or to a vantage point from which to view the seashore. Similar activities requiring access would include bicycling, birdwatching, photography, nature study, beachcombing, fishing and hunting.

The old hotel pier in Krull Park provided fishing and aesthetic opportunities to complement area development for over 50 years. Its current state of disrepair makes it unusable and a hazard to near-shore navigation that must be corrected. Other than the Town Marina, the only other significant foreshore opportunity is the beach west of the Federal piers. Currently under private ownership public access and use is a high priority of this program and Town efforts.

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

1. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
2. The possibility of increasing public access in the future should not be precluded by proposed actions, including construction of public facilities;

prevent the provision, except at great expense, of convenient public access to public coastal lands and/or waters; sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters; or construction of private facilities which physically prevent public access to public coastal lands and/or waters.

3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development such as at Burt Dam where adjacent Eighteen Mile Creek is available to Route 78.
4. Improvements in access to public water-related resources and facilities along Lake Ontario shall be provided in accordance with estimated levels of use such as a pull off at Transit Road (at the lake) for viewing.
5. The Town of Newfane 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.

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 presentation 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:

Recreational boating and fishing will be the primary water dependent uses in the coastal area concentrated in the Olcott Harbor area and Outer Harbor Project. Enhanced uses include Krull Park improvements and fishing facilities at Burt Dam.

Explanation of Policy:

The heart of the access and development focus of the Newfane LWRP is embodied in this policy. Critical recreational opportunities are concentrated in Olcott and include swimming, boating and scenic/passive recreation on Lake Ontario and fishing, boating and others in the Harbor. The parks and streets of the hamlet become the trail system linking Krull Park, waterfront access, beaches, marinas, and support services. These uses need to be increased as estimates of three to four times the dockage expansion of Olcott Harbor have been made requiring significant increases in facilities.

Water-related recreation facilities identified to advance this policy include expansion of the Town Marina and private harbor docks for boating; the reconstruction of the old hotel pier in Krull Park and the construction of a Fishermen's Trail at Burt Dam; and improvements to Krull Park (amphitheater, golf course, beach, etc.) to diversify recreation opportunities in the waterfront and accommodate rising demand. In addition, marine development is proposed for concentration around the NYS Route 18 bridge over Eighteen Mile Creek to protect, along with local regulations, the Eighteen Mile Creek wetland from further marine disruption.

Among the types of water-dependent recreation, provision of adequate boating services (e.g., toilet, parking, pumpout facilities) to meet future demand is to be encouraged consistent with preservation and enhancement of other coastal resources.

Any actions in the LWRA must consider the enhancement of existing recreation opportunities as expressed in this policy and the prospect of enlargement or the provision of new opportunities. Any actions so drafted will be given consideration above non-water related actions consistent with the protection/enhancement of other coastal resources.

Priority will also be given to proposals/actions that remove barriers to access to the shoreline. Critical areas of need include the East Federal Pier, west beach, the east side of Olcott Harbor and Lake Ontario. Areas of additional need outside the harbor include Burt Dam, Eighteen Mile Creek below the dam, Hopkins and Keg Creeks and scenic areas between Krull Park and Transit Road along Route 18 (especially at Transit Road overlooking the lake).

Related Policies: 1, 5, 19, 20 and Task IV.

POLICY 22 **Development, when located adjacent to the shore, will provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.**

Explanation of Policy:

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located adjacent to the shore they should to the fullest extent permitted by existing law provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not

be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The types of development which can generally be anticipated in Newfane to provide water-related recreation as a multiple use include but are not limited to:

- parks
- hydroelectric stations
- utility transmission rights of way
- sewage treatment facilities
- religious facilities/retreats
- schools, universities
- nature preserves
- large residential subdivisions
- commercial centers

Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2 percent of total project cost.

In determining whether compelling reasons exist which would make inadvisable recreation as a multiple use, safety considerations should reflect a recognition that some risk is acceptable in the use of recreational facilities.

3.6 HISTORIC AND SCENIC RESOURCES POLICIES

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

Policy 23A:

Protect archaeologic resources along Eighteen Mile Creek and Lake Ontario.

Explanation of Policy:

There are no historic or architectural site/structures of national or state significance in the Newfane LWRA. Local cultural and historic sites, which may be eligible for State or Federal historic designation, include:

- Krull Park and the Early Pioneer Cabin – adjacent to Lake Ontario, the park has long been a tourist landmark and area of local cultural significance.
- Olcott Amusement Park – an example of 1940's amusements, rides and games.
- Olcott Hotel and Pier – old Main Street hotel that attracted tourists to the area from the late 1800's.
- Cemetery – located on Route 18 on the American Mission property, it dates back to the early 1800's and includes early area settlers.
- Old Grist Mill Site (Burt) – site of the first area mill built by Van Horn (early town leader).

As a recognized resource within the coastal areas, appropriate structures/sites should be protected and enhanced as part of the development review process. Their existence should be identified and promoted as a valuable part of area recreation/tourism activities. These facilities should not be altered, demolished, improved, visually impaired or adversely impacted without a full assessment of the effects and options for preservation.

Eighteen Mile Creek has been identified as archaeologically sensitive and, therefore, of significance to New York State and Newfane. Five sites are designated on the New York State Archaeological Site Inventory Map as being withen the LWRA and one site is south of the LWRA on Eighteen Mile Creek. These sites include:

- two burial mounds on Eighteen Mile Creek
- a Proto-Iroquoian Village (near Hopkins Creek)
- two camp sites (Olcott Orchard, Keg Creek)
- Olcott Bridge Site

All projects in the LWRA involving filling, dredging, excavation, construction or actions leading to these activities shall consult local archaeological source (Historic Preservation Offices, County Historian, SUNY at Buffalo Anthropology Department) for the exact location and procedures for archaeologic sites and their protection.

POLICY 24 **Prevent Impairment of Scenic Resources of Statewide Significance**

NOT APPLICABLE

Explanation of Policy:

There are no scenic resources identified in the coastal area of statewide significance and local scenic resources along the shoreline do not appear to meet the criteria as established by this policy.

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.**

Explanation of Policy:

In order to unify the visual quality and protect vistas of local significance, the following visual and aesthetic elements should be restored, preserved and enhanced whenever possible in the coastal area:

- Views of Lake Ontario from Olcott, Krull Park, Route 18 and the street ends (Transit Road, Lockport-Olcott Road, Jackson Street, etc.) are excellent due to the high bluff elevation for overlook of the lake.
- The "fishing village" atmosphere of Olcott Harbor and its shoreline from NYS Route 18 and the east sides of the harbor are a result of the calm water, boat moorings and the structures crowding the shore.
- Views of Eighteen Mile Creek gorge (Route 18 bridge, railroad right-of-way at Burt, Burt Dam, Fisherman's Park, etc.) that include the gorge walls, trees, wetland vegetation and water in a serene setting.

The principle scenic resources are the Eighteen Mile Creek corridor (Burt Dam to NYS Route 18) and Lake Ontario vistas from NYS Route 18. While the creek possesses the most significant scenic quality (vegetation, water, topography, etc.), its access/view is very difficult. Boating and the Burt Dam Fishing Trail (see Section IV) are specifically intended to capitalize on this resource.

When considering a proposed action, which would not affect a scenic resource of statewide significance, agencies shall ensure that the action would be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality include modification of natural landforms, removal of vegetation, etc. However, the effects of these activities would not be considered as serious for the general coastal area as for significant scenic areas.

Guidelines for actions and development to protect scenic resources and further this policy include:

1. Promote the clustering of development to provide unobstructed views of the lake or provide open space for vistas from a central, public, waterfront location.
2. Landscape features should incorporate scenic elements where feasible and utilize materials to enhance the overall scenic quality of the area.
3. Land forms and vegetation along Eighteen Mile Creek will be protected from development by proper siting and restriction from disruption.
4. Action in Olcott Harbor shall strive to reduce deterioration and restore the aesthetic quality of the harbor.
5. Street ends and municipal lands will be maintained and enhanced to provide access to coastal visual resources.

3.7 AGRICULTURAL LANDS POLICY

POLICY 26 **To conserve and protect agricultural lands in the State's coastal area, an action shall not result in a loss, nor impair the productivity, of important agricultural lands, as identified on the coastal area map, if that loss or impairment would adversely affect the viability of agriculture in an agricultural district or if there is no agricultural district, in the area surrounding such lands.**

Explanation of Policy:

Important agricultural lands in the LWRA are located north of NYS Route 18 outside of the Hamlet of Olcott (east of Krull Park and west of West Creek Road). These are prime lands that contain the unique combination of soils, drainage, water, wind and climate for high value agricultural production. The entire area is protected by agricultural districts, but is still subject to modest development pressures (west of Olcott) due to the availability of public sewer and water. Any new development must justify elimination of this resource and determine that the action will not be significantly harmful to coastal agriculture.

Any action in the LWRA must be assessed to determine the effect, if any, on important agricultural lands as mapped on the State Coastal Inventory. Actions not affecting such lands or not affecting the viability of surrounding agriculture, may be consistent with this policy. Actions resulting in a significant loss of or adverse affect on important farmland would be considered inconsistent with this policy. This determination is more fully defined by the following guidelines:

A. A public action would be likely to significantly impair the viability of an agricultural area in which identified important agricultural lands are located if:

1. The action would occur on identified important agricultural land and would:

   a. consume more than 10% of the land of an active farm containing such identified important agricultural lands;
   b. consume a total of 100 acres or more of identified important agricultural land; or
   c. divide an active farm with identified important agricultural land into two or more parts thus impeding efficient farm operation.

2. The action would result in environmental changes which may reduce the productivity or adversely affect the quality of the product of any identified important agricultural lands.
3. The action would create real estate market conditions favorable to the conversion of large areas of identified important agricultural land to non-agricultural uses. Such conditions may be created by:

   a. public water or sewer facilities to serve non farm structures;
   b. residential uses other than farm dwellings;
   c. any change in land use regulations applying to agricultural land which would encourage or allow uses incompatible with the agricultural use of the land.

B. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:

1. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for farm family supplemental income.
2. Agribusiness development which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation, e.g. milk hauler, grain dealer, farm machinery dealer, veterinarian, food processing plants.

C. In determining whether an action that would result in the loss of farmland is of overriding regional or Statewide benefit, the following factors should be considered:

1. For an action to be considered overriding it must be shown to provide significantly greater benefits to the region or State than are provided by the affected agricultural area (not merely the land directly affected by the action). In determining the benefits of the affected agricultural to the region or State, consideration must be given to its social and cultural value, its economic availability, its environmental benefits, its existing and potential contribution

to food or fiber production in the State and any State food policy, as well as its direct economic benefits.

a. An agricultural area is an area predominantly in farming and in which the farms produce similar products and/or rely on the same agribusiness support services and are to a significant degree economically inter-dependent. At a minimum this area should consist of at least 500 acres of identified important agriculture land. For the purpose of analyzing impacts of any action on agriculture, the boundary of such need not be restricted to land within the coastal boundary. If the affected agricultural lands lie within an agricultural district then, at a minimum, the agricultural area should include the entire agricultural district.
b. In determining the benefits of an agricultural area, its relationship to agricultural lands, outside the area should also be considered.
c. The estimate of the economic viability of the affected agricultural area should be based on an assessment of:

    i. soil resources, topography, conditions of climate and water resources;
    ii. availability of agribusiness and other support services, and the level and condition of investments in farm real estate, livestock and equipment;
    iii. the level of farming skills as evidenced by income obtained, yield estimates for crops, and costs being experience with the present types and conditions of buildings, equipment, and cropland;
    iv. use of new technology and the rates at which new technology is adopted;
    v. competition from substitute products and other farming regions and trends in total demand for given products;
    vi. patterns of farm ownership for their effect on farm efficiency and the likely hood that farms will remain in use.

d. The estimate of the social and cultural value of farming in the area should be based on an analysis of:

    i. the history of farming in the area;
    ii. the length of time farms have remained in one family;
    iii. the degree to which farmers in the area share cultural or ethnic heritage;
    iv. the extent to which products are sold and consumed locally;
    v. the degree to which a specific crop(s) has become identified with a community.

e. An estimate of the environmental benefits of the affected agriculture should be based on analysis of:

i. the extent to which the affected agriculture as currently practiced provides a habitat or food for wildlife;
ii. the extent to which a farm landscape adds to the visual quality of an area;
iii. any regional or local open space plans, and degree to which the open space contributes to air quality;
iv. the degree to which the affected agriculture does, or could, contribute to the establishment of a clear edge between rural and urban development.

D. Whenever a proposed action is determined to have an insignificant adverse effect on identified important agricultural land or whenever it is permitted to substantially hinder the achievement of this policy, then the required minimization should be undertaken in the following manner:

1. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural, or, if it must be sited on identified important agricultural land, sited to avoid classes of agricultural land, according to the following priority:

a. prime farmland in orchards or vineyards
b. unique farmland in orchard or vineyards
c. other prime farmland in active farming
d. farmland of statewide importance in active farming
e. active farmland identified as having high economic viability
f. prime farmland not being farmed
g. farmland of statewide importance not being farmed

2. To the extent practicable, agricultural use of identified important agricultural land not directly necessary for the operation of the proposed non agricultural action should be provided for through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land shall have priority over any other proposed multiple use of the land.

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.**

Policy 27A:

Encouragement of restoration of hydroelectric generation at the Burt Dam.

Explanation of Policy:

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. One such opportunity is the Burt Dam. Originally constructed as a hydroelectric generating station years ago, the facility has been restored to provide area power generation again consistent with acceptable environmental impact mitigation to protect downstream resources in the LWRA.

A determination of public need for energy is the first step in the process for siting any new facilities. With respect to transmission lines and steam electric generating facilities, Article VII of the State's Public Service Law require additional forecasts and establish the basis for determining the 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 derive from the siting regulations under these Articles are entirely consistent with the general coastal zone polices derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization and Coastal Resources Act. That Act is used for the purposes of ensuring consistency with the Coastal Management Program and this Local Waterfront Revitalization Program.

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

Explanation of Policy:

An assessment of potential effects of actions required for ice management must be made and determined that such actions avoid and/or mitigate impacts upon hydroelectric power production, fish and wildlife habitats, flood levels/damage, erosion rates and natural protective features.

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.**

NOT APPLICABLE

This policy is not applicable to Lake Ontario as the physical feature of the lake effectively preclude off shore energy development.

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.**

Explanation of Policy:

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and ground water but also plant site run-off, leaching, spillage, sludge and other waste disposal, and drainage from raw material storage sites. Also, 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.

POLICY 31 **State coastal area policies and purposes 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.**

Explanation of Policy:

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

The coastal area contains two major water receivers – Lake Ontario (Class A) and Eighteen Mile Creek (Class B from its mouth to Tributary 1; Class C from Tributary 1 to Burt Dam). While Eighteen Mile Creek contain polluted bottom sediments, Lake Ontario possess no current water quality limitations. Public sewers outflow into Lake Ontario (via the Town treatment plant on Route 18). As area soils do present a development limitation to septic systems, new development in the LWRA should be restricted to areas of available public sewers to avoid further degradation of coastal water quality.

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 existing tax base of these communities.**

NOT APPLICABLE

Explanation of Policy:

The Newfane coastal area is saturated with high permeable soils that are prohibitive to septic system development. The Town has also made substantial investments in sewer treatment facilities and has sewered about 50 percent of the LWRA and 70-80 percent of the coastal population. As such, the encouragement of separate, alternative sanitary systems (e.g. package plant, land spread, etc.) would endanger area water quality further and compromise public investments and expenditures to date.

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

Explanation of Policy:

Best management practices include both structural and non structural methods of preventing or mitigating pollution caused by the discharge of storm water runoff and combined sewer overflows. Eighteen Mile, Keg and Hopkins Creek watersheds require proper storm water management to avoid erosion and control flood areas. Coastal soils are well drained and require management to avoid immediate flow into stream channels.

The Town of Newfane employs and will continue to employ the best non-structural practices in prohibiting inflow and infiltration into the waste water sewer system. The capacity of the total system is such that it is able to accommodate the majority of flows without surcharge under excess capacity.

Guidelines for incorporating effective storm water management into new development include:

a. Provide specific criteria in site plan review processes which focus on storm water removal techniques, down stream capacities and construction management of drainage and sediment such as on-site retention, grading, straw dams during construction, sediments ponds, etc.
b. Incorporate design standards as set forth by the Erie Niagara Regional Planning Board for development review.
c. Utilize grading changes, landscape amenities and natural percolation as alternatives to piped storm water run off.

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.**

Explanation of Policy:

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to the enforcement of this law in areas such as Eighteen Mile Creek where significant habitats water quality need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part

657). Public and private marinas and docking facilities will be required to install proper pump-out facilities for larger craft with disposal at the town facility.

POLICY 35 **Dredging and dredge spoil 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:

Maintain harbor entrance and depth by the US Army Corps of Engineers.

Policy 35B:

Promote the dredging of Olcott Harbor for removal of navigational obstructions (bridge abutment and silt flats in middle of channel) and expansion of marine facilities in the west harbor basin.

Explanation of Policy:

Dredging will prove to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs.

Dredging will be needed to remove the bridge abutment in the harbor (old Main Street bridge), the silt flat in front of the Town Marina (north of Route 18) and in the west basin. Dredging will be prohibited south of Route 18. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, 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. Dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, and 34), and are consistent with policies pertaining to the protection of coastal resources (policies 7, 15, 25J 26 and 44).

Dredge material has been tested at the harbor entrance and found to be compatible with open lake disposed. Prospective material upstream will require impoundment/ secured disposal. All dredging in Eighteen Mile Creek will require adequate sediment testing and consolidated permit review/approval.

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.**

Explanation of Policy:

There are no large-scale tank farms or other facilities for storage of hazardous materials within the LWRA. There are, however, two marina fuel filling stations – Hedley's and McDonough's Marinas in the Olcott Harbor. (Additionally, there is one upland filling and service station within the LWRA.) NYSDEC, the Coast Guard, and the Niagara County Health Department, all have jurisdiction over spills occurring within the harbor and have established procedures for dealing with offending parties and undertaking appropriate remedial action in the event of spills. NYSDEC also regulates the bulk storage of petroleum products (between 1100 and 400,000 gallons) pursuant to 6NYCRR Parts 612-614.

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

Policy 37A:

Encourage the use of best management practices in agricultural and land development uses to reduce wind erosion.

Explanation of Policy:

Best management practices used to reduce these sources of pollution include, but are not limited to, soil erosion control practices and surface drainage control techniques. Through proper landscaping and planting methods and selection, construction techniques (e.g. hay bales), road salt application, and storage practices and land use controls, non-point source pollution can be controlled. Proper street cleaning is one management practice which can lessen non point source pollution as is contouring/tilling in agricultural areas.

Soils in the coastal (NYS Route 18 to the lake outside Olcott) are particularly subject to wind erosion (see Inventory and Analysis) if left uncovered or turned frequently. Agricultural and construction techniques such as contour plowing, straw on bare earth, early vegetative cover, watering, and site plan review must be used to reduce erosion opportunities.

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.**

Explanation of Policy:

Surface and groundwater are the principle sources of drinking water in the State, and therefore must be protected. Newfane receives its public water supply from the Niagara County Water Authority, whose source is the Upper Niagara River, and serves the entire LWRA. The Town is interested in any upstream activity affecting the quality of their water supply and/or the recreational value of their surface water. In addition, any action which adversely affects the fish and wildlife habitats is of utmost importance when considering the economic vitality of the LWRA.

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.**

Explanation of Policy:

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 sludge from water pollution control facilities, demolition and construction debris and industrial and commercial wastes. While no specific facilities exist in the LWRA, they are generated at the treatment plant (sludge) and transported to the Philips Road composting site by Town forces.

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 27-0901 (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 the environment which improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by DEC (6NYCRR 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.**

NOT APPLICABLE

Newfane does not possess major steam generating or industrial discharge facilities and is not likely to have any develop in the LWRA.

POLICY 41 **Land use or development in the coastal area will not cause National or State air quality standards to be violated.**

NOT APPLICABLE

Newfane is not the regional air quality maintenance area and is currently consistent with the State Implementation Plan. No facilities are proposed that would alter this condition.

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.**

NOT APPLICABLE

Newfane is not in a Federal air quality non-attainment area and no uses are proposed to compromise coastal air quality.

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

NOT APPLICABLE

No industrial, power or other facilities generating nitrates or suffates exist or are planned in Newfane. This policy is not applicable.

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

Policy 44A:

Develop a management plan for the Eighteen Mile Creek wetland for limited access excluding marine dockage.

Explanation of Policy:

State-designated freshwater wetlands exist on Eighteen Mile Creek from Route 18 bridge to Burt Dam and on Hopkins Creek. The Eighteen Mile Creek wetland is continually washed by upstream flow while the Hopkins Creek wetland is closed off from the lake most of the year by sediment at the mouth of the creek.

Eighteen Mile Creek has long been a navigable waterway and used for boat access to fish grounds in the shallow areas and private dockage.

At this time, the Town has determined not to pursue any dock activities south of the Route 18 bridge.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act.

The benefits derived from the preservation of freshwater wetlands include but are not limited to:

- habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains;
- erosion, flood and storm control; natural pollution treatment;
- groundwater protection;
- recreational opportunities; educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed areas.

SECTION 4

PROPOSED LAND AND WATER USES AND PROPOSED PUBLIC AND PRIVATE PROJECTS

4.1 INTRODUCTION

The Newfane Waterfront Revitalization Area (NWRA) contains unique coastal resources that are conducive to water recreation and scenic development opportunities. At the same time, however, there are significant development restrictions that limit land availability and naturally focus on waterfront activities. The confluence of Lake Ontario and Eighteen Mile Creek have created a natural harbor for marine and fishing access. Yet, the steep bluffs along the rest of the coast have presented impediments to alternative access and development. As a result, the Hamlet of Olcott Beach has become the area of concentrated coastal activity for both land and water uses and has been subjected to conflicting pressures for residential, commercial and recreational development. To help resolve these conflicts and the competition for useful space, this program has understandably concentrated on the Olcott Beach area and ways to accommodate the needed range of uses for future development.

The NWRA is divided into four areas for evaluation and presentation of coastal uses:

- NWRA Target Area – Olcott Beach Hamlet from NYS Route 18 to Lake Ontario. This area is the focus of the LWRP development efforts.

- Eighteen Mile Creek (south of the Target Area) – This area, between West Creek Road and Route 78 from Wilson-Burt Road to NYS Route 18, generally contains commercial opportunities along NYS Route 18 and fishing and scenic opportunities along the creek.

- Keg Creek (east of the Target Area) – This area, between NYS Route 18 and Lake Ontario, possesses opportunities for recreational uses at Krull Park and agricultural uses (orchards) throughout. Keg Creek represents seasonal fishing opportunities.

- Hopkins Creek (west of the Target Area) – This area includes the Hopkins Creek flood zone and land from NYS Route 18 to Lake Ontario. Planned uses are mixed residential and agriculture with a focus on seasonal fishing along Hopkins Creek.

The land and water uses proposed in this section represent complimentary activities to facilitate water-oriented recreation and renovation of the waterfront. The mixture provides for protection of coastal resources through low-intensity use in critical areas while encouraging development where opportunities exist. The complete summary of these uses is depicted graphically in Section 4.3.5.

4.2 PROPOSED LAND USES

4.2.1 Target Area - Olcott Beach Hamlet

Land uses in Olcott Beach concentrate on the revitalization of the harbor and renovation of structures and facilities in the Hamlet. The outer harbor project, an 800 slip marina with associated breakwaters is also proposed for the Lake Ontario

shoreline between the mouth of Eighteen Mile Creek and Krull Park. Major changes include a commercial corridor between the harbor and Krull Park (East Main Street/Ontario Street) to tie together those two existing recreation facilities and the new marina. Commercial uses (marine oriented) are envisioned along both sides of Eighteen Mile Creek between the Lake Ontario shoreline and Route 18. Public access is planned for the new marina area, the west beach area and on the west side of the harbor.

The Town Marina is also indicated for expanded use to accommodate increased demand for marina services (launching, parking). The lower section of Krull Park is intended for recreation use including an amphitheater and a direct connection to the adjacent commercial services on Ontario Street that will create two recreation facilities along Lake Ontario (new harbor and Krull Park) to attract area visitors with commercial services linking the two.

Refer to the Master Land Use Plan and proposed hamlet rezoning plan for detailed proposed land use patterns.

4.2.2 Eighteen Mile Creek (South of Target Area)

New uses are in the Burt Dam area where the shoreline is proposed for public trails and facilities to enhance the scenic and fishing opportunities along the creek.

The rest of the area is planned for low-density residential and agriculture consistent with existing development. Rehabilitation of the Burt Dam for hydro-electric power generation and the Olcott Aviation (formerly Palmer Airport) for charter traffic/fishermen constitute the sole commercial uses in the rest of the area.

4.2.3 Keg Creek (East of Target Area)

There are no major land use changes in this portion of the LWRA. The area is planned to preserve the high-quality orchard land existing there and limit the development of public services (water, sanitary sewers, etc.) to restrict growth. The completion of Krull Park is proposed to provide a greater diversity of recreation facilities adjacent to the Olcott Beach Hamlet. Facilities include a golf course, swimming pool, parking and winter activities (cross-country skiing, ice skating) to extend the tourist season.

4.2.4 Hopkins Creek (West of the Target Area)

This portion of the NWRA is planned primarily for mixed residential-agricultural use. The existence of public utilities (sewer, water) and adjacency to Olcott make it a logical location for low-density residential units (12,000 square foot lots). New residential development is limited to the designated area (total 50 acres) and must be able to directly tie into existing sewers (no new collectors) and be part of a planned,

clustered subdivision to restrict the impact on agricultural land to every extent practicable.

The area along Hopkins Creek is proposed for pubic access for seasonal fishing. Public easement and/or acquisition will be pursued by the Town to resolve conflicts between existing property owners and seasonal fishing demand.

4.3 PROPOSED WATER USES

4.3.1 Target Area - Olcott Harbor

Olcott Harbor is the prime area of concentrated water activities in the NWRA due to the natural availability of land and water access and opportunity for marine shelter from Lake Ontario. As the rest of the coastal area has severe topographic restrictions to marine access, the major function of the harbor will continue to be the launching, mooring, navigation and servicing of boats. Current in water facilities are deteriorating, congested and vastly inadequate for demand and in need of improvement/expansion.

The inner harbor (NYS Route 18 to Lake Ontario) is planned for marine use, exclusively. This requires upgrading of existing facilities to accommodate anticipated use including:

- dredging of the navigational channel near the Town Marina and removal of the old submerged Main Street bridge abutment;
- expansion of launching facilities at the Town Marina, and possibly Lake Street (west shore);
- rehabilitation /redesign of existing dockage to accommodate increased mooring.

The above will increase dockage by approximately 125 slips to total of 250 in the harbor and provide for safe navigation.

The outer harbor/marina project (Federal Piers and area 600± feet into Lake Ontario) is planned for fishing, mooring and navigational transition to Lake Ontario. Some of the finest off-shore fishing occurs off the Federal Piers at the mouth of Eighteen Mile Creek. However, this area must also accommodate marine entry/exit to the harbor. This use must take first priority, but can be facilitated with expansion of dockage should the US Corps of Engineers Outer Breakwall project ever be implemented.

Immediately adjacent to the outer harbor along the Lake Ontario shore (west of the Federal Pier and in Krull Park) lay two beaches that are provided for in water use

plans. The near shore area and foreshore are retained for swimming for about 100± feet from the coast. The only conflict with this is the prospective restoration of the old hotel pier in Krull Park for fishing and scenic opportunities. Limitations on use of the pier may be required to accommodate both fishing and swimming in season.

This might be augmented by day, stacked launch retrieval systems that provide for land storage of small boats (25 feet and less) and launch via fork lift upon demand. Opportunities exist at Ontario Street and the Town Marina where shoreline profiles and land are adequate for equipment. The Town Marina is currently short on space (parking, launching, etc.), but could accommodate a single 20-30 boat covered stack unit if parking is expanded to land west of the marina (see project). The Ontario Street area at the end of Cooper Street is a better topographic location, but subject to winds/wave actions pending outer harbor improvements. Other parts of the harbor lack proper shoreline profile or adjacent land to be readily useful.

4.3.2 Eighteen Mile Creek (South of the Target Area)

The NWRA portion south of NYS Route 18 is composed of three different use areas:

- Section 1 – 800± feet south of NYS Route 18
- Section 2 – Section 1 to Burt Dam; and
- Section 3 – Burt Dam to Wilson-Burt Road.

The Eighteen Mile Creek Wetland provides three principal functions that are beneficial to the environment:

1. Provision of a fish and wildlife habitat that promote recreational use of the area.
2. Entrapment of upstream pollutants to restrict their further flow downstream to Lake Ontario.
3. Accommodation of periodic flood waters from storm run off.

These functions create the characteristics that help support sportfishing in the NWRA and must be preserved to insure continuation of this growing area industry. The various flats, vegetation and marshes provide cover, forage and protection for game fish and the fish they feed on. Salmon run the creek seasonally to Burt Dam and warm-water species feed and spawn in the protected shallows of the wetland.

- No permanent facilities for marine dockage or launching may be constructed in the wetland.

- No temporary/seasonal marine facilities shall be installed in areas of identified wetland characteristics, including shoals and flats.

- No dredge or fill shall be allowed in the wetland.

Section 3 of Eighteen Mile Creek, south of Burt Dam, is known to be heavily polluted. As a result, no active uses are planned due to potential health risks. The dam itself is deteriorated and in need of structural repairs. Any renovation or solutions that include release of impounded upstream sediments without pollution treatment could be disastrous to downstream uses and habitats (wetland). Restoration of the dam is crucial to area flood management and safety.

4.3.3 Keg Creek (East of the Target Area)

Keg Creek is a small stream subject to seasonal fish runs and inadequate for marine uses. Currently under private ownership, the creek is used annually for fishing access and is expected to continue under the waterfront program.

4.3.4 Hopkins Creek (West of the Target Area)

Hopkins Creek is seasonally open to the lake and silts closed during low flow. The primary proposed use is for bank fishing, fish habitat and flood control. The area has also been identified as an appropriate area for expansion of the existing USCOE installed fish reef (at the mouth of the creek in Lake Ontario). The reef will be provided by one of the fishing tournament sponsors as a promotion of local habitat improvement. Subject to NYSDEC review and authorization of a Protection of Waters Permit.

4.4 PROPOSED PUBLIC AND PRIVATE PROJECTS

4.4.1 Proposed Actions - Olcott Hamlet & Outer Harbor (area north of Route 18 including the proposed outer harbor development but excluding the existing inner harbor and immediately adjacent facilities.)

4.4.1.A Outer Harbor Breakwater Project

A series of planning and economic development studies have served both as an impetus and "basis" for specific project proposals and recommendations of the Olcott Hamlet Master Plan. The master plan is related to and evolved from the Town of Newfane Local Waterfront Revitalization Program. The "project specific" proposal most closely related to the master plan and marina project is the Army Corps of Engineers Outer Harbor and Breakwaters project.

- Related Army Corps of Engineer Studies:

- Olcott Outer Harbor Project: Main report E.I.S. and supplemental environmental impact statement along with referenced supporting documentation. The A.C.O.E. report lists and summarizes the following studies of the Olcott harbor and immediately adjacent areas.

Prior to this Reevaluation study and report, several Corps studies of, and reports on, the harbor were performed to address the need for protection for lakefront residential, commercial, and public properties against both lake and rain storms. These study outlines are summarized from the ACOE Outer Harbor E.I.S.:

- The River and Harbor Acts of 1867 and 1913 authorized the construction of the existing project which provides for two parallel piers having an average length of 861 feet each and about 200 feet apart; and an entrance channel 12 feet deep and 140 feet wide. The existing project was completed in 1918.

- About 18 years later (1936) a study was conducted to consider further harbor improvement for the benefit of small-boat navigation and upstream channel extension into Eighteen Mile Creek. The study report concluded that these improvements were not warranted at that time because of the high cost involved.

- A 1951 report covering a study scope similar to that of 1936 reached the conclusion that further harbor improvement and channel extension could not be economically justified. The report recommended that no further Federal improvements be made at Olcott at that time.

- As a result of Congress authorizing the Corps of Engineers to review the existing project, a feasibility study was undertaken in 1969 and completed in 1978. The final feasibility report completed in November 1978 was approved by the Chief of Engineers in June 1980. This final 1978 report recommended that the existing Federal project for Olcott Harbor be modified to provide for construction of a system of east and west breakwater and pertinent jetties to create a marina basin, access channels, expansion of the entrance channel into Eighteen Mile Creek, construction of recreational fishing facilities, access facilities, and parking and sanitary facilities.

- In February 1981, "Forward Management Associates, Inc.", under contract to the Buffalo District, prepared a Reconnaissance Report which evaluated the feasibility of maintenance dredging at Olcott Harbor. The report found that adequate level of Federal maintenance of the harbor had been provided, and recommended future periodic maintenance. The report also recommended that consideration be given to the construction of protective structures beyond the

piers to mitigate wave and swells from entering the harbor under adverse lake conditions.

- In May 1981, under the authority of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, a flood insurance study was conducted by the Federal Emergency Management Agency to investigate the existence and severity of flood hazards in the Town of Newfane. As a result, Newfane was converted to the regular program of flood insurance by the Federal Insurance Administration. The Town, recognizing the importance of flood plain management, adopted a flood control ordinance which would control future building construction within the flood hazard areas, particularly the lakefront areas.

- In June 1982, the Buffalo District Economics staff finalized the Forward Management Associates Reconnaissance Report on dredging operations. The report presented an economic evaluation of dredging with and without replacement of boats. This sensitivity analysis lead to the conclusion that maintenance of the authorized 12.0 foot channel is economically justified. However, the report also concluded that dredging of 4 feet of sediment every 8 years is the most cost-effective dredging scenario.

In December 1982, the Niagara County Department of Economic Development and Planning completed a Niagara County Fisheries Development Study. The study outlined the impact of the Lake Ontario and lower Niagara River salmonid sportfishery on Niagara County. The study identified existing facilities and was the basis for the development of a Fisheries Development Plan for Niagara County.

The Fisheries Development Plan for Niagara County was completed in January 1984 by the Niagara County Department of Economic Development and Planning. The plan outlined the capital projects that would eliminate the counties salmonid recreational fishing facility deficits identified in the December 1982 report. Capital improvements included $4.8 million for construction 16 double lane launch ramps and $150,000 for bank and pier access improvements.

The January 1984 Fisheries Development Plan was revised by Niagara County's Department of Economic Development and Planning early in 1984 to be consistent with Local Waterfront Revitalization Program Comprehensive Plans for Niagara Falls, Lewiston, and other communities. The revised plan was released in June 1984 as the Niagara County, New York Salmonid Fisheries Development Plan. The recommendations for capital improvements were essentially the same as the January 1984 report. The plan was endorsed by the Niagara County Fisheries Development Board, the Niagara County Economic Development and Planning Legislative Committee, and the Niagara County Legislature.

- In October 1986, the Town of Newfane completed a Draft Local Waterfront Revitalization Program Report (LWRP). This plan was included in the State Coastal Management Program and gave the Town the responsibility to manage and enforce coastal development in its community. The plan centered on development in the hamlet of Olcott Beach and Eighteen Mile Creek.

A range of capital improvement projects were proposed which would be consistent with the goals and objectives associated with coastal development outlined in the LWRP. There were 7 capital improvement projects with an estimated cost of $18 million. The development of a basin area for recreational craft in Lake Ontario at Olcott was the major capital improvement project and had a development cost of $12 million. A major component of the project was the development of breakwalls for the boat basin area in Lake Ontario. The Town endorsed the U.S. Army Corps of Engineers breakwater proposal outlined in its 1978 Olcott Harbor Feasibility Report.

- A Comprehensive Economic Development Strategy for Niagara County was completed for the Niagara County Industrial Development Agency and the New York State Urban Development Corporation in November 1986. It was prepared by the Arthur D. Little Company.

This eighteen month study identified the strengths and weaknesses of Niagara County's Economy, County goals and objectives, new and expanded programs to implement these goals, and steps required for implementation.

Six key short-term and long-term development projects were identified and would require $50 million in public funds to implement. The major short-term project was development of a super marina project at Olcott. The two phase project would include a marina, a motel/hotel, a condominium complex, restaurant, stores, parking, and recreational and other support facilities. Full project development would require the construction of a breakwater in Lake Ontario to create a large protected harbor. The super marina would account for more than one-fourth of the $50 million of public funds needed to implement the six development projects. This project would complement and be consistent with the Town of Newfane's Local Waterfront Revitalization Program.

The following studies have been developed specifically for the D.G.E.I.S. and are included in their entirety in the Appendix:

- Traffic Study - Prepared by EMS Consulting
  Refer to Section XI

- Fiscal Impact Study - Prepared by Development Planning Services
  Refer to Section X

4.4.1.B Olcott Hamlet Master Plan

The Olcott Harbor Master Plan was prepared by Wendel Engineers and Development Planning Services, Inc., assisted by the Niagara County Planning and Industrial Development Department. Preparation of the plan was financed by the Town of Newfane and a grant from the New York State Regional Economic Development Partnership Program. Additional support was obtained through the provision of "in kind" services by Niagara County. The plan was developed under the direction of a Master Plan Advisory Committee appointed by the Town of Newfane.

The plan builds on previous planning efforts including the Town of Newfane Local Waterfront Revitalization Program and the Arthur D. Little Comprehensive Economic Development Strategy prepared for the Niagara County Industrial Development Agency and the New York State Urban Development Corporation. The Olcott Hamlet Master Plan consists of recommendations for future land use, public and private physical development projects, infrastructure/traffic improvements, and waterfront access/marina development.

The recommended plan was developed based on review and analysis by the advisory committee of three alternative plans. Significant input from various concerned individuals, citizen groups, supplemental studies, the steering committee, involved agencies and the U.S. Army Corps of Engineers were obtained and incorporated in the decision making process.

The master plan consists of two basic components as follows:
- Master Land Development Plan (Exhibit 1)
- Master Use Plan (Exhibit 2)

Perspective sketches of proposed master plan projects are shown on Exhibits 3 and 4.

The following is a summation of the major components of the overall master plan.

- MARINA

  Based on the Corps of Engineers cost-benefit analysis, only one marina basin is proposed and will be located on the east side of the hamlet. It will be designed for ±800 slips. The maximum number of financially feasible transient slips will be provided, with the balance for resident boats. The plan shows a control tower at the center of the marina accessible from the foot of Lockport Street. The control tower could serve as a public overlook and attraction in addition to its function in terms of marina operations. The plan calls for some marina services such as rest rooms, showers, laundry and lockers to be provided as part of the control tower. Other necessary services (gas, pump-out, repair,

ship's store) should be provided privately. If this is not feasible, essential support services will be included in the marina project.

The plan recommends two main drop-off areas for the marina – one at Franklin Street and one near Cooper Street on Ontario Street. Pedestrian access to the marina and waterfront is recommended in these locations, with a third pedestrian access way at the end of Lockport Street. Emergency access is planned at the Cooper Street drop off. The plan shows a continuous boardwalk from Krull Park to the federal pier. Premium marina parking is shown in lots at Franklin/Ontario (100± spaces) and Cooper/Ontario (50-75 spaces). Additional marina parking is shown off East Main Street at Krull Park (350± spaces), with overflow parking in the park south of Route 18. This parking concept was developed to satisfy Corps of Engineers' recommendations that around 400-500 spaces be provided north of Route 18, as close as possible to the marina.

- HAMLET CENTER

The proposed hamlet center land use pattern is designed to strengthen and upgrade this area. A town square is proposed on Lockport Street, connecting the marina to the hamlet center. Village commercial uses are indicated on Main and Lockport Streets. These uses should include retail stores, restaurants, offices, banks and similar businesses. Automotive, marine business, and highway commercial uses should not be permitted. A fairly dense development pattern is suggested, with building fronts at the sidewalk and parking behind buildings. The objective is to create a lively pedestrian environment with continuous retail frontage. As the area develops, additional parking may be required. It is recommended that this need be met by expanding parking now located off Albright Alley, behind buildings on Main and Lockport Streets.

On Ontario Street, small-scale retail, restaurant and gallery uses are recommended on the south side of the street, in keeping with the scale of the area and lack of nearby parking. On the north side, a waterfront commercial district would permit larger-scale similar uses while protecting views over the marina to Lake Ontario.

The project (Figure 5) incorporates a number of public and private elements. A hotel is planned of about 60 units with conference/seminar facilities for business meetings. The structure is oriented toward the lake and tiered to take advantage of scenic opportunities. It can be a brick/masonry facility of up to file stories adjacent to Lockport Street for entry visibility from Route 78 into Olcott. Its proximity to the old Olcott Hotel will attract area attention of residents who patronized the area years ago.

Complimentary facilities to the hotel include 10,000 square feet of retail shops and a 2500 square foot restaurant with an outdoor cafe overlooking the lake. All facilities would be linked via a path from Lockport Street to Krull Park and divert patrons from the harbor and the park to the development. A critical water-related element of the project is county restoration of the old hotel pier which is currently a hazard to boating in its deteriorated condition. This along with the beach and establishment of waterfront paths (grading, landscaping and gravel paths) will encourage use and development of the area. Adjacent parking for 90 cars to the rear of the project area can provide relief for area congestion and buffer the project from adjacent uses. The project requires the closure and abandonment of Ontario Street to allow lake orientation and efficient use of the site.

Total cost of the project is approximately $5 million including design and contingencies. The project would require only two years to construction, but may be phased to enable proper market absorption and coordination with adjacent public facilities (pier renovation and Krull Park development).

- EAST SIDE RESIDENTIAL

The east side residential area around Franklin Street is shown on the plan as continuing in its present use. Mechanisms to discourage marina and commercial traffic on Franklin Street are recommended. To further strengthen this area and help develop a better image for the hamlet, it is recommended that the residential area be extended to Main Street east of Franklin, with some limited commercial uses (bed & breakfast, small shops, etc.) permitted.

- WEST SIDE WATERFRONT AND POND AREA

A public beach, cartop launch area, and boardwalk are recommended along the shore from the federal pier to approximately Wright Street. Parking for the beach and pier fishing is recommended in two lots off Beach Street, and on scattered sites in the residential area between Beach and Lake Streets. Assuming that the pond can be connected to Lake Ontario and used as a private marina, the area between the pond and proposed beach is recommended as a mixed use district where marina services, water-enhanced commercial uses such as restaurants, and both seasonal and year-round residences could occur. All new development in this area would have to be raised above flood elevation.

- WEST SIDE COMMERCIAL DISTRICT

West side commercial activity is now located on Main Street near and east of VanBuren Street. The plan recommends that future commercial development also occur in this area.

- JACKSON STREET AND JACKSON/MAIN AREA

  Jackson Street is the main entry to the west side of the hamlet, and provides access to both the residential and commercial areas. To form an appropriate transition between commercial and residential areas, it is recommended that residential use and character continue, with small-scale limited commercial use (bed & breakfast, small shops, etc.) permitted.

- WESTERN HAMLET RESIDENTIAL AREAS

  The western hamlet's residential areas along Main Street, the middle parts of VanBuren and Jackson Streets, Clinton, Crescent and Lake Avenue are recommended for continuation in their present use (see map). Maintaining the residential character and integrity of these neighborhoods is important for their continued viability and stability.

- EIGHTEEN MILE CREEK

  North of Route 18, all property directly on Eighteen Mile Creek is proposed for water-dependent uses. On the east side, these consist primarily of marine businesses, public access and emergency access. On the west side, they include the Olcott Yacht Club, marine businesses and the Town Marina. Charter slips are recommended at the Town Marina. To accommodate growing demand and increase lake access, the plan calls for additional launch capacity and parking areas at the Town Marina. Expansion of adjoining marine business uses (Route 18 and Jackson area) is also recommended.

  The demand for marine facilities and mooring in Olcott is expected to considerably exceed the ability of Olcott Harbor to accommodate mooring. There are approximately 250 slips currently in the harbor. However, demand is conservatively estimated at 400-800 additional slips. As a result, there will be no adequate space available to handle expected area growth within the Inner Harbor.

  A water taxi is recommended to connect activity centers on the east and west sides of the creek, with the proposed marina and the major public landings at the foot of East and West Main Streets.

  South of Route 18, the plan for lands along Eighteen Mile Creek indicates preservation of the wetlands. Trails are recommended to provide opportunities for environmental education and to link the hamlet with Krull Park to the south. Previous plans were revised to eliminate any construction (except trails) in the wetlands south of the Route 18 bridge.

- ROUTE 18

Between West Creek Road and Route 78, the recommended land use is principally highway commercial, with marine business near the Town Marina and expanded marina parking on vacant land across Route 18. Commercial development should not be permitted further west in order to concentrate such economic activity in the hamlet.

The Route 78 intersection now has public use on all four corners, three of which are currently vacant. The plan recommends further development of this land as open space to establish a clear image and identity at this important location. Existing commercial uses south and east of the intersection are appropriate for this location, but should not encroach further on adjacent residential areas.

The plan recommends the eventual relocation of Route 18 east of the hamlet, if necessary, to provide adequate site area for a resort/conference center, and to expand the waterside area of Krull Park.

- KRULL PARK

Krull Park is recommended to remain as open space, with phased development of a golf course, trails, playgrounds, ball diamonds, tennis and basketball courts, camping areas, a community center and other amenities. The agricultural land east and south of the park is recommended for residential development.

Two new entrances are recommended to relieve pressure on the intersection of Routes 18 and 78. These are at Transit on the east side of the park, and at Route 78 on the west. The entrance at Route 78 would also be a pedestrian connection to proposed creek trails. The plan shows a reconfigured connection from the eastern hamlet to the park which would improve vehicular and pedestrian access.

Other recommended improvements in Krull Park are summarized below.

Golf Course – An eighteen-hole golf course is recommended in the more remote area of the park, adjacent to proposed residential land use and easily accessible to the proposed resort/conference center area.

Camping — Camping is proposed in wooded areas close to the Route 78 entrance.

Active Sports Area – Active sports, including multi-use playing fields, tennis courts and ball diamonds, are proposed in the center of the park, away from streets and residential areas on the park perimeter.

Existing Park Area – This area is proposed to remain essentially unchanged except for possible circulation improvements and beach enhancement.

Community Center/ Festival Commons Area – This area should located south of route 18 but close to the hamlet to create a stronger relationship between the park and the hamlet center.

Parking – Overflow parking for the marina, hamlet and park users is proposed in Krull Park. A shuttle service is also proposed so that use of this parking area is very convenient.

Miscellaneous – Trails throughout the park are proposed for hiking, cross-country skiing and similar activities, and to link various park uses. Major landscaping should be installed to form spaces and screen activity areas.

The project is estimated at $8,137,000 to complete. However, it is suggested that it proceed in phases as follows:

Phase I:	Trails and Playgrounds	($80,000)
Phase II:	Camping and Sports Complex ($2,057,000)	
Phase III:	Community Center, Ice Rink	($2,500,000)
	Golf Course	($3,500,000)

4.4.1.C LWRA - Wide Projects

A. Area Promotion

1. Creation of local chamber of commerce/tourism group to promote coastal activities, access and projects.

2. Establish map/brochures of area services, facilities and events to coordinate with tourism efforts of Niagara County, the Seaway Trail program and New York State.

3. Promote professional fishing tournaments in Olcott to expand awareness of fishing, recreation facilities and their use.

B. Comprehensive study and recommendations for structural and non-structural solutions to retard shoreline erosion and protect coastal properties.

4.4.1.D Coastal Target Area - Olcott Inner Harbor (Existing Harbor)

A. Olcott Harbor Renovation

The marina was improved 1978 through 1989 to its present condition to provide public launching and transient dockage in Olcott Harbor. Existing facilities include launching ramps (three, double wide), 50-60 car parking, 57 seasonal slips and transient docks for 30± boats, shoreline stabilization, a fish cleaning station and public restrooms. However, during the fishing weekends and tournaments (six per year), the congestion and demand seriously overtax services. The marina offers the only public launch facilities in the harbor and often accommodates 300-500 launchings per day.

This project is for improvements to existing structures at the Marina. The launch ramps are in need of rehabilitation due to use and weather. Additional parking is needed along the north end of the project where Main Street dead ends. Additional site lighting and electrical hook-ups to the docks will also be designed.

The existing comfort station which is currently a single story, was originally intended to be a double story building housing the harbor master's office and county sherrif's patrol station on the second floor. State funds were obtained to only build the first floor of this building consisting of restroom and shower facilities for the general public. Slight design modifications will be made to accommodate preparation of the second floor.

The Town Board and Supervisor will oversee the completion of this design component. Wendel, the Town engineers, will carry out the design effort. The design team will consist of representatives from the Town Board, Town business association and/or the Town's Waterfront Advisory Committee, and Wendel. Agencies involved in the design permitting process include NYSDOS, NYSDEC and U.S. Army Corps of Engineers.

The Town has a marina crew who operate the marina from April 1 through mid-November. They are supplemented by members of the Town's Sewer Department and Highway Department.

4.4.1.E Eighteen Mile Creek - South of Target Area

A. Commercial facilities expansion on NYS Route 18 to serve area tourism/recreation - campground, motel, retail (gasoline sales, convenience store).

B. Burt Dam - Fishermen's Park Trail

Existing conditions in the Burt Dam area present an ever increasing hardship and danger to sport fishermen. Each year as the abundance of game fish increases, the volume of anglers scrambling up and down the gorge wall increases, as does the chance of injury. Hazardous roadside parking along Route 78 is also on the increase due to a lack of safe, adequate parking facilities in the area.

The entire project area (Figure 7) is composed of approximately 1500 ft. of Eighteen Mile Creek gorge, between Burt Dam and the Town of Newfane Fishermen's Park. The Park represents the only area large enough for safe, off-street parking and affords an existing cut in the high bank of the steep gorge suitable for development of safe walking access to the stream bed. The parking lot will be enlarged to 50 cars.

The existing park stair from high bank will be utilized for safe footpath access to the base of the gorge immediately to the south of the descent trail along the base of the high bank.

A small, concrete building (approx. 8′ x 8′) in this area will be demolished, and the broken concrete used to fill an adjacent dry-well pit. A wooden foot bridge, 24 ft. long, could span this gully and, by screening the outflow pipe at the top of the bank with suitable vegetation, the over-all aesthetics of the area would be greatly improved.

The remainder of the footpath will be constructed with minimal brush and tree clearance and grading. Path alignment and tree removal will be planned so as to preclude any stream bank erosion. It should be noted here that the entire gorge is wooded and the tree and brush removal will have to be accomplished along the entire length of the footpath. Much of this material will be run through a "chipper" and utilized as pathway materials.

It should be noted that there is significant historical value to the area at the base of the dam. Remnants of the VanHorn mills and dam still exist and are readily visible. The VanHorn mills were one of the very early 19th century industries to utilize the water power of Eighteen Mile Creek. Appropriate plaques will be erected to tell this historical story.

The old Hojack railroad trestle will be planked and railings erected for a scenic overlook of the gorge. Signs and a trail will link the trestle with Fishermen's Park.

The approximate cost of this project is $55,000 for all facilities. It would require 4-6 months to construct and could be undertaken with Town forces which would reduce labor expenses. Any debris resulting from demolition will be properly disposed in an approved sanitary landfill. No dumping will be allowed in the floodplain or wetland. The result would be an attractive fishing and scenic trail to serve tourist and fishermen who visit the area.

4.4.1.F Keg Creek - East of Target Area

A. Keg Creek

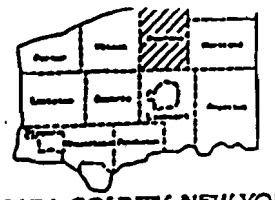
Provide signage for traffic safety and congestion control (parking limitations, line-of-sight/speed markings)

4.4.1.G Hopkins Creek - West of Target Area

A. Creek Bank - acquire easements/secure agreements for seasonal fishing access along both sides of Hopkins Creek.

B. Expand fishing reef off the mouth of Hopkins Creek to promote fish habitat development.

TOWN OF NEWFANE
NIAGARA COUNTY, NEW YORK



LOCAL WATERFRONT REVITALIZATION PROGRAM
4.3.5
LAND AND WATER USES

TOWNSHIP & RANGE LINE
GREAT LOT LINE
PROPERTY LINE
STATE HIGHWAY
COUNTY ROAD
TOWN HIGHWAY
STREAM
RAILROAD

LAND USES

- Public/Semi Public
- Resid.
- Commercial
- Industrial
- Agricultural

SCALE

WATER USES

- Marine
- Fishing
- Swimming

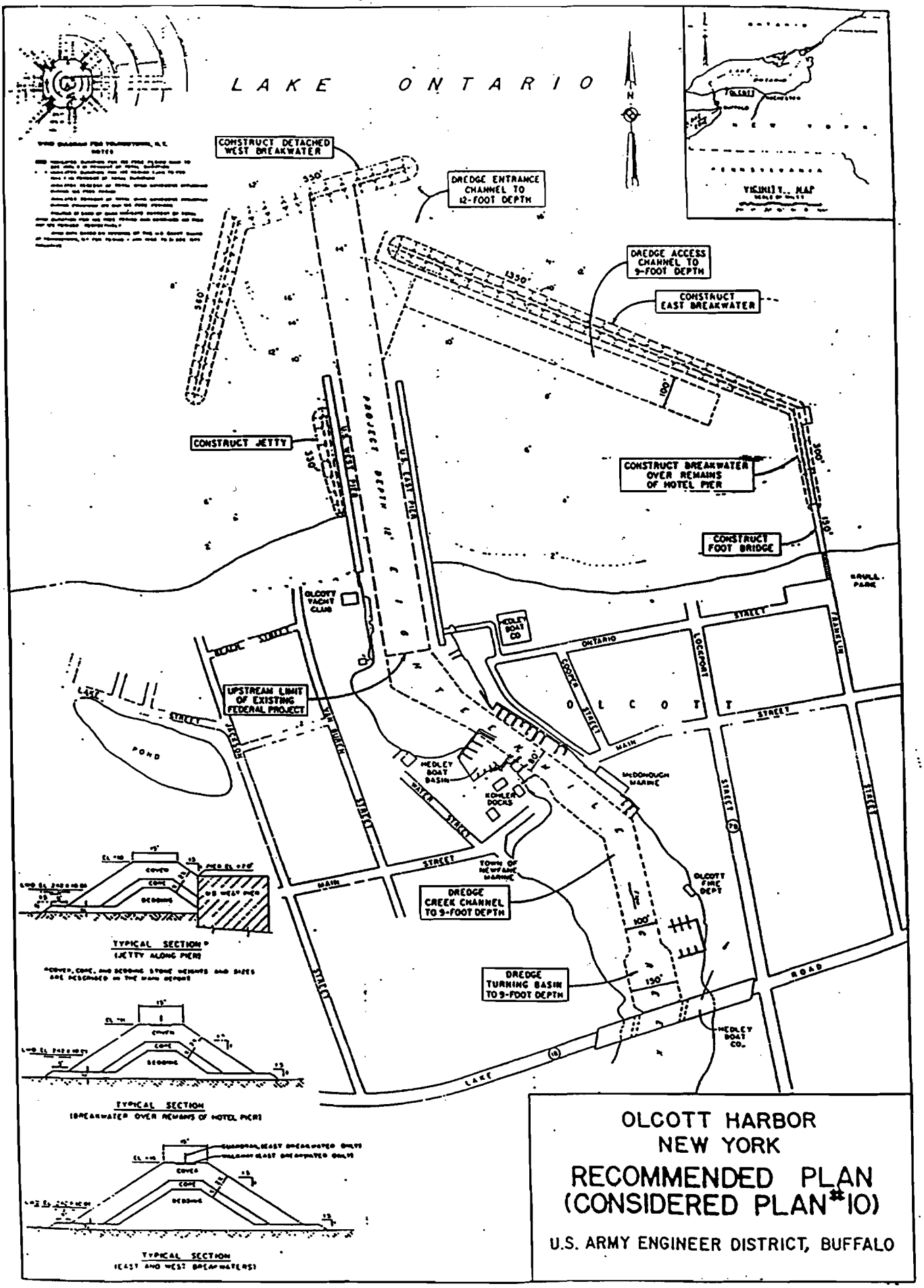
ONTARIO

LAKE

SOMERSET

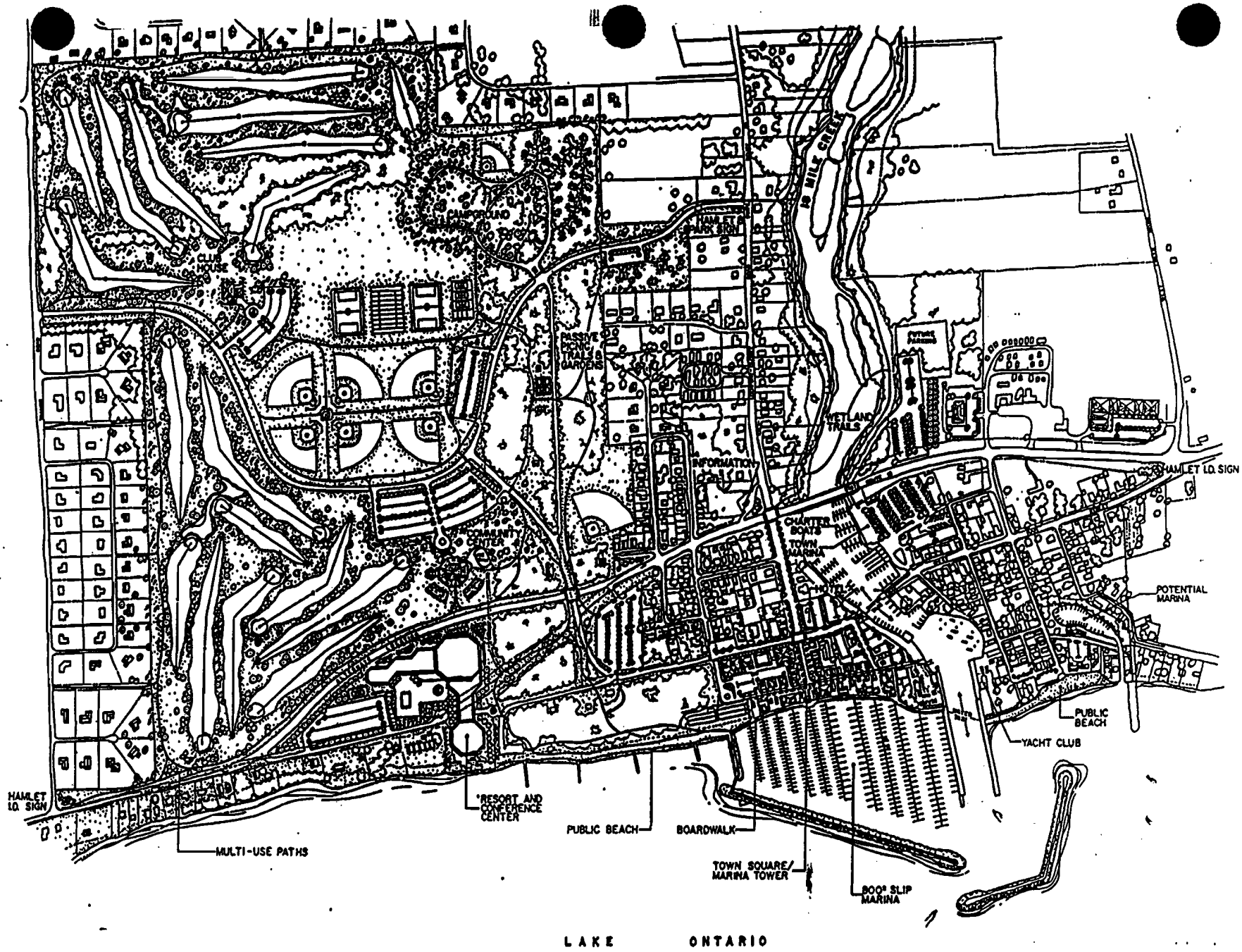
PENN CENTRAL

Corner Station



OLCOTT HARBOR
NEW YORK
RECOMMENDED PLAN (CONSIDERED PLAN* 10)

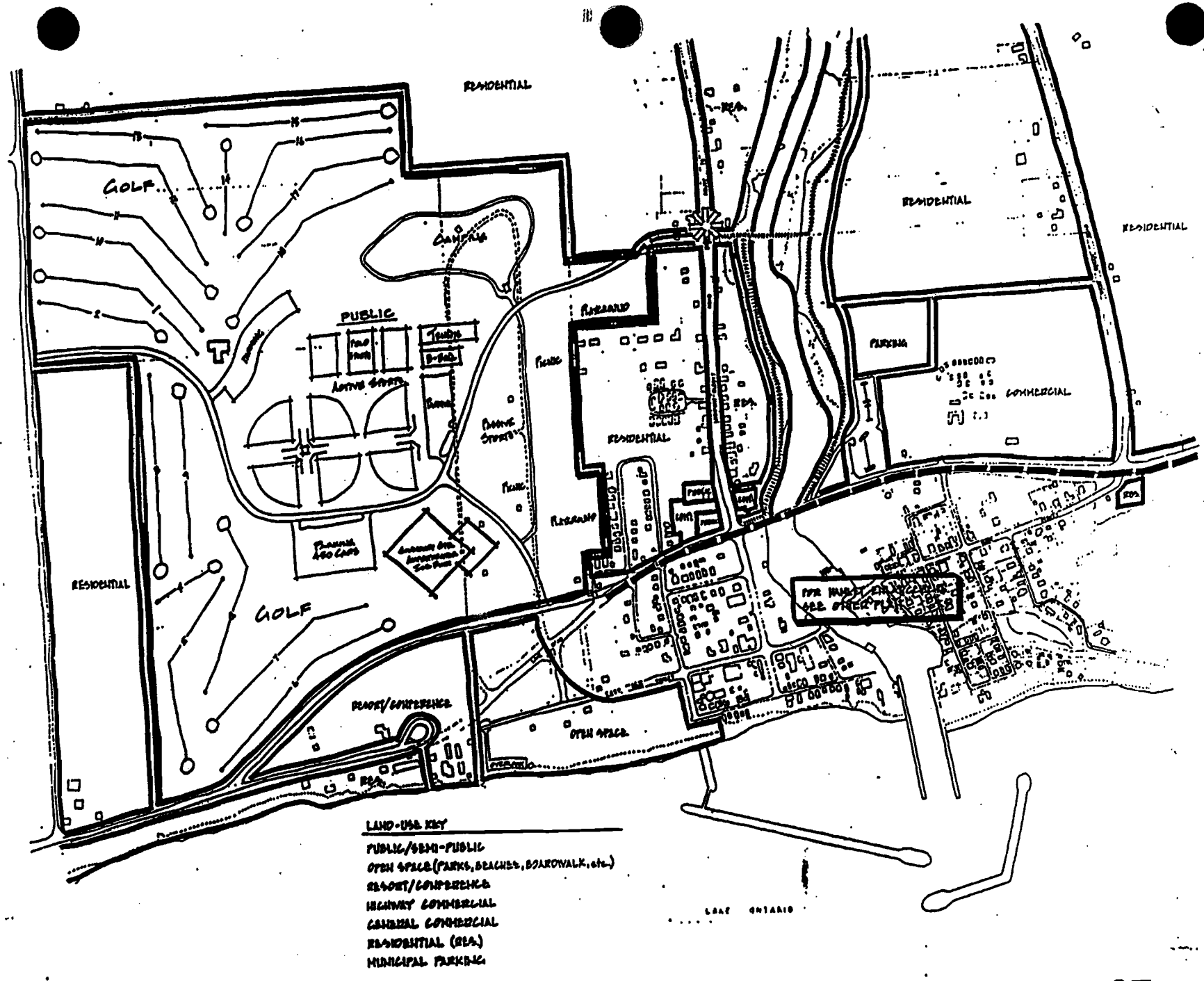
U.S. ARMY ENGINEER DISTRICT, BUFFALO



WENDEL APRIL 1990

DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

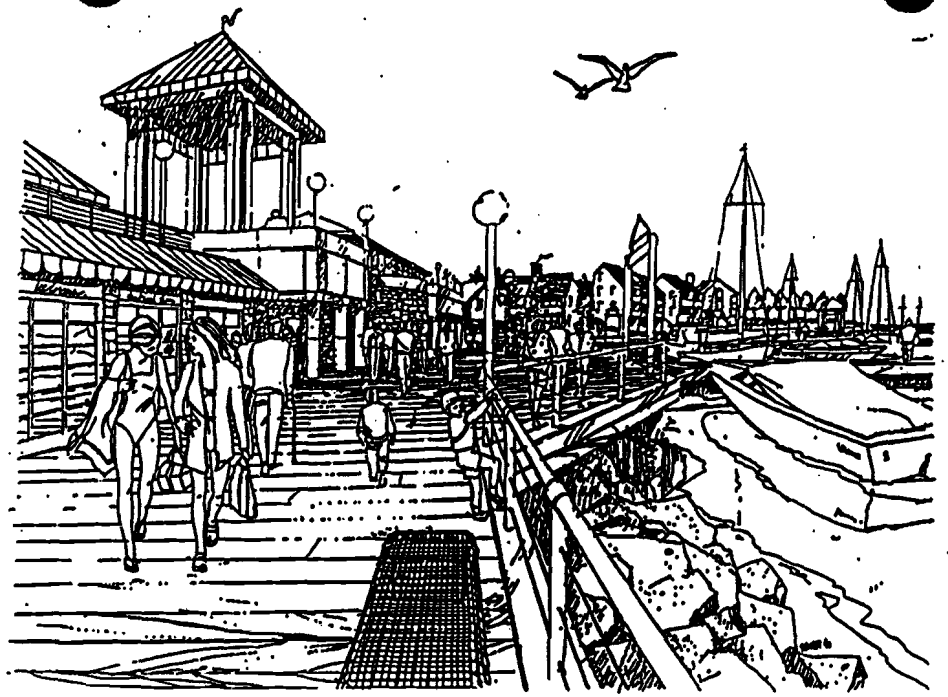
OLCOTT HARBOR
MASTER DEVELOPMENT PLAN

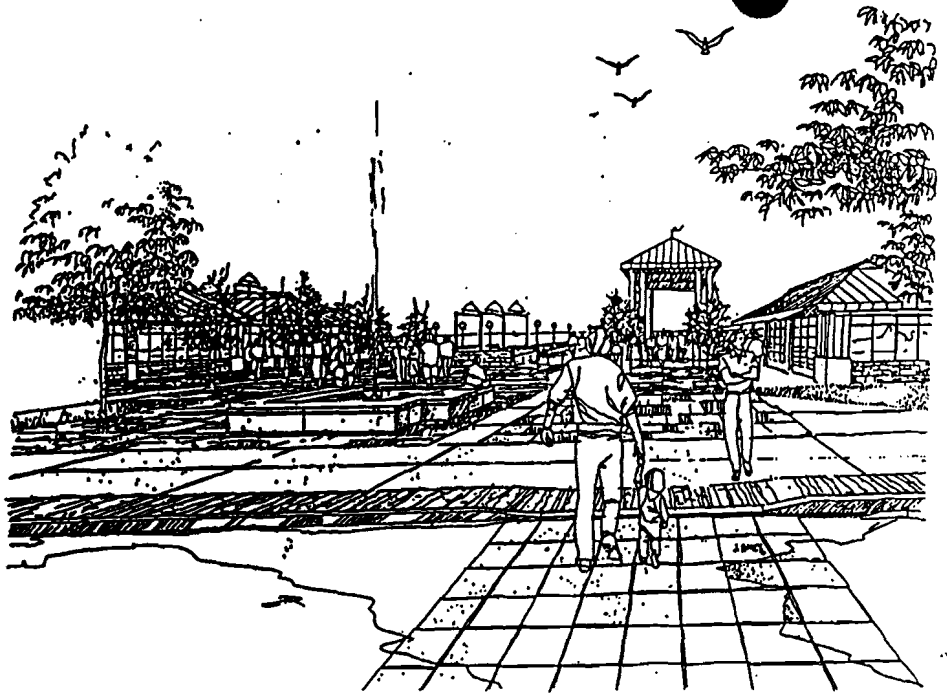


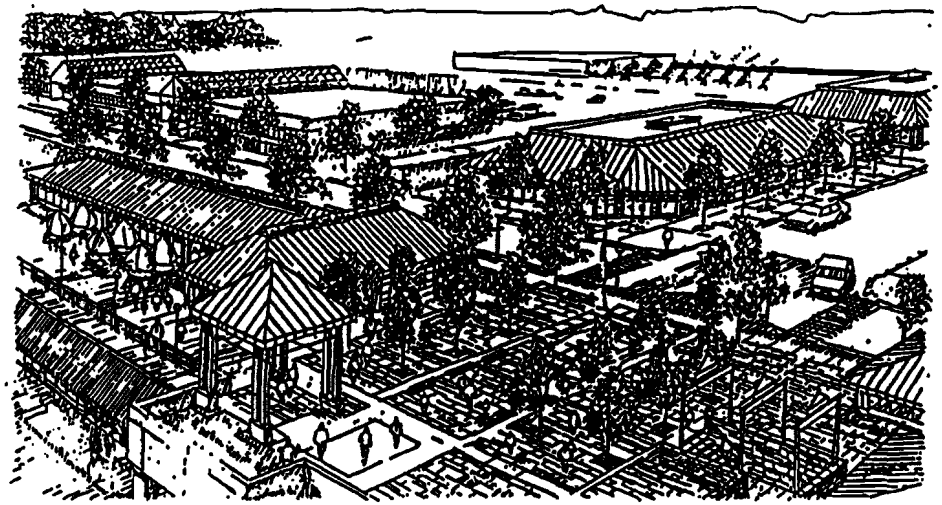
WENDEL
DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

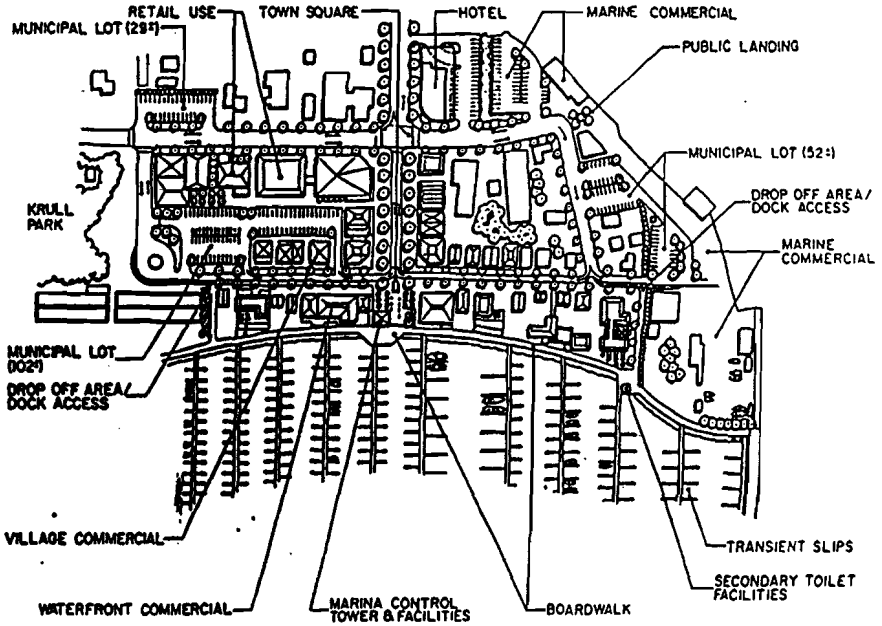
FEB. '90

OLCOTT HARBOR
MASTER LAND USE PLAN



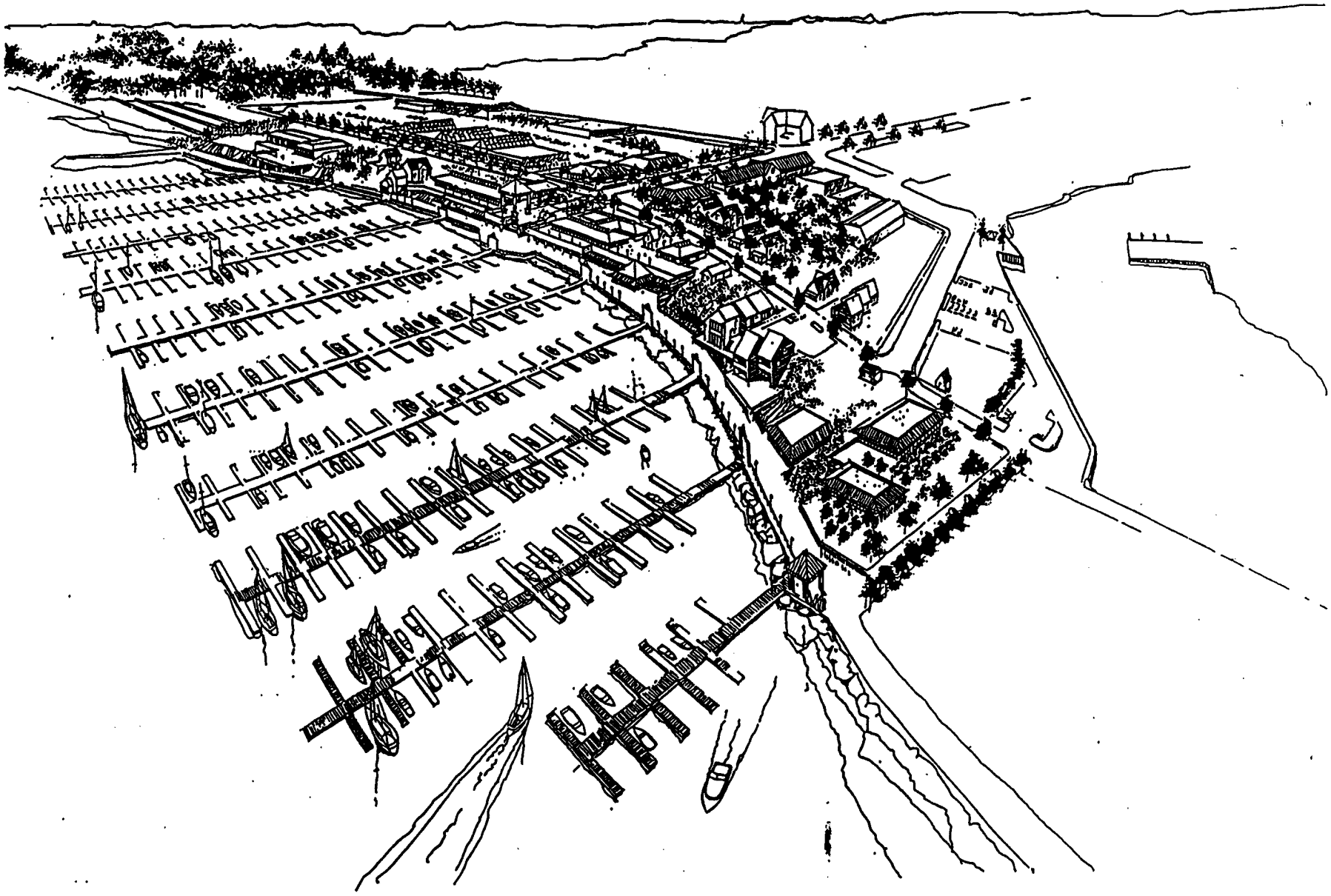






WENDEL APRIL 1990
DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

OLCOTT HARBOR MASTER PLAN

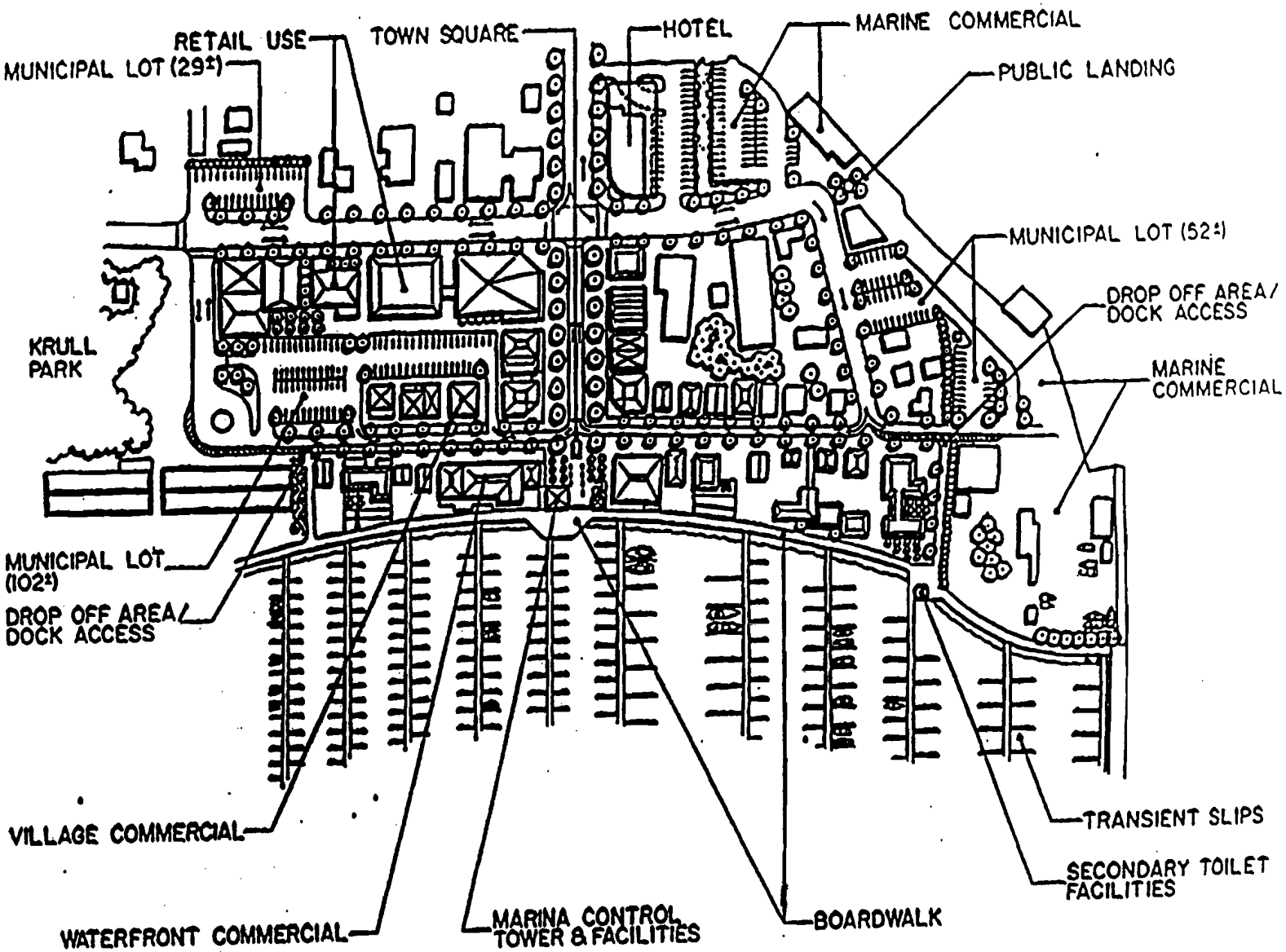


OLCOTT HARBOR MASTER PLAN

APRIL 1990

WENDEL
DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

MARINA PLAN ENLARGEMENT



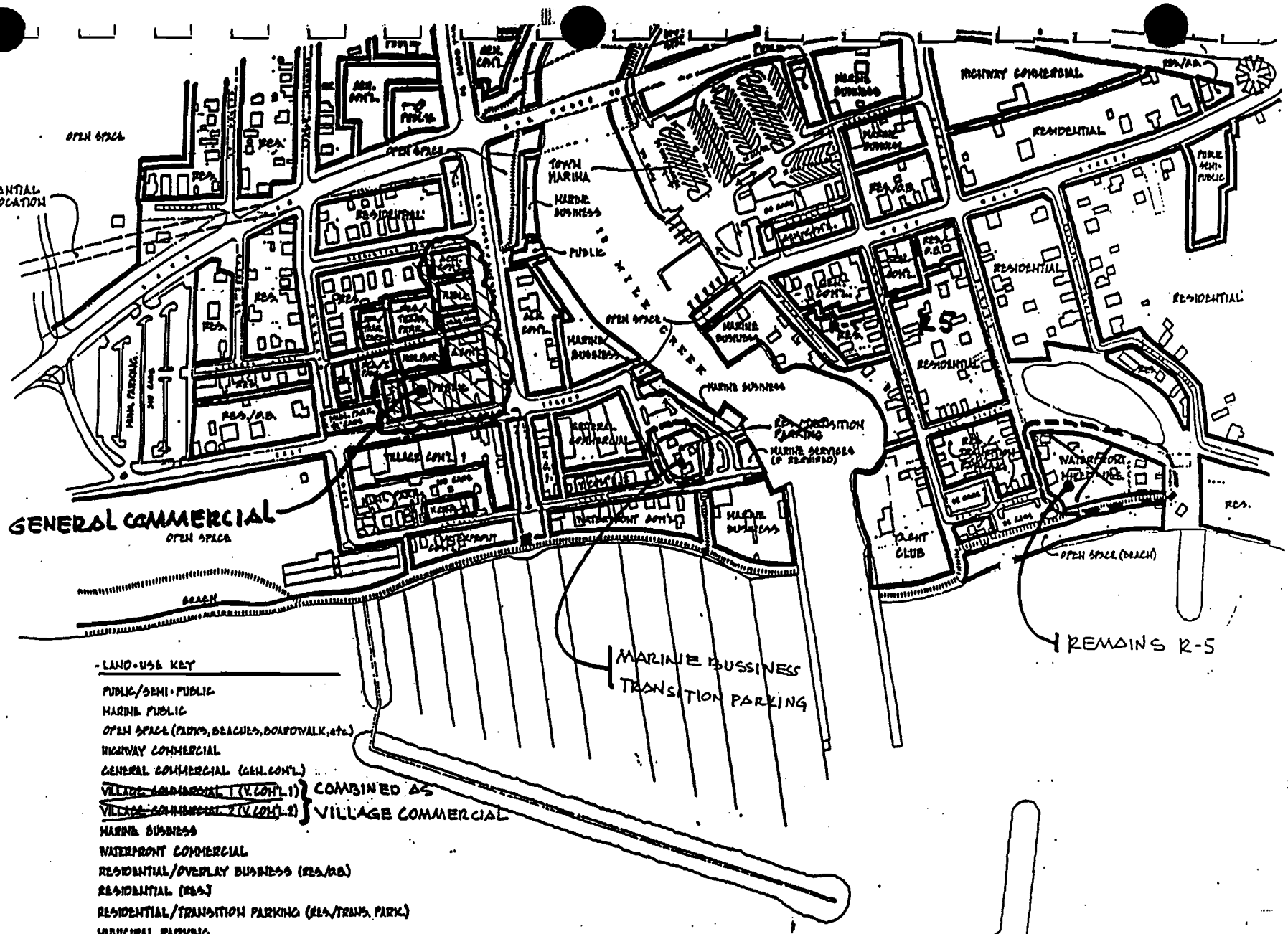


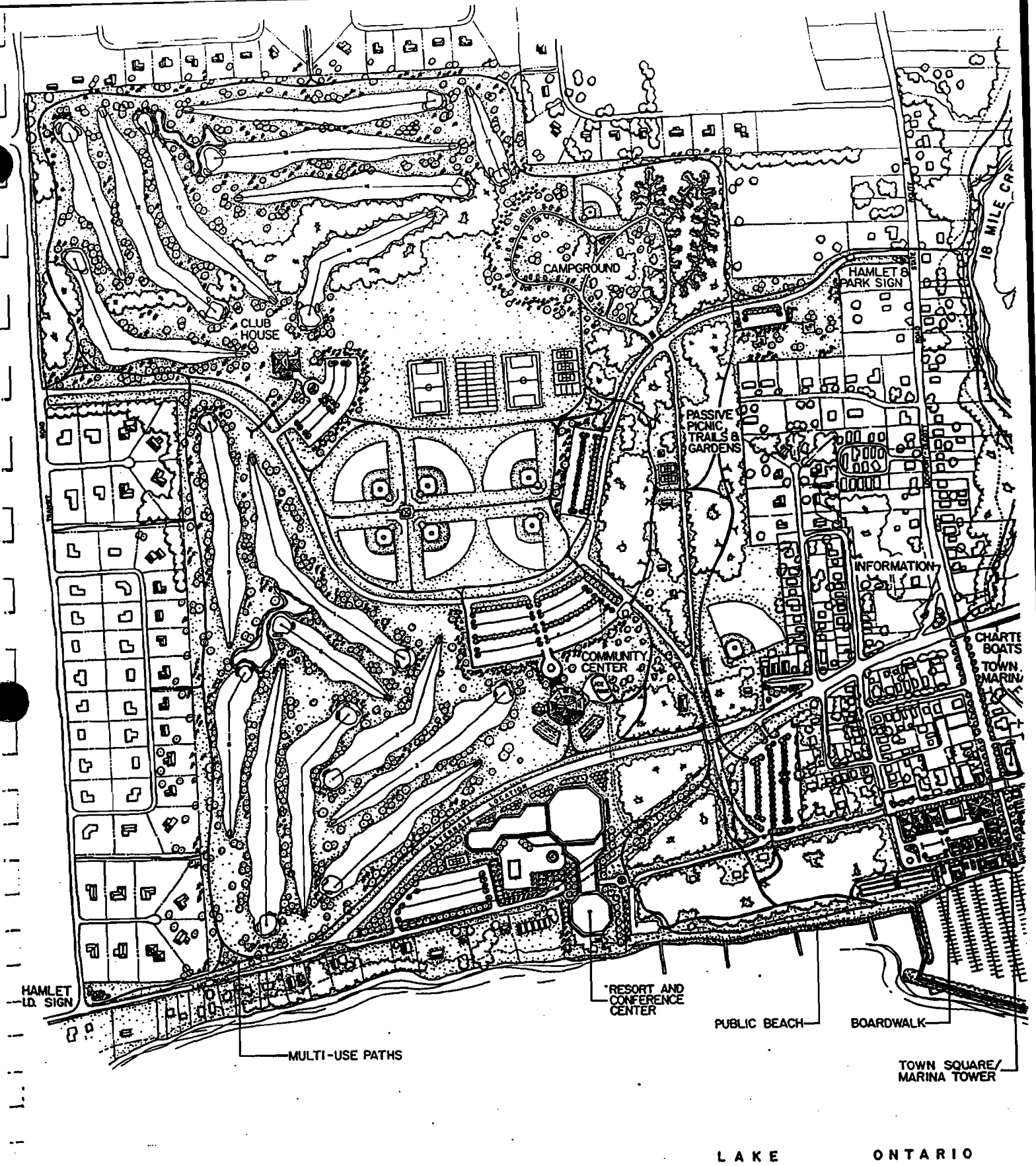
EXHIBIT 5.1

DRAFT - FEB. 1993

WENDEL
DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

FEB. '90

OLCOTT HARBOR MASTER PLAN



WENDEL APRIL 1990

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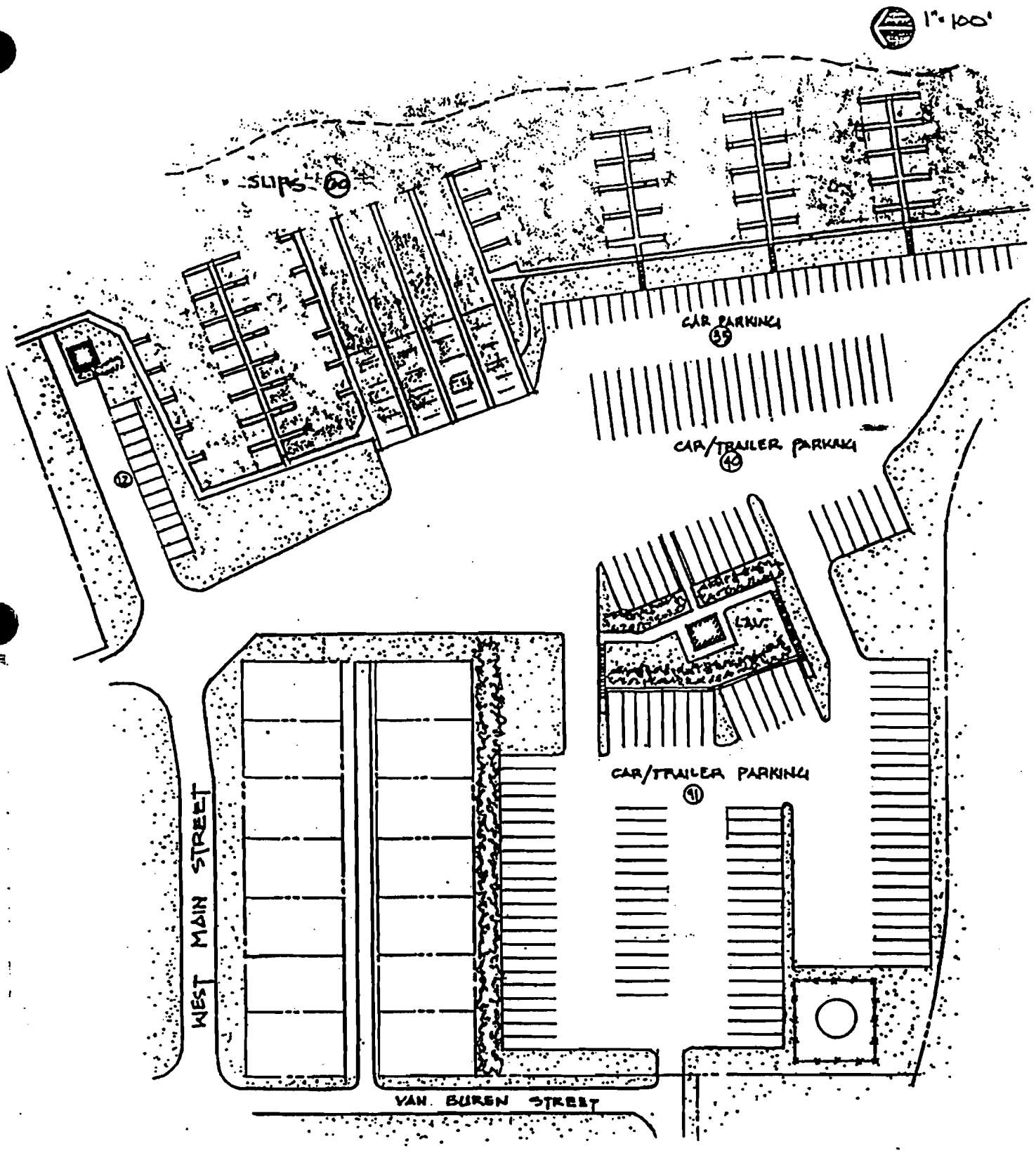
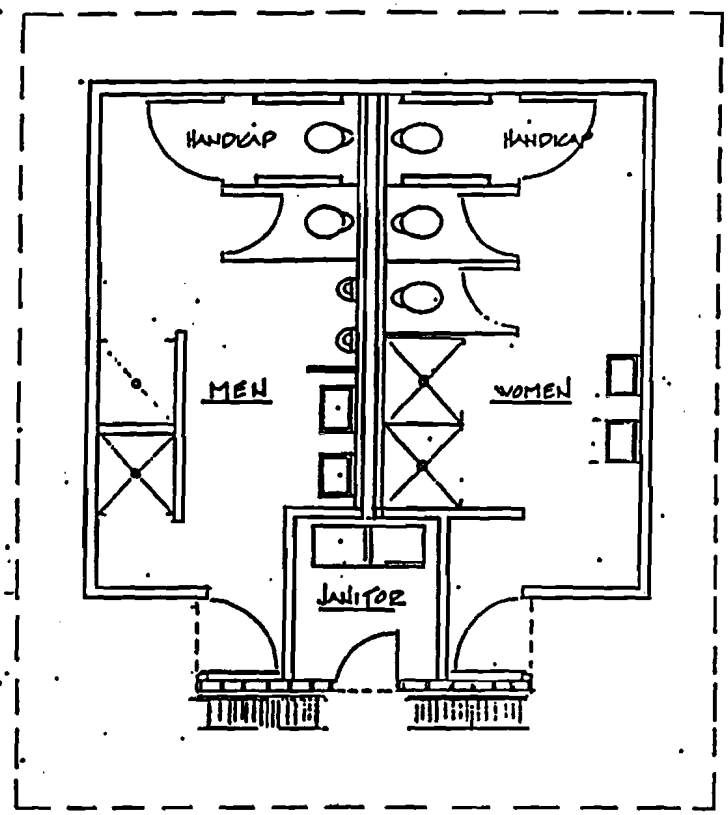
DEVELOPMENT PLANNING SERVICES
NIAGARA COUNTY PLANNING DEPT.

KRULL PARK COMPONENT

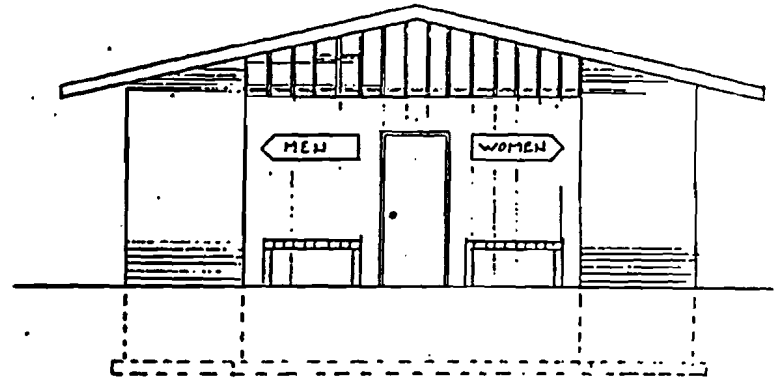


TOWN OF NEWFANE LWRP

SST/ARCHITECTS 6/19/85



FLOOR PLAN



FRONT ELEVATION

OLCOTT MARINA AND PARK

LAVATORY AND SHOWER BUILDING

FLOOR PLAN : FRONT ELEVATION

DWN. KFL	CHK. AWM	APPD.
		DATE 9/3
		SCALE 3/16
		JOB NO. 24

WENDEL ENGINEERS PC
consulting engineers/planners/surveyors
LOCKPORT N.Y. - BUFFALO N.Y.

SK-

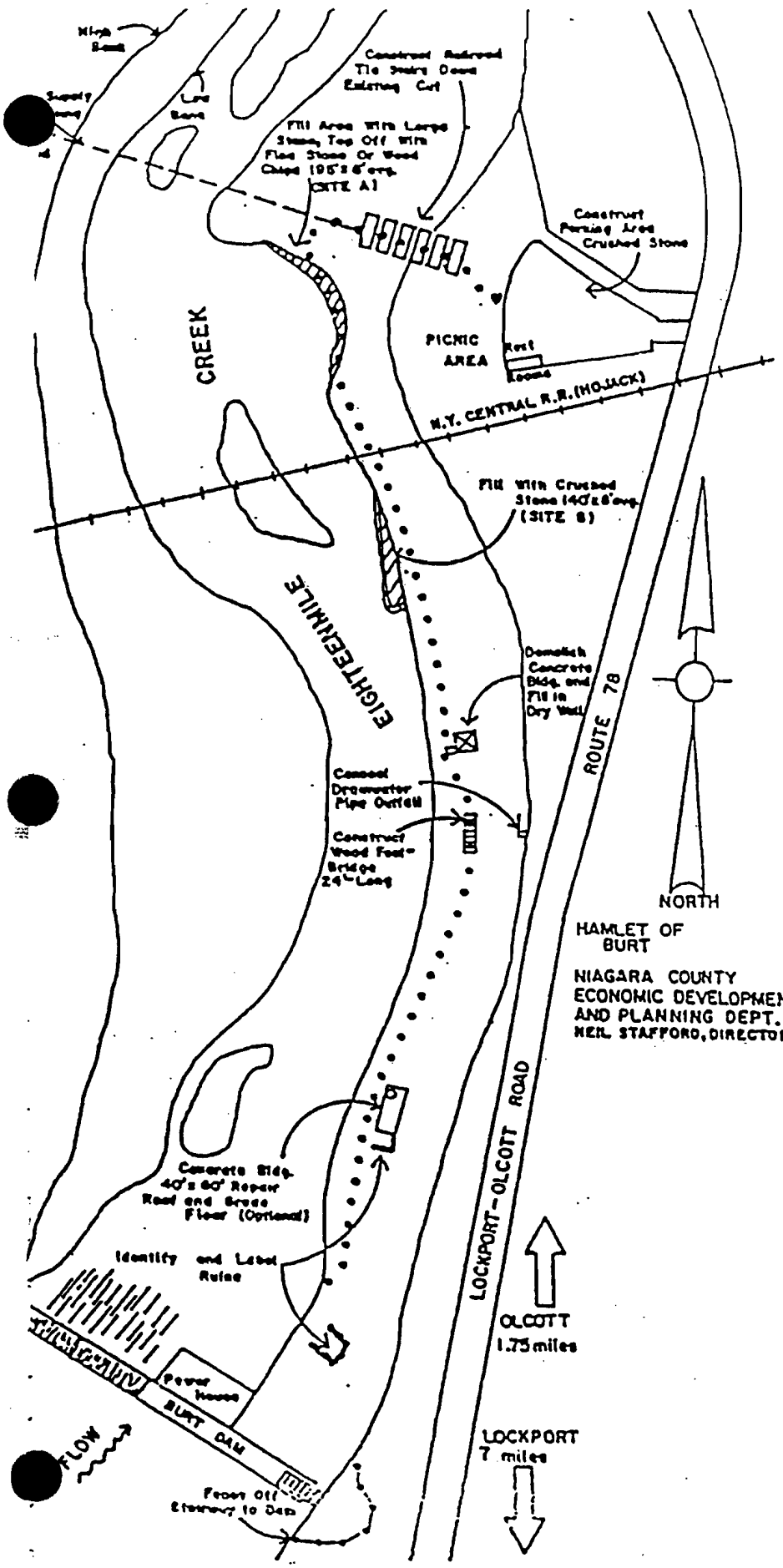
FIGURE 7

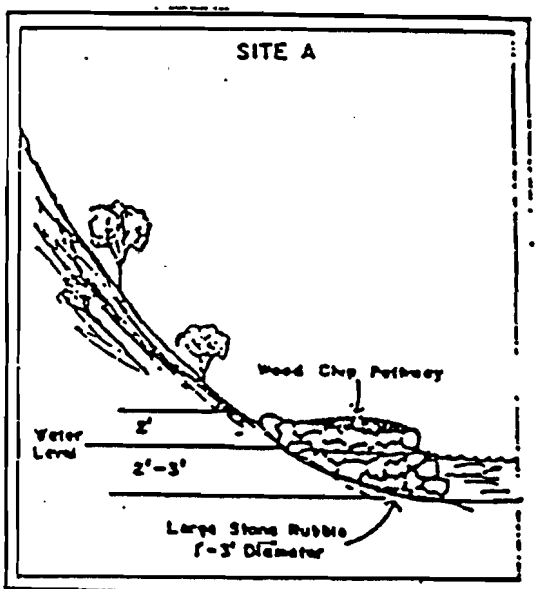
PROPOSED

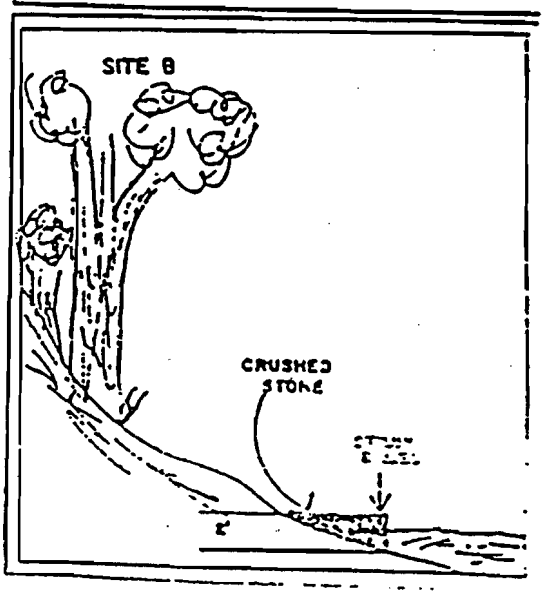
PEDESTRIAN TRAIL

BURT DAM

FISHERMEN'S PARK







TOWN OF NEWFANE
LWRP

SECTION 5

Techniques for Local Implementation of the LWRP

5.1 LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

5.1.1 Existing Local Laws/Regulations

a. Freshwater Wetlands Act (Local Law No. 3, 1976)

Provides for local management of wetlands consistent with Chapter 24, Section 24-0501 of the New York State Environmental Conservation Law and state wetlands mapping. The local law requires a permit authorized by the Town Board for any action affecting a freshwater wetland and a public hearing. Within the coastal area, this act regulates Eighteen Mile Creek and Hopkins Creek and promotes the protection of wetland resources (Policy 44).

b. Newfane Sewer Ordinance (adopted 6/28/85)

Establishes rules and regulations for the use of private sewers and disposal (Policy 5), installation and connection of sewers and discharge of waste into public sewer systems in the Town pursuant to Article 12 of State Municipal Law. The ordinance also requires private system compliance with Niagara County Health Department standards for discharge and disposal (Policy 38) and limits both residential and industrial discharge into public systems (Policy 8), via revokable permit, consistent with the Clean Water Act of 1977 and General Pretreatment Regulations (40 CFR Part 403). It also prohibits the discharge of hazardous or toxic wastes into any public sewer and details requirements/standards for industrial pretreatment (Policy 30). These regulations will enhance coastal water quality policies, specifically for Sewer District II which covers the majority of the coastal area and all of the coastal development including required treatment of vessel wastes from pump-out facilities (Policy 5) and the use of sewer hook-ups for density control in sensitive areas (eg: agricultural districts/Policy 26, wetlands/Policy 44).

c. Environmental Quality Review Law (Local Law No. 1, 1977)

Provides for the local review and implementation of the State Environmental Conservation Law (Article 8) consistent with Section 8-0105 and Part 617 of 6NYCRR (State Environmental Quality Review Act). It establishes local procedures for administration and determination of all environmental actions in the Town in accordance with state regulations (Policy 18).

d. Town of Newfane Flood Insurance Study (Federal Emergency Management Agency 5/18/81)

Identifies flood hazard areas along the coast and is used to convert the town to the regular Federal Insurance Administration program. The study complements the Town Zoning Ordinance in defining regulated flood areas and aids in the administration of the National Flood Insurance Act of 1968

and the Flood Disaster Protection Act of 1973. The study generally enhances the flood/erosion policies in the LWRP (#11, 17) and incorporates primary hydraulic data to guide shoreline protection structures (Policies 12, 13, 14).

e. Town of Newfane Zoning Ordinance (7/1/72)

This ordinance provides for the local regulation of land use, development and improvement within the coastal area and the Town. Town Zoning separately accommodates marine uses in the Olcott harbor area (designated Marine Business District). It provides locational preferences for boat launching and service by special exception to insure compatibility with adjacent uses and minimum design criteria. The ordinance also regulates development setback (100 feet, minimum) along Lake Ontario, Eighteen Mile Creek and other drainage channels (eg: Hopkins Creek, Keg Creek – 50 feet, minimum) to protect structures from flood innundation. This exceeds the 25 feet setback required for protection of natural features or the 65 feet required in the coastal erosion hazard area west of Phillips Road. Special exemptions and approvals are the responsibility of the Planning Board with the Building Inspector as the enforcement officer and the Zoning Board of Appeals as the authority to grant relief and variance from, and interpret ordinance provisions. This ordinance generally promotes Policies 1-6 (development), 11 (flood/erosion protection), 18 (general welfare) and 26 (agricultural).

The ordinance contains key procedures to be utilized in LWRP review/approval. These include:

- Review and permit approval of all development within the coastal area.
- Identification of acceptable and unacceptable uses (water-related) and procedures for abandonment or compulsory termination of a non-conforming use/structure.
- Incorporation of floodplain and environmental (SEQR) review procedures as part of the developmental control process.
- Administration procedures and site plan review that provide for minimum data requirements, coordination of engineering/planning reviews of actions and establish review procedures for coastal actions that include the Town Board, Planning Board, Zoning Board of Appeals and an enforcement officer (Building Inspector).
- The various functions will be modified to include coastal consistency and coordination of waterfront plans/projects with development and the entire Newfane administrative process.

f. Town of Newfane Subdivision Regulations (5/25/77)

The Subdivision Ordinance further regulates street, lot, block, drainage, utility and open spaces in accordance with topographic and preserved natural features as reviewed/determined by the Planning Board. The ordinance requires consistency with the zoning code, flood protection (Policy 11, 17), sanitary sewer connections (Policies 5, 8) and protection of natural features (beaches, bluffs, historic/scenic resources, etc.). It also requires full engineering review/inspection and coordination of County and State agencies. These will be utilized to 18 incorporate consistency review with the LWRP and ordinance Policies 1-6, 11, 18, 22, 26, 30 and 37 as part of the subdivision review process exercised by the Planning Board.

5.1.2 Additional Local Laws and Regulations Adopted and Proposed

a. Town of Newfane Waterfront Consistency Review Law

It is the intention of the Town of Newfane that the preservation, enhancement and utilization of the natural and man-made resources of the unique Coastal Area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this Local Law to achieve such balance, permitting the beneficial use of coastal resources while preventing loss of living coastal resources and wildlife, diminution of open space areas, and public access to the waterfront; impairing of scenic beauty; losses due to flooding, erosion, and sedimentation; or permanent adverse changes to ecological systems.

The purpose of this Local Law is to provide a framework for agencies of the Town of Newfane to consider the policies and purposes contained in the LWRP when reviewing applications for actions or direct agency actions located in the Coastal Area; and to assure such actions are consistent with those policies and purposes. (The complete text of this Law is appended to this document.)

b. Zoning Ordinance

The ordinance is amended to provide preference for water-dependent and water-enhanced uses over non-water related activities and establish consistency between local development regulations and LWRP policies and plans. The amendment (Appendix) includes an LWRP reference in the defined purposes of the ordinance to incorporate the LWRP in development reviews, additions to the special exception section for coastal uses and supplemental regulations for development setbacks along the shoreline consistent with flood/erosion hazard protection. Acceptable coastal uses are concentrated in the Marine Business District (MB) along Eighteen Mile

Creek in Olcott. The MB district provides for marinas, marine sales/services, boat launches, shoreline structures and other water-related facilities. The special permit section (Article VIII) is used to insure priority of these activities over other, non-related uses (all MB are by special permit consideration).

The ordinance provides for the review of all development in the coastal area and triggers LWRP review as part of building permit or site plan consideration and, simultaneously, coastal assessment review (part of Local Law No. 1, 1977 as amended). This addresses Policies 1-6, 11, 12, 17, 18, 20-22, 25, 33, 37 and 44 through site plan review/approval and incorporation of related regulations. The Planning Board is responsible for administering the code and the Zoning Board of Appeals is the final authority of interpretation and relief.

If, and when the Olcott Outer Harbor Project is progressed, the Town will revise the Zoning Ordinance as follows:

c. Subdivision Regulations

Amendments to these regulations establish coordination with the LWRP and incorporates coastal resource preservation in subdivision design standards. The standards affect the layout of public services, lots, units and their treatment of coastal resources that must reflect LWRP plans and policies. Specifically, the potential use of these regulations in agricultural lands (Policy 26), along Lake Ontario (Policy 44) indicates the need to insure compliance with the LWRP. The amendment (Appendix) will guarantee that coastal policies will be included in subdivision considerations consistent with the review procedures and Local Law No. 1, 1977 (as amended).

Also, add cluster development within the LWRP area will be implemented. Please refer to cluster Subdivision regulations included in appendix, this section.

d. Freshwater Wetlands Act (Local Law No. 3, 1976)

The regulations provide for Town permit authority of development on Eighteen Mile Creek (as designated by NYSDEC). The Act regulates bridges, roads, docks, bulkheads, piers and other structures in and within 100 feet of a wetland (Policy 18, 44). The Town will use this authority to exclude development of marine and shoreline structures and remove (by permit revocation) structures inconsistent with LWRP policies and plans. This is used in conjunction with the zoning amendment for in-water structures to manage marine development in the wetland and relieve pressures on the creek. This provides for limited marine use concentrated at the north end of

Eighteen Mile Creek (as acceptable to NYSDEC) and Town commitments to protect the rest of the wetland (by permit revocation).

e. Revisions to Proposed Rezoning (This revision is contingent on implementation of the outer harbor breakwaters project.)

Based on comments received during the DGEIS review and comment period this section has been revised as follows.

The implementation of the proposed comprehensive master plan will require revision of the current zoning regulations/ordinance. The intent of the proposed zoning revisions is to enable the town/hamlet to achieve the community development objectives summarized in Section 2.2 of this document.

In addition to revisions directly related to the implementation of the master plan, an analysis of the current zoning indicates that additional updates and revisions would be beneficial to the future growth and development of the hamlet.

The following areas have zoning changes recommended to implement the Olcott Hamlet Master Plan.

- Residential Zones
- Highway Commercial
- General Commercial (New District)
- Marine Business
- Village Commercial
- Waterfront Commercial (New District)
- Overlay Business (New District)
- Transitional Parking Overlay (New Zone)

5.2 OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

5.2.1 Local Governmental Actions

a. East Federal Pier Access

Public access to the East Federal Pier for scenic and fishing activities has been restored. This action is crucial to improving the recreation attractiveness of Olcott east of the harbor and complementing planned projects.

b. Expansion of Parking Facilities in Olcott

The Town will act to provide permanent parking on both sides of the harbor to reduce on-street congestion and enhance water-dependent facilities. Funds were used to create a 26 car parking lot at Franklin and East Main Streets to encourage activities in East Olcott. The Town has also created a permanent parking area (56± cars) in the Beach/Van Buren Street area.

c. Improve Water Service in Olcott Hamlet

Most of the local water mains in the Olcott waterfront are four (4) inch that will be inadequate for the commercial and water-dependent development planned in the hamlet. The Town is initiating a long-term improvement program for the Water District that includes replacement of the old four inch mains with six inch distribution lines and eight inch truck mains to provide the waterfront with adequate water services for future needs.

d. Local Fishing Derby

The establishment of a local fishing tournament has attracted fishermen and promoted local economic activity in Olcott. Experience of the local business community with professional and county derbies indicate that the local retail impact and registration revenues will far exceed costs. This will enhance coastal efforts and provide annual revenues designated to finance public improvements in the waterfront. The derby is jointly sponsored by the Town, county and local business and coordinated with other annual events to promote the coastal area.

e. Great Lakes Science and Sportfishery Center

Lake Ontario has become one of the premier sport fisheries in the Great Lakes and is an unparalleled asset to the communities that line its coast. In order to capitalize on this opportunity and the multi-faceted nature of the coastal program, it is proposed that Olcott be established as the locale for a Great Lakes Science and Sportfishing Center to develop a facility for unifying public and private resources to enhance the lake and its use. Its focus

includes research, education, cultural and recreation concepts to promote tourism, fish and fishing. The facility would utilize either single or multiple sites to present the lake environment, its history, biological cycles, habitat characteristics, water quality, species and their habits through exhibits, seminars and demonstrations. Potential participants include the Town, Sea Grants, SUNY faculty/students, NYSDEC, major industrial water users (eg: New York State Electric and Gas) and the local/regional business community (marine operators and services, tourism, etc.).

f. Hopkins Creek Fishing Access

The Town will negotiate with adjacent property owners along Hopkins Creek and to insure opening up the creek bank for seasonal fishing and help police/maintain the area.

g. Adoption of Local Ordinance Amendments

The approval of Town Zoning/SEQRA amendments will provide the local review capabilities and enforcement procedures to implement the LWRP. These will establish the means for determining LWRP consistency of coastal projects, identifying compliance with state coastal policies and administering the LWRP.

5.2.2 Private Actions

a. Palmer Airport Improvement

This airport provides local charter and light plane service to the coastal area for tournament fishermen and tourists. To improve its transport capabilities, runway and lighting facilities have been upgraded and radio and radar equipment added.

b. Rehabilitation of Marine Structures

Many of the private marine facilities in Olcott Harbor are in need of renovation to expand docking efficiency, enhance harbor navigation and improve the aesthetics of the harbor. This effort will promote the visual quality of the area and enhance its economic attractiveness by increasing harbor capacity. Private initiative through the public effort of awareness in the LWRP and building code enforcement are required to achieve this action.

c. Bed and Breakfast

Private conversion of the old Olcott Hotel will create a thirty-six room bed and breakfast facility and restaurant on East Main Street. This action will restore a locally significant structure, create needed tourist services in the

coastal area and establish new economic improvements in the hamlet. Town approval of this action under the zoning ordinance is a logical extension of LWRP revitalization efforts.

d. Olcott Shuttle Service

The Hamlet of Olcott has been unavoidably severed by the relocation of Route 18 leaving two developed areas somewhat isolated to pedestrian traffic. The provision of local shuttle services can alleviate this problem and enhance exposure of local commerce and services to area visitors. Boaters would have easy access to area businesses, the airport, accommodations, restaurants, etc. Tourists/fishermen arriving by car can receive easy access to docks and area facilities without driving and adding to hamlet congestion. This action would be undertaken by area businessmen during tournaments and weekends in the fishing season when the need is greatest. Additional sponsorship by tourism groups may be required to initiate the service.

e. Keg Creek Access

Seasonal fishing access along the Keg Creek is currently provided by the adjacent property owner without fee or charge. This practice is adequate for annual fishing demand and is encouraged to continue under this program.

f. Hopkins Creek Fishing Reef

Promoters of the Lowrance Fishing Tournament in Olcott have donated part of the annual derby proceeds for the establishment of a fishing reef or other area facilities off the mouth of Hopkins Creek. This action has enhanced fish habitat resources in the coastal area and is consistent with LWRP objectives and policies.

g. Burt Dam Renovation

Private entrepreneurs in the area have restored the Burt Dam for hydroelectric power generation.

5.3 MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP

Management of the LWRP involves the administration of coastal review for consistency with LWRP policies and plans and coordination of the development review process. Administrative procedures capitalize on the local environmental review law (SEQRA) to determine LWRP compliance. The Zoning Ordinance is used to provide a legal tool for development coordination and insure consistency of actions in the coastal area. These statutes represent existing local authority that are enhanced to provide for LWRP implementation.

5.3.1 Lead Agency/Designated LWRP Officer

The agency responsible for overall management of the LWRP and coordination of review procedures will be the Town Board. The Board is currently responsible for zoning decisions and, as such, is the appropriate agency for coastal assessment and LWRP implementation. They will be assisted in this task by the Town Clerk, Planning Commission, Building Inspector and such other personnel as may be required to adequately carry out the LWRP.

The designated LWRP official will be the Town Clerk. This official coordinates Board functions and responsibilities and is a key organizational position within the Town government. Actions in the LWRA will be submitted to the Clerk for scheduling of Board consideration and coordination of review procedures, as appropriate.

5.3.2 Summary of Specific Responsibilities for Implementation of the LWRP

a. Supervisor and Town Board

As the executive and legislative head of the Town, the supervisor and Town Board are responsible for municipal decision-making, fiscal programming and administrative implementation. The Board carries the legislative authority for execution of Town policy and directives through the staff.

The Town Board will be responsible for coastal determinations and certifications consistent with local SEQRA regulations. The Board will obtain advice from such other town boards, commissions and/or personnel as is deemed appropriate to process coastal actions. The supervisor will coordinate LWRP activities and carry out municipal actions necessary to advance the program.

b. Planning Commission

The Planning Commission is an advisory body to the Town Board and has approval authority for site plans, subdivisions and special exceptions as delegated by the Board. The Commission may also, upon request, advise the Board on waterfront improvements, public structures and public actions in the coastal area.

The Commission will be responsible for evaluating actions within the LWRA for consistency with LWRA policies/objectives and advise the Town Board within 15 days of referral. All actions that must be accompanied by a Coastal Assessment Form (Type I, Unlisted Actions) will be referred to the Commission and evaluated for completeness and compliance with the LWRP. Recommendations will be reported back to the Board as approval consistent with the LWRP, approval with modifications of use and/or design

(in accordance with the zoning ordinance to minimize effects on coastal policies) or as denial/inconsistent with the LWRP. Such recommendation and/or conditions shall be the basis for determination by the Town Board.

The Town Clerk will be responsible for receipt and requirements of the Coastal Assessment Form (CAF) and the coordination/scheduling of reviews for the evaluation of LWRP consistency. As the designated LWRP Official, the Clerk will make CAF's available, determine which projects will require a CAF based on SEQRA criteria, schedule administrative review with the Planning Board and handle the notification of the NYSDOS/other effected agencies. The Clerk will also issue a Certificate of Consistency with the LWRP as authorized by the Town Board.

d. Building Inspector

The Building Inspector is responsible for the certification of proper use in accordance with the Zoning Ordinance. No Zoning permit shall be issued in the LWRA for an action subject to coastal assessment that does not have a certificate of consistency with the LWRP prior to issuance. The Zoning Officer is charged with enforcement of LWRP uses in accordance with the Ordinance and the Coastal assessment/certification process.

The Building Inspector receives applications for building permits and Certificates of Occupancy. Applications for permits in the LWRA shall be referred to the Town Clerk for consideration of coastal assessment. No permit or certificate shall be issued until an evaluation of LWRP consistency has been made by the LWRP Officer and either waived or reviewed in accordance with coastal assessment procedures (SEQRA). The Building Inspector will also enforce the LWRP by monitoring compliance with approved provisions and withhold issuance of a Certificate of Occupancy or development not in compliance with coastal determinations of the Town Board and/or conditions thereof pursuant to coastal assessment/review.

e. Zoning Board of Appeals

The Zoning Board of Appeals is empowered to grant variances to the Zoning Ordinance and decide appeals from administrative decision including "third party" relief pursuant to local laws and ordinances. In accordance with proposed amendments to local codes, the Board will enforce LWRP provisions and render determinations based on the procedures and intent of coastal policies. The determination of actions in the LWRA brought before the Board will be referred to the Planning Commission for a review and opinion within 15 days of referral consistent with LWRP policies and objectives.

5.3.3 Procedures for Management of the LWRP

Management of the Newfane LWRP depends on the coordination of Town operating agencies and the legislative authority of the community for administration and review (Figure 5.1). Regulatory requirements embodied in the State Environment Quality Review Act (6NYCRR, Part 617, SEQRA) and General Municipal Law are utilized as expressed in the town environmental review law (Local Law No. 1, 1977) and the Zoning Ordinance. These procedures capitalize on available town laws and bind town agencies and personnel to insure that public and private actions in the coastal area will be consistent with the LWRP. In addition, the process uses established town governmental functions without creating increased staff or costs.

The LWRP administrative process follows existing environmental and development review procedures. Public and private actions that occur within or will impact the coastal must seek town approval through either the building Inspector (application for a building permit or zoning certification) or the Town Clerk (environmental review or request for legislative authorization/funding). Those actions in the LWRA will require a Coastal Assessment Form (CAF) to be completed and filed with the action. The CAF will be submitted to the Town Clerk for consideration and determination of significance by the Town Board within 15 days of submission. All other reviews/evaluations required will proceed simultaneously. However no final approvals will be made until LWRP consistency and certification, if applicable, is satisfied.

LWRA actions identified as Type II in accordance with Local Law No. 1 (1977) by the Town Board will be certified without further need for processing. The Town Clerk will issue a statement of certification and maintain a public file of such determinations. The applicant will be sent a copy of the certification, if applicable, and the Building Inspector will be authorized to issue a permit (if applicable).

LWRA actions identified as Type I or Unlisted in accordance with Local Law No. 1 (1977) will be reviewed for consistency with LWRP policies, plans and uses. The CAF and any supportive material as may be required will be referred to the Planning Board for evaluation of consistency with the LWRP. The Planning Board may obtain such additional information as may be required to properly assess the action and report findings to the Town Board within 30 days of referral. The Town Board will make a determination of significance based upon the submitted CAF, the recommendations of the Planning Board and consistency of the action with the approved LWRP and other applicable town ordinances.

The determination of the Town Board is predicated on SEQRA as embodied in Local Law No. 1, 1977. Where a determination for a Type I or Unlisted action in the LWRA is considered to have no significant effect on the coastal area and LWRP policies, the Board will so certify in writing, authorize the action (exclusive of other applicable ordinances) and maintain a public record of such determinations. Where a determination is made that an action may have an impact on the coastal area or is

potentially inconsistent with LWRP policies, plans and uses, the Town Board will either:

- Deny certification and document the reason for denial;
- Certify the action based on specified conditions/modifications that will substantially remove LWRP inconsistencies;
- Certify that the action will minimize all adverse effects, advance one or more LWRP policies and result in an overall benefit to the coastal area and its resources; or
- Certify that the action has been subject to and satisfied the requirements of Local Law No. 1, 1977 (SEQRA).

Actions subject to the above certifications will be documented to record Town Board determinations by the Town Clerk. A public record will be maintained and copies periodically forwarded to the New York State Department of State as an involved agency in coastal actions subject to SEQRA review. No approval to fund or proceed with an action in the LWRA will be authorized by the Town without compliance with the above procedures and a proper certification of LWRP consistency.

Federal and state actions in the LWRA will undergo similar review/evaluation for town assessment of local impact on coastal plans and uses. The Town Clerk will be the local contact for notification of Federal and State actions and coordinate local coastal consistency review. For Federal actions, the New York State Department of State (as the agency responsible for determination of consistency with coastal policies in Federal actions) will be notified of local concerns/reviews. For state actions, the appropriate state agency (or designated lead agency) will be notified of local consistency review results by the Town Clerk.

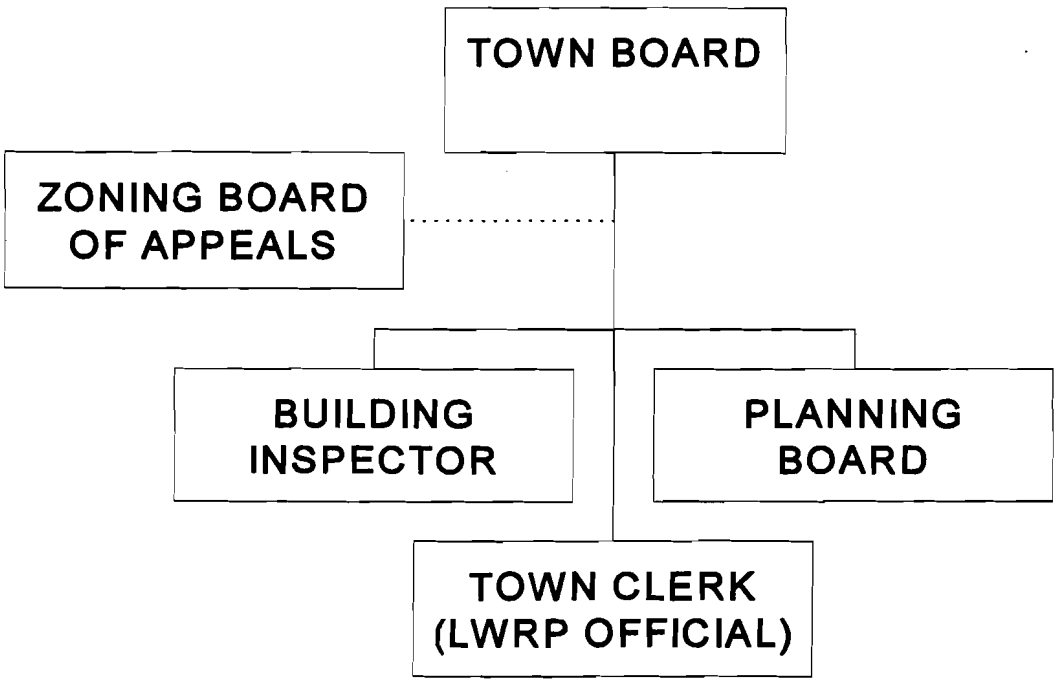
Compliance of LWRP certification conditions and or consistency requirements will be monitored by the Building Inspector as the local enforcement officer. Any problem or differences in implementation will be reported to the Town Clerk for consideration by the Town Board of any punitive action in accordance with provisions of local law.

The Zoning Board of Appeals will provide for enforcement of local action. As a quasi-legal body, it possesses the authority for appeal of administrative decision and offers the forum for "third party" release of municipal actions. The Board is bound under the Zoning Ordinance to act consistent with the LWRP on actions in the coastal area and make interpretations that comply with LWRP plans, as approved. Article 78 of the Civil Practice Laws of New York State provide further legal means to obligate municipal actions and strengthen the protection of coastal policies/objectives.

FIGURE 8

MANAGEMENT STRUCTURE FOR REVIEW OF ACTIONS IN THE LWRP

TOWN OF NEWFANE



5.4 FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP

The financial resources of the Town are quite limited and must be coordinated and supplemented with outside assistance to promote private initiative and further waterfront investments. For example, the Town will participate in the Town Marina expansion to help meet area dockage/launch demand, attempt to secure easement/access to the West Beach foreshore and acquire land for launch access to the west harbor basin and for private development along Ontario Street. However, these investments will require Federal/State assistance to completed (e.g.: a outer harbor breakwall at the mouth of Olcott Harbor to protect west basin mooring from northerly winds, Town Marina improvements) as the funds

required are beyond Town resources. In addition, key recreation facilities at Krull Park depend on County assistance (as the park owner) and/or state participation to expand tourist authorizations and further encourage private investments in the Olcott area. These outside efforts are critical to compensate for the limited economic opportunities in the area.

Total costs for LWRP activities are estimated at $33,387,000 excluding design and contingencies (Figure 5.2). Approximately $2,350,000 in Town resources will be required along with $23,662,000 in other public funds and $7,375,000 in private funds.

5.4.1 Proposed Projects

LWRP projects comprise the majority of program financing. They total $33,197,000 and focus on revitalization of Olcott Harbor and the adjacent waterfront area. Two key projects concentrate on harbor renovation and expansion of facilities – town Marina improvement and harbor marine renovation. These are designed to increase harbor launching and mooring capability and address local demand and congestion problems. Town investments in these projects total nearly $250,000 for marina and launch improvements to initiate $3.3 million in private renovations and marine expansion. The Outer Harbor project represents 60% of financial needs and depends on Federal authorization of breakwalls (50% Federal and 50% state financing). This project cannot proceed without such assistance, and is the only alternative to marine expansion.

Upland revitalization efforts focus on the renovation of Ontario Street and Krull Park. The Ontario Street project requires Town participation in the acquisition of lakefront property, demolition of residential structures and abandonment of Ontario Street (Lockport Street to Franklin Street). This will cost about $1,000,000 and provide a developable waterfront parcel to attract $4 million in water-enhanced private development. Town ownership of the north side of Ontario Street will guarantee public control of the foreshore and waterfront access consistent with LWRP policies. The expansion of Krull Park facilities will consolidate area recreation activities and enhance adjacent private development. Principal funding resources are expected from the county as owner/operator of the park and/or the state through the Office of Parks, Recreation and Historic Preservation.

5.4.2 Proposed Actions

Actions proposed to promote implementation of the LWRP rely on public and private resources and cooperation. The Town will commit $100,000 in funds to encourage private development in the waterfront and initiate revitalization efforts. Actions involving the Town include expansion of parking on both sides of the harbor, land acquisition and development of a launch ramp in the West Basin to attract private mooring, and hamlet water line improvements. Federal participation in LWRP actions represent $10,000,000 for the Outer Harbor breakwall to enable West Basin development (50% USCOE), Federal Pier navigational aids (USCOE) and existing commitments for parking on the east side of the harbor (HUD Small Cities Program). State involvement is anticipated for the Hopkins Creek fishing access (NYSDEC

easement program), the Outer Harbor breakwall (50%), the Great Lakes Science and Sportfishery Center and West Beach access assistance.

Private actions encouraged by the public investments are a significant part of the program. They include crucial services and facilities to expand and revitalize Olcott development consistent with the LWRP. The provision of a shuttle service throughout the hamlet will re-integrate the area and expose water-dependent and support services to tourists and fishermen. The rehabilitation of marine structures will be undertaken by marina owners and expand slips as well as improve the scenic quality of the harbor. Private revenues were committed to the Hopkins Creek Fish Reef. Sponsors of the Lowrance Fishing Tournament pledged $5,000 per year from proceeds to create the reef and promote other future fishing projects. This will be an annual contribution coordinated with the Town for local LWRP activities.

The total funding requirements of LWRP actions is $190,000 These actions will promote the projects and attract $7,375,000 in private investment in the Olcott harbor area for waterfront revitalization.

5.4.3 Management of the LWRP

The Town of Newfane will assume primary responsibility for planning, administration and implementation of the LWRP. Since these functions rely on existing personnel and town regulatory procedures, no additional resources are anticipated to carry out the program. Current staffing and advisory boards will facilitate LWRP evaluations/certification without the need for increases or changes in composition.

One area of project/action implementation unaccounted for is the preparatory design and engineering costs associated with proper project administration. While private efforts will absorb these costs as part of project activity, public actions (particularly town projects) may be protracted if only local resources are depended upon. Town funds are inadequate to accommodate these costs within the anticipated time schedule. As a result, dollars will be required for design/engineering of town-sponsored actions and projects. These include the Ontario Street renovation efforts, parking lots, Town Marina expansion and Krull Park designs to expedite this project with Niagara County. These costs are estimated at $584,273.

5.0 APPENDIX

A local law to implement and provide procedures for Consistency Review for the Town of Newfane Local Waterfront Revitalization Program.

Be it enacted by the Town Board of the Town of Newfane, as follows:

I. TITLE

This local law will be known as the Town of Newfane Waterfront Consistency Review Law.

II. AUTHORITY AND PURPOSE

A. This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law; the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive law); Article IX, Section 1 of the New York State Constitution: and Article 5-G of the General Municipal Law of the State of New York and expressly supersedes any inconsistent general or local law regarding consistency review, zoning and waterways.

B. The purpose of this Local Law is to provide a framework for agencies of the Town of Newfane to consider the policies and purposes contained in the Local Waterfront Revitalization Program of the Town of Newfane when reviewing applications for actions or direct agency actions located in the Coastal Areas; and to assure that such actions are consistent with those policies and purposes.

C. It is the intention of the Town of Newfane that the preservation, enhancement and utilization of the natural and man-made resources of the unique Coastal Area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this Local Law to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of living coastal resources and wildlife, diminution of open space areas and public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply while there is in existence a LWRP which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. APPLICABILITY

All boards, departments, offices, other bodies of officers of the Town of Newfane must comply with this local law, to the extent applicable, prior to carrying out, approving, or funding any action other than Type II, Exempt, or Excluded actions as those terms are

defined in Part 617 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, except as provided in Section V.F. of this local law.

IV. DEFINITIONS

A. "Actions" shall mean either Type I or unlisted actions as defined in SEQR regulations (6NYCRR Part 617) which are undertaken by an agency and which include:

1. projects or physical activities, such as construction for other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure, which:

(a) are directly undertaken by an agency, or
(b) involve funding by an agency, or
(c) require one or more permits or 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 combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Newfane.

C. "Applicant" means any person making an application or other request to an agency to provide funding or to grant approval or permit in connection with a proposed action.

D. "Coastal Area" means that portion of the 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 Newfane, as show on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Newfane LWRP.

E. "Coastal Assessment Form" (CAF) means the form, contained in Appendix A of this local law, used by an agency to assist it in determining the consistency of an action with the LWRP.

F. "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.

G. "Direct Actions" means actions planned and proposed for implementation by a Town agency, such as, but not limited to capital projects, promulgation of rules,

regulations, laws, codes or ordinances and policy making which commits an agency or the Town to a course of action.

H. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Newfane, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk.

V. REVIEW OF ACTIONS

A. Whenever an action is proposed in the Town's Coastal Area affecting any land or water use or any natural resource of such Coastal Area, the Planning Board or the Zoning Board of Appeals (ZBA), as appropriate, prior to an agency or such Board approving, funding or undertaking the action, shall make a determination that is consistent with the LWRP policy standards and conditions set froth in Section G herein. No action in the Coastal Area shall be approved, funded or undertaken without a determination that it is consistent.

B. 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. All agencies of the Town, except the ZBA, shall refer a copy of the CAF to the Planning Board within ten days of receipt of the completed CAF.

C. After referral form an agency, the Planning Board shall consider whether the proposed action is consistent with the Newfane LWRP policy standards and conditions set forth in Paragraph G below. The Planning Board shall require the agency or applicant to submit all completed forms, applications, CAFs and any other information necessary to its consistency review. During its deliberations, the Planning Board may solicit advisory opinions from other boards and departments in the Town. If an opinion is requested, a response shall be made by the entity receiving the request within fifteen days of receipt. If no response is received, the Planning Board shall proceed without such advisory opinions.

D. The Planning Board shall make a written determination of consistency and forward it to the agency within thirty days following referral of all completed forms, applications, CAFs and any other information necessary for the consistency determination from the agency or the applicant, unless extended by mutual agreement of the Planning Board and the applicant, or in the case of a direct action, the agency. The determination shall indicate in writing whether the action is consistent or inconsistent with all of the applicable LWRP policy standards and conditions. The Planning Board may, along with its determination, impose conditions on the proposed action which would make it consistent with the LWRP policy standards and conditions or would greater advance them.

E. The ZBA shall make its own consistency determinations as described above, and shall be governed by the time frames and the permissive referral of an action to other agencies and departments in the Town for advisory opinions, and shall have the authority to impose conditions on the action to ensure it is conducted in accordance with this local law. Under no circumstances, however, shall the Planning Board have the authority to overrule the decision of the ZBA on any matter within the ZBA's statutory jurisdiction to grant variances or decide appeals.

F. Consistency determinations by the Planning Board or ZBA shall be made based upon the CAF, the Environmental Assessment Form (EAF), any advisory opinions received, and any other information considered relevant.

Where it is determined that an action may have a significant affect on the environment, the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) each must contain a discussion of the effects of the action on, and its consistency with, the LWRP policy standards and conditions identified as applicable.

Where it is determined that the action will not have a significant effect upon the environment, the Planning Board or the ZBA shall nonetheless make a written determination of consistency.

After receipt of the consistency determination of the Planning Board, the agency shall have the authority to impose conditions specified by the Planning Board on an action to ensure it is conducted in accordance with this local law.

G. Actions to be 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 and described in Section III of the Town of Newfane LWRP. In the case of direct actions by agencies, the Planning Board or the ZBA shall also consult with Section IV of the LWRP in making its consistency determination. The action shall be consistent with the policy to:

1. Revitalize deteriorated and underutilized waterfront areas through a mixture of uses (Policies 1, 1A, 1B, 1C and 1D);

2. Retain and preserve existing and promote new water dependent uses (Policies 2, 2A, 2B, 2C and 2D);

3. Ensure that development occurs where adequate public infrastructure is available (Policies 5, 5A, and 5B);

4. Streamline development permit procedures (Policy 6);

5. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 8, 8A and 8B);

6. Maintain and expand recreational fishing opportunities (Policies 9, 9A and 9b);

7. Minimize flooding and erosion hazards through protection of natural features, non-structural means, carefully selected long term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 15, 16 and 17);

8. Safeguard economic, social and environmental interests in the coastal area in which major actions are undertaken (Policy 18);

9. Maintain and improve public access to the shoreline and other water related recreational facilities while protecting the environment (Policies 1, 1A, 2, 2A, 2B, 9, 9A, 19, 19A, 19B, 19C, 19D, 19E, 20, 20A, 20B, 20C, 21, 21A and 22);

10. Protect and restore historic and archeological resources (Policies 23 and 23A);

11. Protect and upgrade local scenic resources (Policy 25);

12. Protect and conserve agricultural lands (Policy 26);

13. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront location (Policies 27 and 27A).

14. prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28);

15. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 35A, 35B, 36, 37, 37A and 38);

16. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 35, 35A and 35B);

17. handle and dispose hazardous wastes and effluent in a manner which will not adversely affect the environment (Policy 39); and

18. Preserve and protect freshwater wetlands (Policies 44 and 44A).

H. If the Planning Board or the ZBA 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 Planning Board or ZBA makes a written finding with respect to the proposed action that:

1. no reasonable alternatives exist which 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 a overriding Town, regional or statewide public benefit. Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

I. The Planning Board or ZBA shall maintain a file for each action which is the subject of a consistency determination, and shall make these files available for inspection upon request under the Freedom of Information Law.

VI. ENFORCEMENT

The Town Building Inspector and/or Code Enforcement Officer shall be responsible for enforcing this local law. No work or activety on a project in the Coastal Area that is subject to review under this law shall be commenced or undertaken until the Building Inspector and/or Code Enforcement officer has been presented with a written determination from the Planning Board or ZBA that the action is consistent with the LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Building Inspector and/or Code Enforcement Officer 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.

VII. VIOLATIONS

A. Any person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding two hundred fifty dollars ($250.00) for a conviction of a first offense and punishable by a fine not exceeding two hundred fifty dollars ($250.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law for violations which occur within their jurisdiction. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. 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 or provision hereof other than the provision so found to be invalid.

IX. EFFECTIVE DATE

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

For the:

Town of Newfane Subdivision Regulations

Article I ..... Declaration of policy

.... and shall be properly related to the proposals shown in the Master Plan, if such exists, and shall be consistent with the policies and proposals of the Local Waterfront Revitalization Program, if such exists, and shall be of such width ....

Article IV ..... General Requirements and Design Standards

Section 7. Parks, Open Space and Natural Features

F. Preservation of Natural Features –

The Planning Board shall, whenever possible, establish the preservation of all natural features and coastal resources which add value to the community, such as large trees or groves, water courses and falls, beaches, fish and wildlife habitats, wetlands, historic spots, vistas and similar irreplaceable assets.

Section 8. As provided in section 278 of the Town Law, the Town Board authorized the Planning Board to approve a cluster development, as defined in the Town Law, simultaneously with the approval of a subdivision plat or plats. Approval of a cluster development shall be subject to the conditions specified in the Town Law and the following:

A. The Planning Board may require a subdivision to be platted and submitted by the developer as a cluster subdivision whenever, in the Planning Board's judgment, this procedure would benefit the Town. The purposes of the cluster development shall be to allow the subdivision to be placed on the land in a more flexible manner in order to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural, cultural, agricultural, forestry, historic or scenic qualities of structures and open lands, and to implement the Town of Newfane Local Waterfront Revitalization Program.

B. Cluster developments may be required on lands in the following zoning districts in the towns: areas within the LWRA where applicable conditions exist to support cluster development ig: available water and sewer.

A cluster development shall result in a permitted number of building lots of dwelling units in structures of any type which in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were

subdivided into lots conforming to the minimum lot size and density requirements of the zoning applicable in the districts in which the land is located and conforming to all other applicable requirements. Where the platted land falls within two or more zoning districts, the Planning Board may approve a cluster development representing the cumulative density derived from adding all units allowed in such districts, and may provide that any construction take place in all or any area of one or more of such zoning districts. The Planning Board is not, however, authorized to change the sues permitted by the zoning districts in which the land is located.

C. The cluster development plat may include areas within which structures may be located, the height and spacing of buildings, open spaces, park lands, landscaping, off-street open and enclosed parking spaces, streets, driveways, and any other features required by the Planning Board. Dwelling units in residential plats may be, at the discretion of the Planning Board, in detached, semi-detached, attached or multi-story structures. The Planning Board may, as a condition of plat approval, establish conditions of the ownership, use and maintenance of any lands shown on the plat for park, recreation, open space or any other purpose directly related to the plat.

D. Development, submission, review, approval and filing of the proposed cluster development plat shall be in accordance with the procedures of these regulation, as modified by the provisions of the Town Law.

To the:

Town of Newfane Zoning Ordinance

Article I ..... Title and Short Title

1 -3. Declaration of Purpose

1-3-11 To protect and enhance the coastal resources of the waterfront in accordance with the adopted Local Waterfront Revitalization Program and consistent with its policies, maps and uses.

Article VI ..... Business District Regulations

6-2 Table of Regulations

All uses in the Marine Business District (MB) are to be Special Exception Use (SE) in the table.

Article VIII ..... Special Exception Uses

8-3 General Standards

(b) Uses and proposals in the coastal area will be consistent with the adopted Local Waterfront Revitalization Program and promote the location of facilities along the waterfront that depend on proximity, access and/or utilization of water resources over other less-dependent uses.

(1) Water-dependent uses afforded principal consideration in the coastal area include, but are not limited to marinas/marine facilities (dock, launches, service, rental/charter and accessories), fishing equipment, public recreation and flood/erosion structures.

(2) Water-enhanced uses and services that support waterfront uses including tourist facilities, restaurants, complementary retail, parking, temporary/seasonal marine storage and other similar uses as determined by the Planning Board to be consistent with coastal objectives.

[Re-enumerate (b) through (1)]

9-10 Waterfront and Stream Setbacks

Along the shore of Lake Ontario, all buildings and structures shall be setback at least 100 feet from the top of high bank or as regulated by Article 34 of the State Environmental Conservation Law, Sections 3-0301 and 34-0108, whichever is more stringent.

1-3-4 To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate.

2-2-66 Structure Land - Anything constructed, erected, or attached to or on or under the ground including any shoreline or underwater ground, whether or not the same extends into the water or upon another structure or building which itself is erected, constructed, or attached to the ground including underwater ground.

FIGURE 9: CAPITAL SCHEDULE AND RESOURCES, TOWN OF NEWFANE LWRP

LWRP PROJECTS:	IMPLEMENTATION SCHEDULE	ESTIMATED COST	FUNDING RESOURCES
1. Town Marina Expansion EPF	1998	$ 250,000	TN/State
2. Ontario Street Renovation	2000	5,000,000	TN/Private
3. Outer Harbor Development	1998	20,000,000	Fed/State/Local
4. Krull Park Improvements			
Phase I	2000	80,000	County
Phase II	2002	2,067,000	County
Phase III	2004	2,500,000	County/State
Golf Course	2002	3,300,000	Private
Subtotal		$33,197,000	
LWRP ACTIONS:			
1. Olcott Water Service Improvements	1996-2001	$100,000	TN
2. Great Lakes Science and Sports Fishery Center	2001-2005		TN/State
3. Hopkins Creek Fishing Access	1999	15,000	State
4. Local Ordinance Amendments	1995		Town
5. Palmer Airport Improvements	1986-1997		Private
6. Rehab. Marine Structures	1993-1997	75,000	Private
7. Bed and Breakfast	1999		Private
8. Olcott Shuttle Service	1996		Private
9. Keg Creek Access	1995		Private
Subtotal		$190,000	
LWRP MANAGEMENT:			
1. Planning Coordination	1995-1999		Town
2. LWRP Administration	1995-2006		Town
3. Enforcement/Monitoring	1995-2006		Town
Total		$33,387,000	
(25% design/contingencies)		8,346,750	
GRAND TOTAL		**$41,733,750**	

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.

SECTION 6

FEDERAL AND STATE PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

6.1 INTRODUCTION

State and federal actions will affect and be affected by implementation of the 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.

The first part of this section identifies the actions and programs of State and federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of State and federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to State and federal consistency requirements may be obtained from the NYS Department of State.

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.

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

6.2.1. 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 BANKING

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 ofLocation)
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

DEPARTMENT OF CORRECTIONAL SERVICES

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.

DEPARTMENT OF ECONOMIC DEVELOPMENT

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.

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-Repacker of Drugs and/or Devices
2.08 Storekeeper's Certificate

EMPIRE STATE 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.

ENERGY PLANNING BOARD AND ENERGY OFFICE

1.00 Preparation and revision of the State Energy Master Plan.

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 Distrubances
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 (Diversions 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 and grants of easement of land under water, 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.

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 HOUSING 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 OF MENTAL RETARDATION AND DEVELOPMENT 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.

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 Urban Cultural Parks Program.

POWER AUTHORITY OF THE STATE OF NEW YORK

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 SOCIAL 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 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.

STATE UNIVERSITY OF NEW YORK

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.

2.00 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 sub-area 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.

DIVISION OF YOUTH

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

6.2.2 Federal Agencies

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

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.

2.00 Land acquisition for spoil disposal or other purposes.

3.00 Selection of open water disposal sites.

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 INTERIOR

Fish and Wildlife Service

1.00 Management of National WIldlife refuges and proposed acquisitions.

Mineral Management Service

2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

3.00 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.

Coast Guard

2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.

3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

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

Federal Highway Administration

6.00 Highway construction.

St. Lawrence Seaway Development Corporation

7.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

FEDERAL LICENSES AND PERMITS

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 USACE 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

Economic Regulatory Commission

1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.

2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

3.00 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).

4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).

5.00 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)).

6.00 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)).

Mineral Management Service

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.

INTERSTATE COMMERCE COMMISSION

1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

NUCLEAR REGULATORY COMMISSION

1.00 Licensing and certification of the siting, construction and operation of nuclear power plans pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

DEPARTMENT OF TRANSPORTATION

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).

Federal Aviation Administration

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

FEDERAL ASSISTANCE*

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 Intermodel Transportation
11.509 Development and Promotion of Domestic Waterborne Transport Systems

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

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

GENERAL SERVICES ADMINISTRATION

39.002 Disposal of Federal Surplus Real Property

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)

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

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)

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

6.3 STATE AND FEDERAL PROGRAMS NECESSARY TO FURTHER THE LWRP

6.3.1 Federal Actions and Programs

DEPARTMENT OF DEFENSE, ARMY CORPS OF ENGINEERS

1. Continuation of harbor channel maintenance dredging at Olcott (Eighteen Mile Creek) to insure harbor access.

2. Construct outer harbor breakwall at the end of the Federal Piers to protect harbor.

3. Provide navigational aids on the ends of the Federal Piers to aid marine navigation.

4. Permit approval for dredging and disposal of material in the West Basin and outer harbor.

FARMERS HOME ADMINISTRATION (DEPARTMENT OF AGRICULTURE)

1. Water and waste disposal grants for improvements to the Olcott water distribution system (10.418).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (FEDERAL ASSISTANCE)

1. Community Development Block Grants/Small Cities Program for parking and other support services in Olcott (14.219).

DEPARTMENT OF INTERIOR

1. Outdoor Recreation for planning and development of facilities at Krull Park and the Town Marina and Harbor (15.400).

6.3.2 State Actions and Programs

DEPARTMENT OF COMMERCE

1. Inclusion of tourism/recreation activities in "I Love NY" program and support for local promotion.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1. State easement access program for fishing opportunities along Hopkins Creek and Eighteen Mile Creek at Burt Dam.

2. Participate/assist in the establishment of a Great Lakes Science and Sport Fishery Center at Olcott.

3. Assist in study of shoreline erosion and protection structures to recommend solutions to coastal problems.

4. Funding assistance for access improvement/development of Town Marina and Burt Dam Trail.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

1. Land and Water Conservation fund - expansion/improvement of Town Marina and Harbor.

2. Aid for Krull Park improvements.

3. Local share of outer harbor project.

DEPARTMENT OF STATE

1. Burt Dam access assistance in trails, recreation and tourist facilities.

2. Funding assistance for marine expansion in the West Basin, public access to the Olcott Beach (west of harbor), the East Federal Pier and restoration of the Old Hotel Pier at Krull Park.

SECTION 7

CONSULTATION WITH AFFECTED FEDERAL STATE, REGIONAL AND LOCAL AGENCIES

7.1 CONSULTATION WITH AFFECTED AGENCIES PRIOR TO AND PART OF THE LWRP

There were few prior formal communications with Federal and State agencies on overall coastal issues due to the lack of awareness of the shoreline as a cohesive entity for planning and resource protection. There were numerous interactions between the Town and various agencies on project specific issues (e.g., U.S. Army Corps of Engineers – Outer Harbor, access to the East Federal Pier navigation problems on Eighteen Mile Creek; NYSDOT – relocation of NYS Route 18 over Eighteen Mile Creek; NYSDEC – wetland designation of Eighteen Mile Creek NYSOPRHP – grant application for Town Marina). These activities were consolidated under the LWRP and specific agencies. Their involvement and potential assistance was identified and pursued as part of the process.

The consultation process was initiated by the Newfane Waterfront Advisory Committee (NWAC) which developed a three-phase process:

1. Identified key Federal and State agencies were invited to participate in NWAC and/or LWRP public meeting.

2. Federal, State and regional agencies with interests in the coastal area were consulted with to establish an on-going relationship to fully explore/evaluate coastal problems and formulate practical and/or regulatory solutions.

3. LWRP documents (particularly Tasks 4 and 5) were disseminated to key agencies involved in projects/actions for review, comment and support or coordination.

This process created a dialogue on crucial waterfront issues that provided opportunities for conflict resolution, a means of resource coordination between agencies to solve identified problems and a way of incorporating this early in planning and LWRP efforts prior to implementation expenditures or impacts. The results of this consultation, as documented herein, has been the commitment of both efforts and resources by certain agencies as part of the LWRP that have significantly advanced coastal goals and projects that help enhance and fulfill local and state revitalization objectives.

7.2 FEDERAL AGENCY INTERACTION

The Federal Government has invested heavily in the lakefront community of Olcott through harbor breakwater construction, marine development, community revitalization and other projects. The Town has sought to maintain their active participation and support throughout the entire LWRP process. Primary interaction between the Town and Federal government has occurred in the following areas:

A. U.S. Army Corps of Engineers (USCOE): The issues involved with the Corps has been in the following areas:

   1. Maintenance/dredging and removal of harbor obstructions (channel island and old bridge abutments) of the Olcott Harbor access channel.

2. Construction of the Outer Harbor Project (Plan 10) to expand marine recreation opportunities. This project has been under consideration since 1972 and has been recently endorsed as part of the LWRP.

B. U.S. Department of Housing and Urban Development (HUD): Grant assistance (UDAG) for the proposed Olcott Ontario Street Development (motel, restaurant, retail facilities) and coordination of remaining Small Cities Assistance program for commercial renovation of Main Street (Olcott) and waterfront parking facilities.

7.3 INTERACTIONS WITH NEW YORK STATE AGENCIES

In recent years the process of planning for new marine and related developments has expanded the range of communications with New York State government agencies. Involvement of the LWRP has led to expansion of the Town's consultations with some state agencies and the development of new relationships with others as follows:

A. NYS Department of State (NYSDOS): Most of the Town's consultations with DOS have been focused on the development and review of the LWRP. Access issues, however, have been very important requiring the cooperation of DOS and other state agencies. NYSDOS also has expressed a continuing interest in the protection and use of coastal agricultural lands.

B. New York State Office of Parks, Recreation and Historic Preservation: Funding assistance for expansion of the Town Marina (land and water conservation fund) for boat launch and mooring facilities and the Outer Harbor Project.

C. The Town of Newfane has held numerous discussions and meetings with the New York State Department of Environmental Conservation (NYSDEC) to resolve wetland use and other environmental issues including:

1. Continuation of the fish stocking program.

2. Assistance in securing access to the East Federal Pier and resolving the route location problem to the pier.

7.4 IMPORTANT REGIONAL AND LOCAL AGENCY/DEPARTMENTAL INTERACTIONS

Having established mutual interests, benefits and financial obligations in revitalizing the harbor and promoting the outer breakwalls, the Town sought the support of Niagara County governments for participation and/or endorsement of coastal activities. Since the initiation of the LWRP, the Town has periodically consulted with the county and local communities concerning the following issues:

1. Inclusion of the proposed "Super Marina" at Olcott into current County Economic Development plans. The legislature has reinstated and identified Olcott as most likely due to:

A. Extensive Federal planning for the marina is already completed and would not have to be redone.

B. Congressional, state and agency support for Plan 10 (Outer Harbor Project) has been achieved and represents a consensus of action.

C. The marina would enhance the quality of life for new developing business which is the focal point of the County study.

2. County/Town cooperative efforts to develop and expand recreation opportunities at Krull Park.

A. Fishing access, beach enhancement.

B. The upgrading of the existing park band shell and the expansion of ball diamonds (the lighting of others).

C. Renovation of the old Hotel Pier

3. A Regional Committee has been created to press for implementation of Super Marina/Plan 10 Harbor at Olcott. Members of the County and towns through the auspices of Lockport-Eastern Niagara Chamber of Commerce have endorsed the project and written their support for the passage of the Congressional Omnibus Water Projects Bill (HR-6). This bill includes funding for the USCOE Outer Harbor Project (Plan 10) and represents the most viable effort for a County "Super Marina."

4. The adjacent Towns of Wilson, Somerset and Lockport, along with other nearby communities have been asked to attend NWAC public meetings and have communicated support for coastal plans and activities.

7.5 REVIEW OF DRAFT LWRP BY STATE, FEDERAL, AND LOCAL AGENCIES

The draft LWRP (with Draft EIS) was reviewed and approved by the Town Board and forwarded to the NYS Department of State. The Department of State then initiated a 60-day review of the Draft LWRP/DEIS pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the State Environmental Quality Review Act. Copies of the Draft LWRP and DEIS were distributed by the Department of State to all potentially affected State and Federal agencies, Niagara County, and adjacent waterfront municipalities. Comments received on the Draft LWRP/DEIS were reviewed by the Department of State and the Town, and resultant changes were made to the LWRP, which are detailed in the Final Environmental Impact Statement.

SECTION 8

LOCAL COMMITMENT

8.1 OBTAINING LOCAL COMMITMENT

Mindful of the need to build public consensus around its Waterfront Revitalization Program, the Town of Newfane has maintained an open dialogue on all aspects of the program and taken every opportunity to routinely inform the public about its deliberations as well as solicit the public's input and comment. There has also been detailed, continuous and extensive media coverage. Public meetings pertaining to the WRA are announced in advance and open to the public. Presentations to various interested local civic and community groups have been made on a regular basis since the inception of formal project planning. In short, the effort to obtain and sustain local commitment to the concept of Waterfront Revitalization is well established and should be maintained throughout the planning process.

Since initiation of the LWRP, additional activities have been undertaken and more are planned for the future. Following is a brief description and, where appropriate, a rationale/explanation for major efforts at building a public consensus for the program.

8.2 THE NEWFANE WATERFRONT ADVISORY COMMITTEE

Created in 1983, the Newfane Waterfront Advisory Committee was formed in response to the development of the Newfane LWRP. It has met regularly every month since its inception. Its three primary responsibilities have been to develop policy recommendations regarding future waterfront development for consideration by local, town, state and federal officials; coordinate development of waterfront plans for the Town's LWRP and its harborfront area; and the drafting of the nine tasks necessary for State LWRP acceptance. Their major role remains one of educating/informing elected officials and the general public on an ongoing basis. The members of the committee are a mixture of private citizens, elected officials, business owners and coastal/marine interests. It thus has enjoyed widespread community confidence and is committed to publicizing ideas considered worthwhile. The members are as follows:

Newfane Waterfront Advisory Committee:

Donna Miller, 3049 Brown Road, Newfane, NY 14108 – Interested citizen

James Johnson, Rounds Road, Newfane, NY 14108 – Owner of Harbor Inn Rest.

Cleveland Mott, 5783 Beach Street, Olcott, NY 14126 – Former Marina manager, member of Olcott Syndicate and Olcott Yacht Club

Josephine Beilein, 5448 West Lake Road, Burt, NY 14028 – interested citizen

Herb Confer, 1578 Water Street, Olcott, NY 14126 – Resident of Olcott, fireman

Philip Gow, 5806 W. Main Street, Olcott, NY 14126 – Member of Marina committee

Philip Banks, 2459 McClew Road, Burt, NY 14028 – Chairman; interested resident

(employed by Houdaille Industries in Planning & Marketing)

Walter Hartman, 5625 West Bluff, Olcott, NY 14126 – Chairman Niagara Co. Fisheries Advisory Board

Ed Muck, 6192 Keller Avenue, Newfane, NY 14108 – Chairman, Planning Board

Philip Baehr, 7080 Lake Road, Appleton, NY 14008 – Zoning Board

Patricia Thursam, P.O. Box 467, Olcott, NY 14126 – Interested citizen

David Luksch, 3994 Coomer Road, Newfane, NY 14108 – Town Marina committee

Joan Zunner, 2630 Hess Road, Appleton, NY 14008 – Town Council member

John Hall, 1750 Phillips Road, Appleton, NY 14008 – Farmer; interested citizen

Christopher Mothersead, Stieglitz Stieglitz Tries, p.c. Architects/ Planners, 45 Allen Street, Buffalo, NY 14202

Timothy Horanburg, 2896 Transit Road, Newfane, NY 14108 – Supervisor, Newfane

Anthony McKenna, Wendel Engineers, 7405 Canal Road, Lockport, NY 14094

The committee duties and actions have been varied. Public meetings are held to keep the general public and media abreast of LWRP activities. Various county, state and federal agencies are invited to send representatives to committee meetings to share viewpoints and give advice on subsequent actions, and to organize actions to be taken to initiate and follow-up on project development.

Subcommittees were also established based upon individual committee members interest and/or expertise. Three functional subcommittees (Recreation/ Tourism, Industrial/Commercial and Agricultural Uses) were formed as was a fourth ad hoc committee to discuss housing, wetlands and environmental subjects. The purpose of these subcommittees was to formulate goals and present proposals and assessments to the Waterfront Advisory Committee as a whole. The actions and recommendations of each subcommittee are as follows:

1. Recreation and Tourism Subcommittee Findings/Recommendations.

   A. The establishment of public access to Hopkins and Keg Creek developments as well as Lakefront development.

   B. Support of Outer Harbor Development based upon the Army Corps of Engineers Plan 10 for breakwater construction.

   C. The development of Krull Park based upon the upgrading of all sports

activity such as the baseball diamonds (lighting, seating), golf course, ice skating, cross-country skiing and bicycling. Bandstand improvement should also be a top priority.

D. Upgrading the railroad trestle at Burt Dam to serve as a tourism and observation point. A walkway would be established along the creek with public safety and recreation in mind.

E. Lighting, runway, radio and radar improvement at Palmer Airport.

F. The encouragement and promotion of all fishing tournaments to be held at Newfane as an intricate part of economic development.

G. The upgrading of all facilities at the Boating/Recreation Marina. These improvements would consist of the upgrading of the public lavatory/shower facilities and parking. Additional temporary docks are also needed.

H. Repairing of the Hotel Pier and the upgrading of the swimming area with public safety in mind.

I. The installation of a radio direction finder at the marina and a fog horn and intense lighting on the harbor piers with Coast Guard approval.

J. Exploring the possibility of obtaining grants to prevent erosion in the lakefront and west side beach areas.

K. The establishment of a local Chamber of Commerce or citizens action committee to promote all County activities in the area. Maps outlining areas where parking, boating, camping and shopping/business districts are located should also be provided.

2. Industrial/Commercial Subcommittee Findings/Recommendations.

A. The formulation and implementation of the Burt Dam Linear Park Project from Ide Road to Fisherman's Park. The project is to encompass a generating plant with power generated to be bought back by utilities. The area around the plant would be landscaped and bike trails, hiking trails, picnic areas and parking facilities made available to the public.

B. Ontario Street renovation for complementary retail services (demolition of deteriorated structures; construction of new motel/restaurant and 10,000 sq. ft. of retail space).

C. Main Street development with HUD UDAG grants.

D. The possibility of amusements.

E. The establishment of a Lakeport at a proposed location east of Eighteen Mile Creek. Finger docks would be constructed out of the east side of the present pier. (This idea was deemed incompatible with other proposed commercial/recreation uses but was considered nonetheless.)

F. The extension of Transit Road on the east side of Krull Park to the lake. This extension would go over Transit Road incorporating the Industrial Park.

3. Agricultural Subcommittee Findings/Recommendations.

A. 700 acres of prime farm land is presently owned by 12 farmers who did not want to be restricted in their decision of how to use their land.

B. To protect prime farmland under policy #26 several suggestions were made:

(1) Make rural areas less attractive to development.

(2) Limitation of public expenditure in rural areas.

(3) The enactments of zoning controls to limit expansion.

(4) Government acquisition of the land.

(5) Specific development controls.

(6) The use of transfer-of-development rights.

(7) Secondary and/or supplementary means for agricultural preservation would include the following:

(a) Agencies to aid and promote agriculture.
(b) Farm capital investment incentives.
(c) Assist in the consolidation of split farmlands (uniform assessment of parcels of differing values to encourage retention of agricultural uses).
(d) Longer farm leases for productive use of agricultural land.
(e) State property liability laws.

C. Access for fishing and other water-related activities in relation to preservation of agriculture.

(1) Encouraging and facilitating access to relieve pressure on private land owners.

(2) Increase public lands by means of Section 247 of the New York General Municipal Law concerning open space provisions.

(3) Oppose any attempt to establish a high bank boat launch.

(4) Securing access to the lake shore, east of the creek and within the hamlet of Olcott.

(5) Access to Hopkins Creek should be made available.

(6) Access to Keg Creek.

(a) Private retention of creek access.
(b) BLIND GRADE warning signs on both sides of creek and NO PARKING signs on the north side of Rt. 18 should be set up.
(c) Limitation of any further fishing on the crowded shoreline.

D. Marketing of fresh fruits and vegetables should be done by individual farmers on their farms and at their own expense instead of the establishment of any public farm market in Newfane.

E. The erection of signs to direct traffic to farm markets and U Pick operations.

F. The integration of fresh produce promotion with fishing derbies and other events.

The advisory committee and its subcommittee structure has been a primary force in development support for the WRP not only through its official/ published proceedings, but also through the informal communication net work of its members. Each subcommittee met with individuals and agencies that possessed interest or responsibilities in each functional area. Their recommendations reflected extensive public consideration and innovation.

8.3 OTHER LOCAL ACTIVITIES

1. Media coverage of entire WRP program: This includes development of routing and special event coverage on local media outlets. Articles dealing with various aspects of the WRP have appeared in the Buffalo News, the Niagara Gazette and the Lockport Union Sun and Journal.

2. Ongoing Public Hearing Scheduling and Organizing: The WRP process has been conceived to maximize public input at all levels to insure local commitment to the program. The formal hearings constitute only one form of public involvement in this process, abet very important. To date there has been one major public hearing concerning proposed developments in the Newfane LWRP. Presentations were given and comments solicited.

3. Special Coordination/Meetings/Concerned Parties: There are several groups whose ongoing support, commitment and involvement have been instrumental in the implementation of the LWRP. Representatives of concerned groups/citizens are either members of the Citizens Advisory Committee or are in constant contact with

the Committee. The Commercial Merchants Association, the harbormaster, the Yacht Club, various potential developers, the Chairmen of the Niagara County Fisheries Board, farmers, and town board and council members are examples of some of the individuals who make up the board.