



# Town of Grand Island Local Waterfront Revitalization Program

**Draft**

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Town of Grand Island Town Board, ....., 2023

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NYS Secretary of State ....., 2024

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The Town Board and the advisory committee members appreciate the participation of town residents to the public meetings and events held during the development of the LWRP and for the constructive feedback and comments.

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## **GLOSSARY**

AOC – Area of Concern  
AQI – Air Quality Index  
CDBG – Community Development Block Grants  
DASNY – Dormitory Authority of the State of New York  
DPW – Department of Public Works  
EAF – Environmental Assessment Form  
ECL – NYS Environmental Conservation Law  
ECSWCD – Erie County Soil & Water Conservation District  
EIS – Environmental Impact Statement  
EPA – US Environmental Protection Agency  
EPF – NYS Environmental Protection Fund  
ESD – NYS Empire State Development  
EV – Electric Vehicle  
FEMA – US Federal Emergency Management Agency  
FIRM – Flood Insurance Rate Map  
FWA – NYS Freshwater Wetlands Act  
GBNRTC – Greater Buffalo Niagara Regional Transportation Council  
HMA – Harbor Management Area  
I&I – Inflow and infiltration  
LWCF – Land and Water Conservation Fund  
LWRP – Local Waterfront Revitalization Program  
NDZ – No Discharge Zone  
NEPA – National Environmental Policy Act  
NFIP – National Flood Insurance Program  
NPS – National Park Service  
NWI – National Wetland Inventory  
NYCRR – New York Code of Rules and Regulations  
NYS – New York State  
NYS DEC – New York State Department of Environmental Conservation  
NYS DOS – New York State Department of State  
NYS DOT – New York State Department of Transportation  
NYS OGS – New York State Office of General Services  
NYS OPRHP – New York State Office of Parks, Recreation and Historic Preservation  
NYSEG – New York State Electric and Gas Corporation  
NYSERDA – New York State Energy Research and Development Authority

PADDLECRAFT – This is a term of art used to describe all paddle powered vessels such as kayaks, canoes, stand up paddleboards and rowboats. The term is used frequently in this LWRP and should be included in this glossary.

REDC – Regional Economic Development Council

SEQR – State Environmental Quality Review

SFHA – Special Flood Hazard Area

TMDL – Total Maximum Daily Load

USACE – United States Army Corps of Engineers

USFWS – United States Fish and Wildlife Service

WAC – Waterfront Advisory Committee

WNY – Western New York

WNYLC – Western New York Land Conservancy

WRA – Waterfront Revitalization Area

## SECTION 1 – TOWN OF GRAND ISLAND WATERFRONT REVITALIZATION AREA BOUNDARY

The proposed Town of Grand Island Waterfront Revitalization Area (WRA) encompasses forested nature preserves and State parks, wildlife management areas and designated significant coastal fish and wildlife habitats, a unique Niagara River wetland complex, recognized bird habitats, segments of tributaries to Niagara River and their floodways, residential and business areas impacted by their location on the waterfront, municipal parks, nature preserves and sanctuaries, and the portion of Niagara River within the municipal boundary.

Details regarding the natural and cultural resources located within the proposed Grand Island WRA are presented in Section II Inventory and Analysis of Existing Conditions of the LWRP.

The town has approximately 25 miles of shoreline along the Niagara River. The proposed Town of Grand Island WRA expands by 1,369 acres the portion of the current coastal area of the State within the town's municipal boundaries, which has 5,221 acres. The portion of the coastal area within the Town of Grand Island is expanded to incorporate additional portions of the Niagara River tributaries, additional open space and land conservation areas recently acquired by the town and not-for-profit organizations, and additional portions of the commercial areas that support existing water-dependent recreational resources. The area of the proposed Town of Grand Island WRA has 6,590 acres.

The proposed WRA does not modify the waterside boundary of the State's coastal area.

The current landward boundary of the existing coastal area of the State is illustrated on Map 1.1, together with the boundaries and coverage of the proposed Grand Island WRA, the international boundary with Canada, the municipal boundary of the Town of Grand Island that defines the waterside boundary of the proposed WRA, and the municipal boundaries of neighboring municipalities.

For a better understanding of the geography of those areas proposed to expand the coastal area, a larger scale map of each specific area is provided in the narrative describing the associated portion of the proposed WRA boundary. However, the additional maps provide the same details included in Map 1.1.



Map 1.1 - Town of Grand Island WRA Boundary



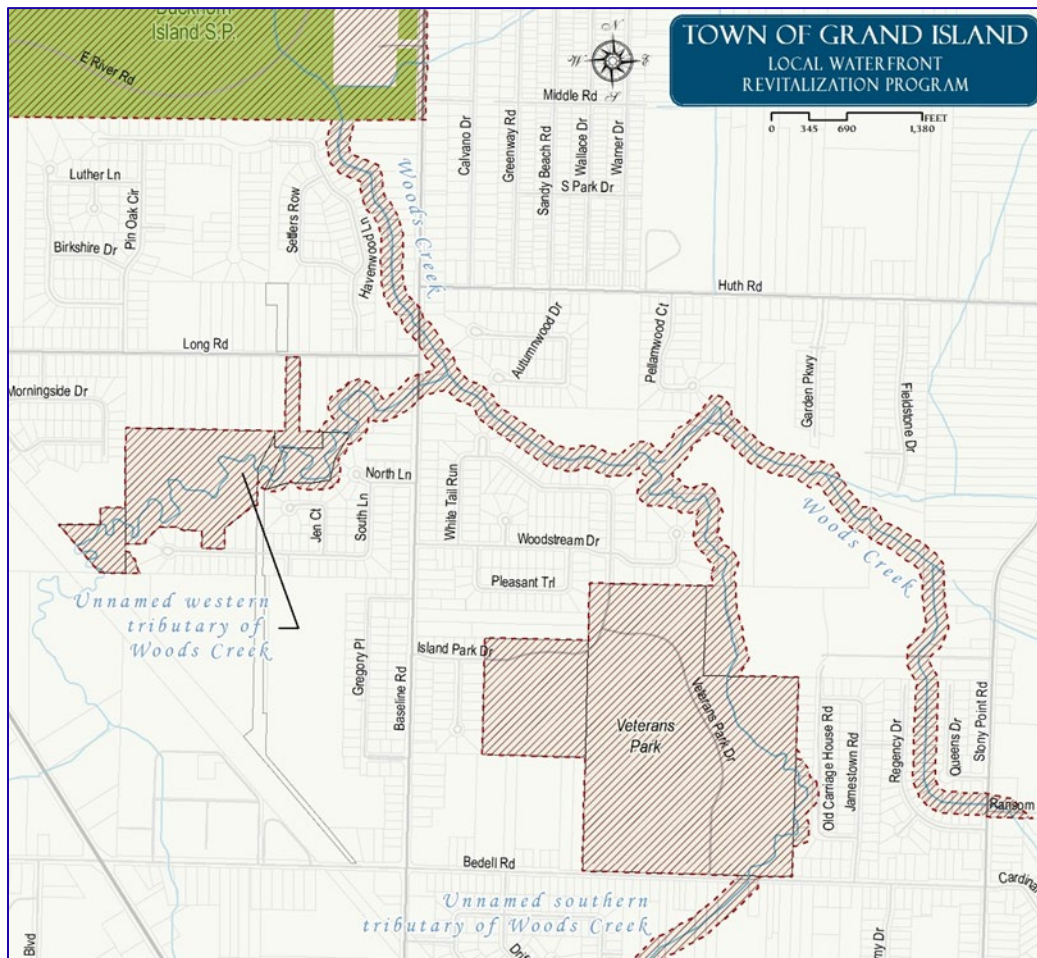
The landward boundary of the WRA, as illustrated on Map 1.1, begins at the point of intersection of the south boundary line of Buckhorn Island State Park and the eastern right-of-way of the West River Parkway; then,

- I proceeds east along the Buckhorn Island State Park southern boundary line to a point 100-feet west of the centerline of Woods Creek; then,
- II southeasterly along a line 100-feet west of and parallel to the centerline of Woods Creek to a point of intersection 100-feet north of the centerline of the unnamed western tributary of Woods Creek; then,
- III southwesterly along a line 100-feet west of and parallel to the unnamed western tributary of Woods Creek to a point of intersection of lands owned by the Town of Grand Island; then,
- IV following the northern, western, and southern boundary of said municipal lands to a point of intersection 100-feet south of the unnamed western tributary of Woods Creek; then
- V easterly along a line 100-feet south of and parallel to the unnamed western tributary of Woods Creek to the point of intersection 100-feet west of and parallel to the centerline of Woods Creek; then,
- VI southerly along a line 100-feet west of and parallel to the centerline of Woods Creek to a point of intersection 100-feet south of the unnamed southern tributary of Woods Creek; then,
- VII southerly along a line 100-feet west of the unnamed southern tributary of Woods Creek to a point of intersection with the northern boundary of Veterans Park and other municipal lands of the Town of Grand Island; then,
- VIII following the northern, western, and southern boundary of said municipal lands to a point of intersection 100-feet west of the unnamed southern tributary of Woods Creek (also the northern right-of-way of Bedell Road); then,
- IX continuing south, 100-feet west of the centerline of the unnamed southern tributary of Woods Creek to a point of intersection with the centerline of Baseline Road; then
- X south along the centerline of Baseline Road to a point of intersection with Whitehaven Road; then,
- XI east along the centerline of Whitehaven Road to a point of intersection 100-feet east of the centerline of unnamed southern tributary of Woods Creek; then,



- XII north and northwesterly along a line 100-feet east of and parallel to the centerline of unnamed southern tributary of Woods Creek to a point of intersection with the eastern boundary of Veterans Park; then,
- XIII following the eastern and northern boundary of Veterans Park to a point of intersection 100-feet east of the centerline of unnamed southern tributary of Woods Creek; then,
- XIV continuing northerly along a line 100-feet east of and parallel to the centerline of the unnamed southern tributary of Woods Creek to a point of intersection 100-feet south of the centerline of Woods Creek; then,
- XV easterly along a line 100-feet south of and parallel to the centerline of Woods Creek to a point of intersection with the southern right-of-way of Ransom Road; then,

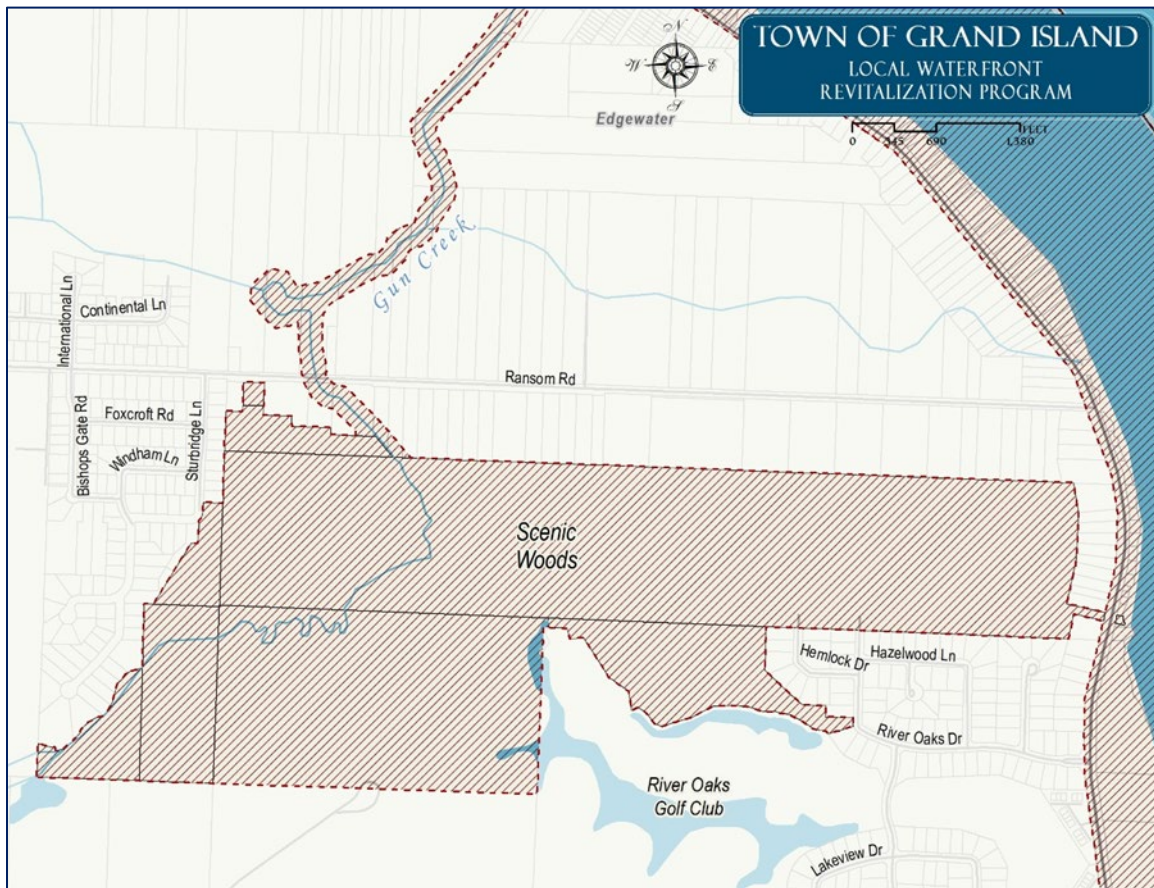
Figure 1.1: Woods Creek detail of WRA



- XVI east along the southern right-of-way of Ransom Road to a point of intersection 100-feet east of the centerline of Woods Creek; then,

- XVII northerly along a line 100-feet east of and parallel to the centerline of Woods Creek to a point of intersection with the southern boundary of Buckhorn Island State Park; then,
- XVIII following the southern and easterly boundary of Buckhorn Island State Park to its intersection with the southern right-of-way of East River Road; then,
- XIX easterly along the south right-of-way of East River Road to a point 100-feet northwest of the centerline of Gun Creek; then,

Figure 1.2: Gun Creek detail of WRA



- XX southwesterly along a line 100-feet west of and parallel to the centerline of Gun Creek to a point of intersection with lands owned by the Town of Grand Island encompassing Scenic Woods; then,
- XXI along the northern, western, and southern boundary of Scenic Woods; then,
- XXII extending parallel to the southern boundary of Scenic Woods to a point of intersection with the western boundary of River Oaks Golf Club; then,

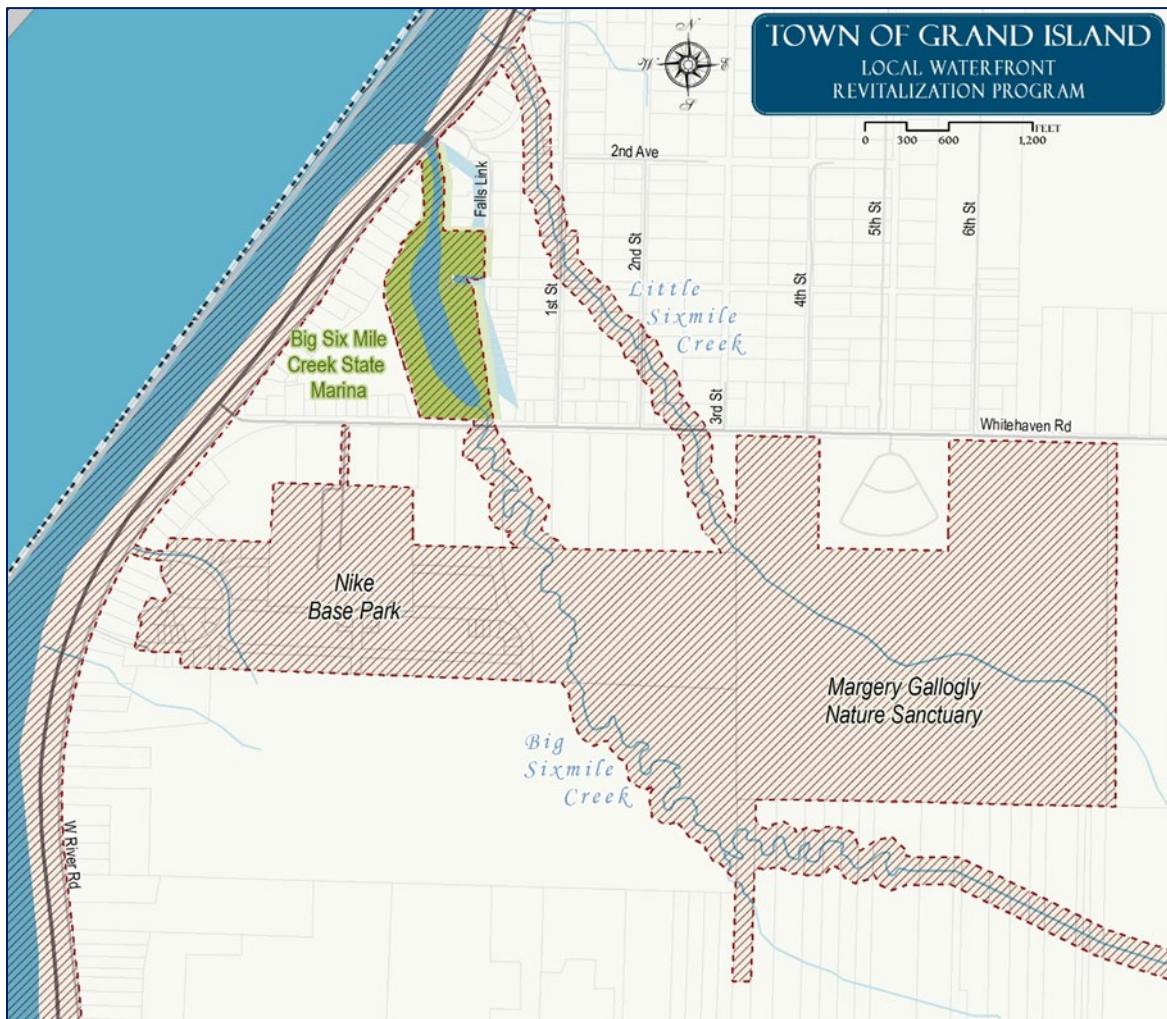
- XXIII north along the western boundary of River Oaks Golf Club to a point of intersection with the southern boundary of Scenic Woods; then,
- XXIV along the southern boundary of Scenic Woods to a point of intersection with the western right-of-way of East River Road; then,
- XXV southerly along the western right-of-way of East River Road to a point 100-feet north of Spicer Creek; then,
- XXVI westerly along a line 100-feet north of and parallel to the centerline of Spicer Creek to a point of intersection with an unnamed northern tributary of Spicer Creek; then,
- XXVII westerly along a line 100-feet north of and parallel to the centerline of the unnamed northern tributary of Spicer Creek to a point of intersection with the eastern boundary of SBL 37.03-3-51.1; then,
- XXVIII southerly along the eastern boundary of SBL 37.03-3-51.1 to a point 100-feet south of the centerline of the unnamed northern tributary of Spicer Creek; then
- XXIX easterly along a line 100-feet north of and parallel to the centerline of the unnamed northern tributary of Spicer Creek to a point of intersection 100-feet north of Spicer Creek; then,
- XXX westerly along a line 100-feet north of and parallel to the centerline of Spicer Creek to a point of intersection with the northern boundary of SBL 51.00-1-4; then,
- XXXI along the northern, western, southern, and eastern boundary of SBL 51.00-1-4 to a point 100-feet south of the centerline of Spicer Creek; then,
- XXXII easterly along a line 100-feet south of and parallel to the centerline of Spicer Creek to the western right-of-way of East River Road; then
- XXXIII southerly along the western right-of-way of East River Road to a point of intersection 100-feet north of the centerline of Turtle Creek; then,
- XXXIV westerly along a line 100-feet north of and parallel to the centerline of Turtle Creek to a point of intersection with the eastern right-of-way of South Parkway/State Route 957B; then,
- XXXV south along the eastern right-of-way of South Parkway/State Route 957B to a point of intersection 100-feet south of the centerline of Turtle Creek; then,
- XXXVI easterly along a line 100-feet south of and parallel to the centerline of Turtle Creek to a point of intersection with the western right-of-way of East River Road; then,



- XXXVII southerly along the western right-of-way of East River Road to a point of intersection with the southern right-of-way of Bush Road; then,
- XXXVIII westerly along the southern right-of-way of Bush Road, which also constitutes the northern boundary of Beaver Island State Park to a point of intersection with the northern right-of-way of Ferry Road; then,
- XXXIX along the northern right-of-way of Ferry Road to a point of intersection with the eastern right-of-way of Baseline Road, which also constitutes the western boundary of Beaver Island State Park; then,
- XL southerly along the eastern right-of-way of Baseline Road to a point of intersection with the inland limits of the State-owned West River Parkway lands; then,
- XLI northerly along this limit to a point intersection 100 feet easterly of an unnamed Niagara River tributary straddling SBL 50.17-2-17.1 and 50.17-2-16 ; then,
- XLII easterly along a line 100-feet east of and parallel to the centerline of the unnamed Niagara River tributary to a point of intersection with the southern property line of Love Road Preserve; then,
- XLIII encompassing the entire boundary of Love Road Preserve to a point of intersection 100-feet north of the centerline of the unnamed Niagara River tributary; then,
- XLIV west along a line 100-feet north of and parallel to the centerline of the unnamed Niagara River tributary to the inland limits of the State-owned West River Parkway lands; then,
- XLV northerly along this limit to the south side of the western access point of Nike Base Park that intersects with West River Parkway; then,
- XLVI easterly along the southern boundary of Nike Base Park to a point of intersection 100-feet west of the centerline of Big Six Mile Creek; then,
- XLVII. southerly along a line 100-feet west of and parallel to the centerline of Big Six Mile Creek to a point of intersection with the western boundary of Margery Gallogly Nature Sanctuary; then,
- XLVIII. along the western, southern, and eastern boundary of Margery Gallogly Nature Sanctuary to a point of intersection 100-feet south of the centerline of Big Six Mile Creek; then,

- XLIX. continuing southerly along a line 100-feet west of and parallel to the centerline of Big Sister Creek to a point of intersection with the northern right-of-way of Love Road; then,
- L. easterly along the northern right-of-way to a point of intersection 100-feet east of the centerline of Big Sister Creek; then,
- LI. northerly along a line 100-feet east of and parallel to the centerline of Big Six Mile Creek to a point of intersection with the eastern boundary of Margery Gallogly Nature Sanctuary; then,
- LII. along the eastern, southern, and northern boundary of Margery Gallogly Nature Sanctuary to a point of intersection with the northern boundary of Nike Base Park; then,

Figure 1.3: Nike Base Park/Margery Gallogly Nature Sanctuary detail of WRA



- LIII. along the northern boundary of Nike Base Park to a point of intersection with the inland limits of the State-owned West River Parkway lands; then,
- LIV. northerly along this limit to the western boundary of the Big Six Mile Creek Marina State Park; then,
- LV. southerly along this western boundary line to a point of intersection 100-feet west of the centerline of Big Six Mile Creek; then,
- LVI. continuing southerly along a line 100-feet west of and parallel to the centerline of Big Six Mile Creek to a point of intersection with the northern boundary of Nike Base Park; then,
- LVII. easterly along the northern boundary of Nike Base Park to a point of intersection 100-feet east of and parallel to the centerline of Big Six Mile Creek; then,
- LVIII. continuing north along a line 100-feet east of and parallel to the centerline of Big Six Mile Creek to a point of intersection with the eastern boundary of Big Six Mile Creek Marina State Park; then,
- LIX. northerly along the eastern boundary of Big Six Mile Creek Marina State Park to its return to the inland limits of West River Parkway lands; then,
- LX. northerly along the inland limits of West River Parkway lands to a point 100-feet south of Little Six Mile Creek; then,
- LXI. southeasterly along a line 100-feet west of and parallel to the centerline of Little Six Mile Creek to a point of intersection with Nike Base Park; then,
- LXII. easterly along the northern boundary of Nike Base Park to a point of intersection with Margery Gallogly Nature Sanctuary; then,
- LXIII. northerly along the western boundary of Margery Gallogly Nature Sanctuary to a point of intersection 100-feet east of and parallel to the centerline Little Six Mile Creek; then,
- LXIV. northerly along a line 100-feet east of and parallel to the creek centerline to a point of intersection with the inland limits of the West River Parkway; then,
- LXV. northerly along this limit to the point of beginning.

The Harbor Management Area (HMA) within the proposed WRA covers the waters of the Niagara River within the Town of Grand Island municipal boundaries and the navigable portions of streams within the Grand Island WRA used by motorized and/or non-motorized vessels. The

local conditions and uses within the HMA are detailed in Sections 2 and 5 of the LWRP. The following are the portions of the Niagara River tributaries that are navigable and located within the WRA:

- Woods Creek between Niagara River and the bridge carrying Baseline Road (minor tributaries of the creek may be partially navigable subject to seasonal fluctuations)
- Gun Creek - approximately a ½ mile stretch from the Niagara River
- Spicer Creek between the Niagara River and approximately 800 feet west of the bridge carrying East River Road (total of approximately 1,700 LF).
- Turtle Creek – less than 1,000 LF from the confluence with the Niagara River is navigable due to private driveways that cross the creek
- A small portion of Big Six Mile Creek past the bridge carrying Whitehaven Road may be navigable, but likely not due to vegetation overgrowth
- Burnt Ship Creek is navigable between the Niagara River and the 190 bridge, though interior portions of the creek in Buckhorn Island State Park may not be navigable due to vegetation growth and seasonal water levels

## SECTION 2 – INVENTORY AND ANALYSIS OF EXISTING CONDITIONS WITHIN THE WRA

Section 2 of the LWRP provides a comprehensive inventory and analysis of the existing natural and cultural resources within the town of Grand Island Waterfront Revitalization Area described in Section 1. It also shapes the town’s vision for its WRA and is the basis for the uses and projects proposed in Section 5 of the LWRP.

*The residents of Grand Island find the waterfront to encompass valuable resources that provide a wealth of benefits to them and the region, in terms of scenic beauty, recreational pursuits, educational and cultural connections, and crucial habitats for a variety of wildlife, and understand that capitalizing on the waterfront will require a balance between environmental protection and economic revitalization, including new development, to preserve the ecosystems of Grand Island and its uniqueness that many communities don’t encounter.*

### 2.1 SUMMARY OF ISSUES AND OPPORTUNITIES IN THE WRA

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The Grand Island Local Waterfront Revitalization Program (LWRP) is intended to support and enhance the habitats and ecosystems along the local waterways while balancing development and quality of life in upland residential neighborhoods and commercial areas. Most of the upland of the Waterfront Revitalization Area (WRA) covered by the Grand Island LWRP is dedicated either to State parkland or consists of a mix of seasonal and year-round residences; commercial uses are scattered along the eastern half of the WRA. The southeast side of the Town hosts a concentration of commercial uses, which is predominant in the hamlet<sup>1</sup> of Ferry Village. The expansiveness of the State parkland within the Grand Island WRA is an opportunity for better cooperative efforts between the town government and State agencies to enhance their use.

Improving, expanding, and enhancing waterfront access will continue to be a top priority of the community, whether in the form of boat launches, trails, or overlooks, and appropriate

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<sup>1</sup> The term “hamlet” does not have a legal definition under NYS law, but is used to identify communities within Towns (such as the Town of Babylon) that are not part of incorporated villages, sometimes referred to as “unincorporated communities.”- <https://www.townofbabylon.com/639/What-is-a-Hamlet>



amenities are desired to make these resources more functional. Another goal to the Grand Island LWRP, is the protection of waterfront ecosystems and water quality through better dissemination of information on best management practices, to property owners as well as developers.

Several significant creeks feed into the Niagara River, providing access for non-motorized boats as well as habitats for marine life and drainage corridors for upland areas. However, the mix of natural processes and construction of new development caused drainage and flooding issues as well as a decrease in habitat for marine wildlife and water quality. The Town understands that upland drainage and flooding are substantial concerns and better coordination with various agencies and organizations is necessary, to better understand the conditions and identify means for addressing these issues.

### ISSUES AND CONCERNS

- ◆ Drainage and flooding of properties adjacent to the creeks, which has been aggravated by alteration of headwaters and upland development, siltation, vegetative overgrowth, invasive species, decline of vegetation/tree species, inadequate stormwater collection and filtration infrastructure and the fluctuation of the river levels, are a major concern to property owners as well as the Town government.
- ◆ Loss of waterfront property, due to shoreline erosion cause by wave action and ice, is a significant concern to property owners, especially those on the east side of the WRA.
- ◆ Fluctuating river levels, the wakes produced by motorized boats, and lack of signage and enforcement of boat speeds near the shore affect the docks and produce shoreline erosion during the navigation season.
- ◆ In winter, ice flow and scouring damage docks, erode the shoreline and disturb habitats.
- ◆ Invasive vegetation in and along the creeks replaces native vegetation and alters wildlife habitats used as stopover locations during migrations and exacerbates drainage problems on properties abutting the creeks.
- ◆ Pesticide use for maintenance of properties and agriculture, improperly maintained private septic systems, and the combined sewer overflow (CSO) and inflow and infiltration (I&I) impact the quality of surface waters and the health of the community.
- ◆ Alteration of headwaters and upland development, the construction of roadways and culverts that block fish migration, siltation, invasive species and decline in native vegetation, inadequate stormwater collection and filtration infrastructure affecting water quality, and the fluctuation of the river levels negatively impact fish spawning and aquatic habitats.
- ◆ Lack of sufficient travel lanes, signage, vehicular speeds, and connections affect the safety of bicycle users on roadways adjacent to the waterfront.

- ◆ Lack of a wayfinding system pointing out the location of recreational, cultural, and historical waterfront resources affect the way visitors experience the WRA.
- ◆ The Western New York Welcome Center, Buckhorn State Park, Big Six Mile Creek Marina, Beaver Island State Park, Nike Park, and the lands acquired for conservation by not-for-profit organizations are important recreational resources that could enhance their programs and public access opportunities.
- ◆ Existing trails, parks, boat launches, and marinas appear to need enhancements to offer a better user experience, accommodate a larger number and range of users while providing additional economic opportunities.

### ASSETS AND OPPORTUNITIES

- ◆ Identify areas for offshore boat anchoring and for swimming and wading and means to control the number of daily users, to avoid negative impacts on aquatic habitat.
- ◆ Create a blueway trail with public water access/landing areas connected to the Grand Island historic landmarks by utilizing underused sites, such as the old ferry landing.
- ◆ Enhance existing public water access for boating, fishing, and wildlife viewing by identifying and implementing necessary improvements that will allow a larger range of people with different levels of mobility and needs to enjoy them.
- ◆ Identify additional public access to the water and outlooks, install floating docks that are more resilient to fluctuation in water levels, incorporate handicap accessibility and public bathrooms wherever feasible.
- ◆ Improve existing public boat launch areas at various locations, including but not limited to Burnt Ship Creek, Woods Creek, and in Buckhorn Island State Park.
- ◆ Actively engage and communicate with NYS OPRHP, NYS DEC and not-for-profit organizations owning conservation lands open to the public on the marketing, maintenance, and programming of the existing resources within the WRA, and on other potential cooperative efforts.
- ◆ Encourage commercial uses that support and enhance water-dependent recreation.
- ◆ Improve water quality through education of residents and businesses on proper use of pesticides, lawn care, septic systems, and other property maintenance measures.
- ◆ Design and build enhancements, such as bathrooms and playgrounds along the existing trails and other recreational sites to increase the number and range of users.
- ◆ Market existing walking/biking trails and other local resources to increase the number and range of users.
- ◆ Develop a public transportation system for tourists and residents to increase access to the local recreational resources and optimize the use of existing parking lots and avoid constructing additional parking.

- ◆ Enhance the existing public boat launches and identify additional locations for new boat launches on the east side of the Niagara River where the proximity of the international border is not a concern.
- ◆ Design and implement a wayfinding system and signage for historical sites and structures and other tourist attractions within the WRA.
- ◆ Improve Big Six Mile Creek Marina and adjacent park to provide better accessibility and recreation opportunities for non-boaters.
- ◆ Identify, expand, and market opportunities for ecotourism.
- ◆ Increase community gathering areas for Town events.
- ◆ Identify the end of public roads that would be good locations for public access to the water or/and public outlooks.
- ◆ Identify stormwater drainage patterns and the need and means to control its flow and filtrate it before reaching local creeks or the Niagara River.
- ◆ Develop a plan to identify and control invasive species in coordination with NYS Parks and NYS DEC
- ◆ Educate private property owners about the benefits of native vegetation and maintenance of vegetative buffers along the streams crossing their properties.
- ◆ Educate private owners about the importance of properly maintaining private septic systems.
- ◆ Develop plans for the potential expansion of the public water and sewer systems.
- ◆ Develop plans to control and encourage the development of renewable energy systems at the appropriate locations.
- ◆ Encourage the installation of chargers for electric vehicles in the public parking lots.
- ◆ Make sure new parking areas will include tree planting that would provide sufficient shade to protect users.

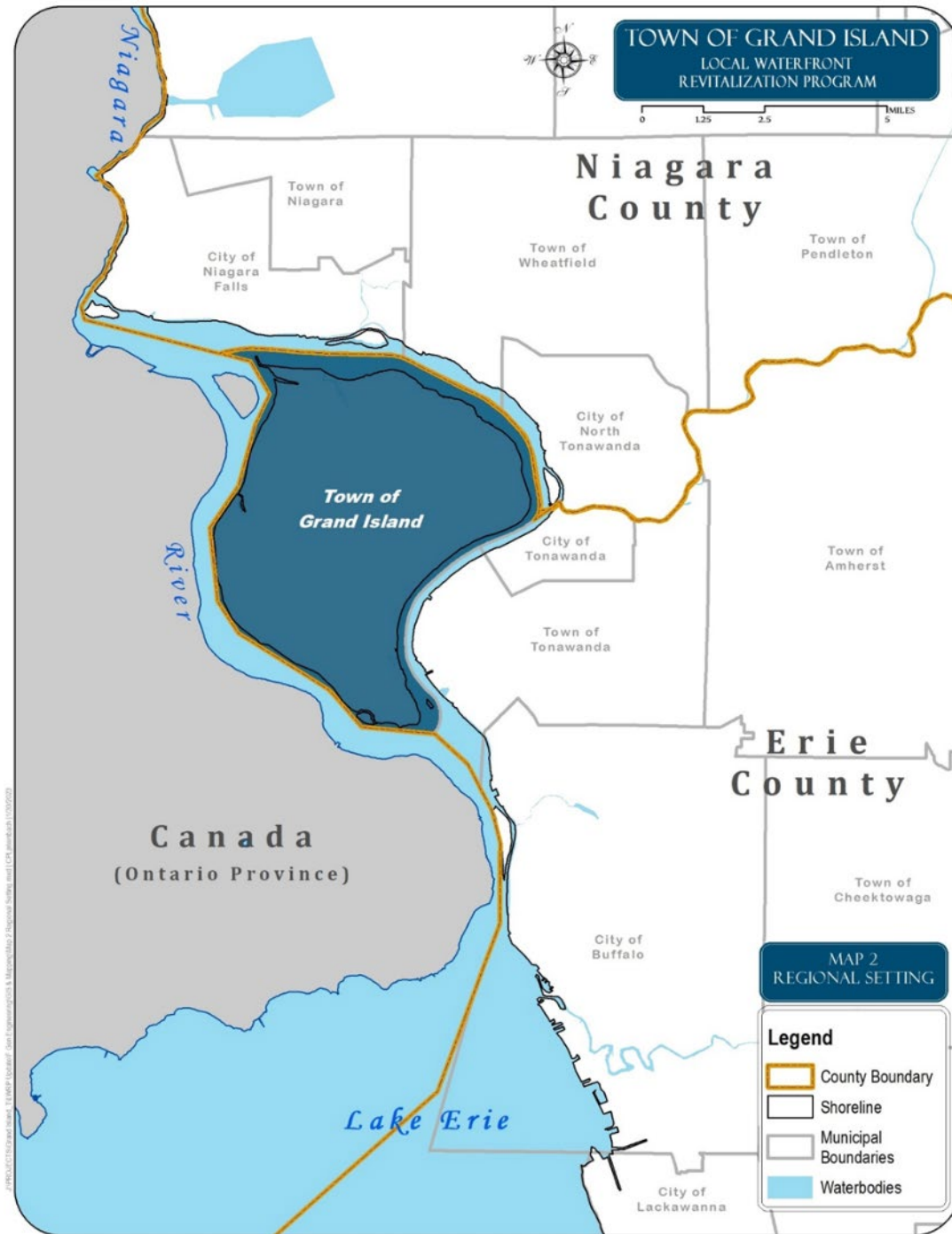
## 2.2 REGIONAL SETTING AND DEVELOPMENT CONTEXT

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The Town of Grand Island occupies the largest island in the northwestern portion of Erie County in Western New York and is part of the Buffalo-Niagara Falls Metropolitan Statistical Area. The Town is surrounded by the Niagara River and shares borders with the City of Niagara Falls, the Town of Niagara, and Town of Wheatfield, which are in Niagara County, to the north; the City of North Tonawanda to the east (also located in Niagara County); the Town of Tonawanda and City of Buffalo, in Erie County to the southeast; and Ontario, Canada to the south and west. The Town of Grand Island is situated between the City of Buffalo, 20-minute drive to the south, and the City of Niagara Falls, 10-minute drive to the north, which are all easily accessible by way of

the interstate highway system (NYS I-190). Bridges carry traffic across the Niagara River at each end of the island, providing access to the mainland. There is no bridge or ferry access between Grand Island and Canada.

Map 2.1 – Regional Setting



The Town of Grand Island encompasses over 33 square miles of land area, with approximately 25 miles of shoreline along the Niagara River. There are several major creeks that flow through the Town, draining to the Niagara River, including Big Six Mile Creek, Little Six Mile Creek, Woods Creek, Gun Creek, Turtle Creek, and Spicer Creek, as well as several other unnamed creeks. Overall, there are approximately 60 miles of creeks, tributaries, and other drainage bodies (25 miles of which are named waterbodies) that are found within the Town, all of which are connected to the navigable waters of the Niagara River. The Town includes two State Parks: Buckhorn Island State Park at the north end and Beaver Island State Park at the south end. Grand Island is the largest island in the Niagara River and the third largest in New York State.

### **BECOMING A SETTLEMENT**

The Island was discovered by French explorers who named it La Grande Île, which appears on the Town seal. Like many regions in New York State, the roots of Grand Islands settlement are founded in the indigenous culture of the Seneca Nation, which took control of the island from a neutral nation of Native Americans known as the Attadawandaron in 1651. The Senecas called Grand Island “Ga-we-not”, meaning Great Island. They used the island as a hunting preserve but had no permanent villages there.

During the early part of the eighteenth century, Grand Island was likely visited by French traders, hunters, and missionaries, although it was off the beaten path. Grand Island has been an acquisition of both French and British colonial pursuits in North America. After the French and Indian Wars (1754-1763), Grand Island became part of the British domain. The British decided to use pack animals to carry supplies from Fort Niagara to Fort Schlosser, which was located above Niagara Falls. In 1763, many Indian porters lost their jobs and in retaliation attacked a British supply wagon, in what is known as the Devils Hole massacre. Expressing regret for their actions, in a show of good faith the Seneca gave all the islands in the Niagara River above the falls to the British. This treaty was signed in 1764 and the title of the islands was immediately transferred to the King of England.

Although the Revolutionary War ended with the Treaty of Paris in 1783, the British continued to hold Fort Niagara until 1796. After the War of 1812, when the British were finally expelled from the area, the Seneca’s claimed that the title to the islands in the Niagara River reverted to them. At that time, the State of New York was anxious to not antagonize the Indians and recognized the claim. However, on September 12, 1815, representatives from the State and the Seneca Nation met in council at Buffalo Creek. At that meeting, New York State purchased Grand Island and the other small islands in the Niagara River for one thousand dollars. After the purchase of the island, boundaries between the United States and Canada were not clear. In 1822, a boundary survey was commissioned that declared the West branch of the Niagara River

the main channel because it was deeper. The Treaty of Ghent dictated that the international border would be midstream in the river. With the boundary found to be to the west of the channel, all the islands, except for Navy Island, became a part of the United States. After the purchase, the U.S. government declared free land available on Grand Island and the island's population grew to 150 people. In 1853, the New York State Legislature passed an act that formed the Town of Grand Island from Buckhorn and Beaver Islands and Grand Island that were removed from the Town of Tonawanda, which was formed in 1836. Nearby Frog Island in the East branch of the Niagara River was also included in the Town of Grand Island. Frog Island was renamed Motor Island in 1910 and used for a prominent Niagara River yacht club. Currently, Motor Island is a Wildlife Management Area (WMA) managed by the New York State Department of Environmental Conservation (NYS DEC) and Buckhorn and Beaver Islands are now part of two respective State Parks managed by the New York State Office of Parks, Recreation and Historic Preservation (NYS OPRHP).

### **CHARACTERISTICS OF THE WRA**

The Grand Island WRA consists of a mix of land uses, generally residential along the eastern and western shores of the Niagara River with more commercial businesses interspersed in and around the South Grand Island Bridge. This area contains several neighborhoods and hamlets that have historically been the primary entrances to the Island prior to the construction of the bridges, with ferries moving goods and people to and from the mainland. The State Parks anchor the northern and southern tips of the WRA, with Beaver Island considerably more developed and offering more recreational amenities and Buckhorn Island providing ecotourism. Both parks provide passive recreational endeavors.

## **2.3 REGIONAL AND LOCAL PLANNING EFFORTS AND OTHER ACTIONS**

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There are several regional plans that guide land use and other activities in the Town of Grand Island and Erie County, as a whole.

### **FRAMEWORK FOR REGIONAL GROWTH FOR ERIE AND NIAGARA COUNTIES**

The Framework for Regional Growth for Erie and Niagara Counties, New York is the regional comprehensive planning document. The Framework was finalized in October of 2006 and establishes basic policies and principles to guide the future growth and development of the region. Specifically, the Framework provides:

- ♦ A vision for how the region should grow over the next 15 years.

- ♦ Guidance regarding growth and redevelopment for County decision makers and other regional organizations that are linked to the two counties by way of funding, membership, or other relationships.
- ♦ Information on the ways local governments, private sector and non-profit actions and initiatives can reinforce the overall regional vision.
- ♦ Mechanisms to ensure that the goals, concepts, and recommendations of the Framework are implemented in an efficient and accountable manner.

The recommendations set forth in the Framework for Regional Growth build on the recognition that the Region's communities cannot effectively plan in isolation or independently address important issues, as almost every challenge faced by a locality has a regional dimension. The Framework is not a conventional zoning or land use plan or capital improvement program. It is designed to help County and regional leaders make better policy and investment decisions, more effectively leverage limited resources, and provide more consistent direction and useful support to municipalities. The Framework sets forth principles for the region's growth, development and conservation that govern established planning areas and sub-areas, and strategy statements designed to advance a regional agenda for improving community livability, economic vitality and environmental sustainability and form the basis for specific actions and recommendations. The principles focus on:

- ♦ A Vital Economy
- ♦ Sustainable Neighborhoods
- ♦ Strong Rural Communities
- ♦ Improved Access and Mobility
- ♦ Efficient Systems and Services
- ♦ Effective Regional Stewardship
- ♦ Conserved Natural and Cultural Assets

The established planning policy areas define, in broad terms, where County principles and policies should encourage development and public investment, where development and public investment may be appropriate subject to careful evaluation, and where conservation strategies generally take precedence over plans for development and public investment.

### **ONE REGION FORWARD – REGIONAL PLAN FOR SUSTAINABLE DEVELOPMENT**

One Region Forward's Plan for Sustainable Development, entitled "A New Way to Plan for Buffalo Niagara", builds upon the Framework for Regional Growth. It weaves together nearly three years of research, community engagement, partnership building and planning by over 5,000 citizens and more than 700 local organizations. The plan explores potential strategies to align values, providing a basic framework for moving the region towards a more sustainable, resilient, prosperous, and opportunity-rich future. It offers insights on the future impacts of









- ◆ Making connections through the development of an integrated trail and park system
- ◆ Restoration of the Niagara River ecosystem
- ◆ Celebrating history and heritage and extending the Olmsted legacy
- ◆ Sparking revitalization and renewal in deteriorated and underutilized waterfront areas
- ◆ Interpretation and education about the region's cultural, natural, and historic resources; and
- ◆ Long-term sustainability

The principles and goals for the NRGF represent the general values for guiding greenway planning toward achievement of the vision. The principles and goals are centered on promoting high-quality, ecologically sensitive, and sustainable activities and development. The goals are focused on improving access to the Niagara River, making connections between communities and filling gaps in the trail system, protecting and restoring environmental systems, celebrating the history and heritage of the region, sparking revitalization and renewal, promoting long term sustainability, and extending the Frederick Law Olmsted legacy for future generations.

The Niagara River Greenway Commission also hosts a signature recreation event, called Paddles Up Niagara. Established in 2006, the annual event brings hundreds of paddlecrafts to the Niagara riverfront. This signature event is a good example of how the Niagara River Greenway Commission can partner with riverfront communities bringing the Town of Grand Island into the Niagara River Greenway Plan.

The NRGF recognizes Beaver Island State Park, Buckhorn Island State Park, the Motor Island Nature Preserve, Big Six Mile Creek and Marina State Park, the Nike Base Park and Veteran's Park as important park and natural resources on Grand Island. Remaining stands of White Oak forests are identified as exceptional forest communities that warrant conservation.

Additionally, the canoe/kayak trail between Beaver Island and Buckhorn Island State Parks, the Western New York Shoreline Trail, and the designated bike lanes on East and West River Roads are noted as important recreational resources.

High-priority implementation concepts in the Niagara River Greenway Plan recommend the establishment of gateways as entrances into the Greenway system and as transitions from one side to the other through the Greenway. The Plan further identifies the need to fill gaps in the existing trail system, including the gap between the south Grand Island Bridge and Buckhorn Island State Park; conversion of the West River Parkway to the Shoreline Trail of the same name is seen as continued progress towards that effort. Additionally, improvements to pedestrian accommodations on the Grand Island Bridges is also noted as a high priority.

## **BUFFALO NIAGARA WATERKEEPER & RIVERWATCH PROGRAM**

The mission of the Buffalo Niagara Waterkeeper, a non-profit organization, is to restore and protect the 1,440 square miles of watershed for the Niagara River, addressing issues that affect the Niagara River, Lake Erie, and Lake Ontario. The objective is to protect water quality, restore the health of ecosystems, connect people to the water and promote economic growth and community engagement. The Buffalo Niagara Waterkeeper works with local municipalities and agencies to produce the Healthy Niagara Watershed Management Plan, which is a two-phased planning effort focused on completing an initial assessment of the Niagara River watershed by performing an ecological inventory, GIS analysis, and municipal code review to identify and rank sub-watersheds based on water quality, habitat, and land use metrics. Implementation plans were developed for five priority sub-watersheds based on water quality and stream condition data to inform several strategic actions, best management practices and programmatic suggestions for addressing waterbody impairments and conserving lands that contribute to good water quality. The Waterkeeper is currently undertaking habitat restoration projects on Grand Island.

The Waterkeeper also conducts the Riverwatch Program that trains volunteers to monitor water quality in local streams and creeks in the region. While government agencies regularly collect data from several sites in the Niagara River watershed, budget and staff limitations prevent adequate coverage for many creeks and tributary streams. Volunteers on Grand Island are currently working with the Waterkeeper staff to monitor water quality conditions in Woods Creek, Bix Six Mile Creek, Gun Creek, and Spicer Creek. The Riverwatch Program on Grand Island enables the Waterkeeper to provide surveillance monitoring to bolster baseline water quality data and track the health of local waterways to determine if restoration actions are necessary to protect water quality. Having local volunteers in the WRA help with the monitoring and identification of local water quality problems adds value to ongoing efforts by the NYS DEC to identify potential solutions in creeks and tributaries to the Niagara River as part of their Niagara River/Lake Erie Basin Watershed Inventory and Local Waterbodies Priorities List efforts. It is anticipated that the Town of Grand Island will continue to support the efforts of the Buffalo Niagara Waterkeeper to collect data from its creeks and streams that are tributary to the Niagara River.

## **NIAGARA RIVER AREA OF CONCERN & HABITAT RESTORATION PLAN**

The Niagara River extends through Erie and Niagara counties in western New York. In the early 20th century, the Niagara River was considered one of the most degraded places in North America. Over the past 50 years, major cleanup efforts in the river have reduced discharges of pollutants and toxic chemicals. The goal is to have the Niagara River officially removed from the

list of polluted places (hot spots) in the Great Lakes by December of 2019. In 1972, the U.S. and Canada first signed the Great Lakes Water Quality Agreement, which was amended in 1983 and 1987.

Figure 2-3: Niagara River AOC Boundary Map



The 1987 amendment to this agreement designated 43 Areas of Concern (AOCs) focusing restoration work within these areas. Of the 43 AOCs, 26 are located entirely within the U.S., while the remaining 12 lie wholly within Canada. Five other sites are shared by both countries. Under the Great Lakes Water Quality Agreement, the International Joint Commission (IJC) independently monitors implementation of cleanup plans, and reviews and comments on proposals for delisting AOCs. Every three years, the IJC also assesses the progress of the partnering governments in undertaking activities under the Agreement. This assessment may include an examination of steps taken to remove impairments and cleanup AOCs.

The Niagara River was designated an AOC under the 1987 amendment to the Great Lakes Water Quality Agreement. The Niagara River AOC boundary extends from the mouth of Niagara River at Lake Ontario to Smokes Creek in Lake Erie near the southern end of Buffalo Harbor. The area was considered highly degraded due to:

- ◆ post-industrial and municipal discharges degrading water quality and producing bottom sediment problems,
- ◆ a long history of development affecting fish and wildlife habitat,
- ◆ metals and cyanides in bottom sediments,
- ◆ hazardous waste sites,
- ◆ two Superfund sites, and
- ◆ contaminated discharges from Lake Erie's watershed.

Habitat degradation and the survival of aquatic life in the Niagara River AOC have been impaired by toxic chemicals, such as PCB, Mirex, Chlordane, Dioxin, Dibenzofuran, Polycyclic

Aromatic Hydrocarbons (PAHs), Hexachlorocyclohexane, and other contaminants. This degradation resulted in several beneficial use impairments, including:

- ◆ restrictions on fish and wildlife consumption,
- ◆ fish tumors or other deformities,
- ◆ degradation of the benthos layer,
- ◆ restriction on dredging activities,
- ◆ loss of fish and wildlife habitat,
- ◆ degradation of fish and wildlife populations, and
- ◆ bird or animal deformities or reproduction problems.

In 2012, the Great Lakes Water Quality Agreement was updated to enhance water quality programs that ensure the “chemical, physical, and biological integrity” of the Great Lakes. The 2012 agreement will facilitate United States and Canadian action on threats to Great Lakes water quality and includes strengthened measures to anticipate and prevent ecological harm. New provisions address aquatic invasive species, habitat degradation and the effects of climate change, and support continued work on existing threats to public health and the environment in the Great Lakes Basin, such as harmful algae, toxic chemicals, and discharges from vessels.

The Great Lakes Water Quality Agreement outlines the process for restoring Areas of Concern. This process involves developing a Remedial Action Plan to address the beneficial use impairments that have resulted from an historic legacy of pollution for each AOC (See Figure 2-4 for Niagara River AOC Restoration Projects on or near Grand Island). Past municipal and industrial discharges, waste disposal sites and urban/stormwater runoff have long been the key source of contaminants to the Niagara River. Beyond this, water quality issues in the drainage basin are quite diverse and include non-point source pollution, stream bank erosion, urban and industrial sources of runoff, sanitary discharges from municipal and on-site systems, habitat modification and agricultural activity. Shoreline development, bulkheading and other shoreline protection structures, dredging and stream modifications have also impacted the river. Remedial Action Plans (RAP) are developed in three stages. Stage I identifies specific beneficial use impairments and the sources of pollution, Stage II lays out restoration actions and a plan for implementing those actions, and Stage III provides documentation that all the beneficial use impairments have been addressed and that the AOC is ready to be delisted. A combined Stage I/II RAP was developed for the Niagara River in 1994, followed by the development of the Niagara River Toxics Management Plan, which provided a summary of the progress being made toward the reduction of “priority toxics” carried in point and non-point source discharges to the river. An update to the Stage II RAP was completed in December of 2009. An additional update was prepared 2012, which documents work that had been accomplished, and work that remained to be completed, to address the beneficial use impairments.



Beginning in 2010, the U.S. Environmental Protection Agency (EPA) awarded money from the Great Lakes Restoration Initiative (GLRI) to fund the Niagara River restoration project. The Great Lakes Restoration Initiative was launched to accelerate efforts to protect and restore the Great Lakes, which is the largest system of fresh surface water in the world.

Figure 2-4: Niagara River AOC Restoration Projects



Source: New York State Parks (NYS OPRHP)

During fiscal year 2015-2019, federal agencies continued to use GLRI resources to strategically target the biggest threats to the Great Lakes ecosystem and to accelerate progress toward long term goals for this important ecosystem (summarized in the GLRI Action Plan II). These actions will build on restoration and protection work carried out under the first GLRI Action Plan, with a major focus on:

- ♦ cleaning up Great Lakes AOCs,

- ◆ preventing and controlling invasive species,
- ◆ reducing nutrient runoff that contributes to harmful/nuisance algal blooms, and
- ◆ restoring habitat to protect native species.

Continued efforts to address the Niagara River AOC impairments through 2019 and beyond, are contingent upon the continuance of essential government funding. The Great Lakes Restoration Initiative efforts, federal and state governments, and responsible parties have collectively spent hundreds of millions to develop plans and remediate hazardous waste sites. The Niagara River AOC Habitat Restoration Plan, prepared by the Niagara River Remedial Advisory Committee, identifies habitat restoration projects meant to restore approximately 100 acres of shallow water/coastal wetland habitat. A significant number of habitat restoration projects were completed within the Town of Grand Island in partnership with New York State Parks, New York State Department of Environmental Conservation, Ducks Unlimited, Buffalo-Niagara Waterkeepers, and U.S. Army Corps of Engineers (USACE), with funding from the U.S. Environmental Protection Agency (EPA) for the Great Lakes Restoration Initiative. The restoration projects conducted in the Niagara River are part of the process to delist the river as an AOC.<sup>2</sup>

### East River Marsh Project

The East River Marsh Project faced several challenges including shoreline erosion, loss of habitat, lack of wetlands along the river's edge, and few places for fish and wildlife to breed.

Figure 2-5: Aerial view of the constructed rock reefs protecting the shoreline



Source: New York State Parks

<sup>2</sup> [tps://www.epa.gov/great-lakes-aocs/niagara-river-aoc](https://www.epa.gov/great-lakes-aocs/niagara-river-aoc)

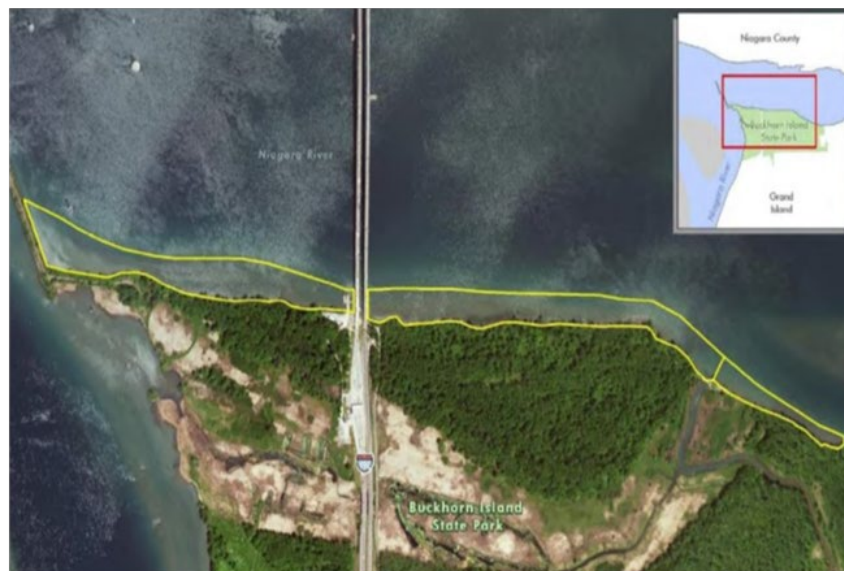
This project was completed in 2019 and installed a series of rock reefs that will protect the shoreline, stabilize riverbanks, reduce erosion, encourage submerged and emergent vegetation growth, and provide habitat for a variety of fish, birds, and other wildlife.

### Buckhorn Island Shoreline

Boats, high waves, and ice scour produced riverbank erosion and loss of habitat for wildlife. The enhancements to the Buckhorn Island Shoreline focused on dissipation of wave energy, shoreline stability, and habitat restoration.

In addition, projects have been conducted to reduce cattail dominance, restore hemi-marsh conditions to Buckhorn Island Marsh, increase hydrologic connectivity, and improve fish passage, flow, and water quality.

Figure 2-6: Buckhorn Island Shoreline Restoration



Source: New York State Parks (NYS OPRHP)

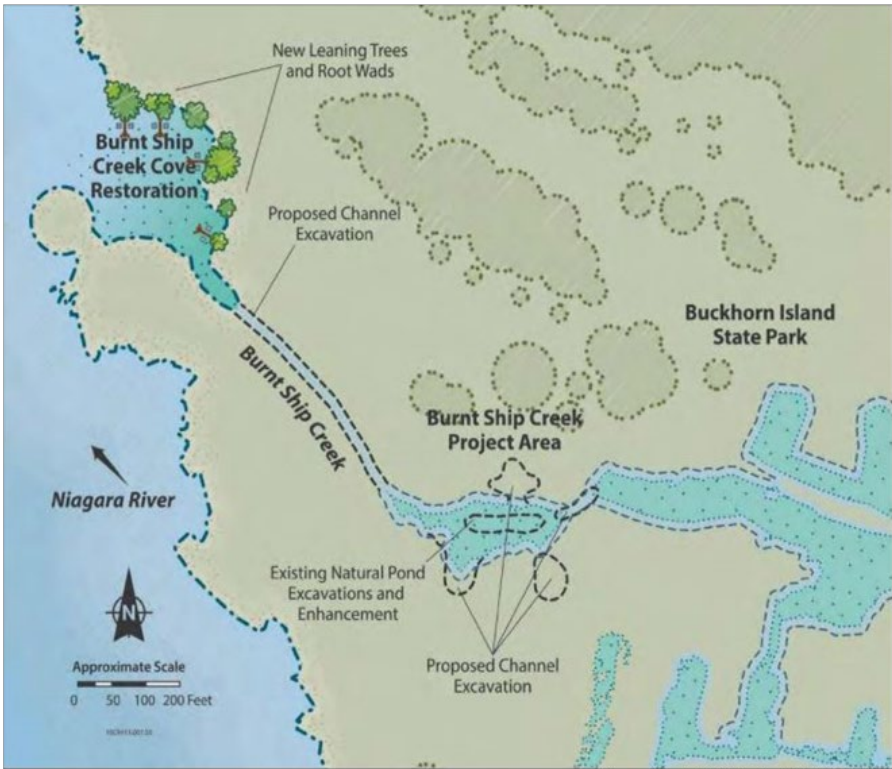
### Burnt Ship Creek

This project will enhance habitat for fish, birds, and other wildlife in Burnt Ship Creek and the surrounding marsh. Extensive cattail growth has filled in the stream channel preventing fish and wildlife passage and reducing the variety of plants and animals that once lived here. This project will remove cattails to restore the stream channel of this Niagara River tributary to provide fish passage and spawning habitat between the creek and the marsh, and to improve water movement through the marsh. Dredging will increase open water, and a variety of submerged and emergent vegetation will be planted.<sup>3</sup>

<sup>3</sup> <https://parks.ny.gov/documents/parks/BuckhornIslandBurntShipCreekHabitatEnhancement.pdf>



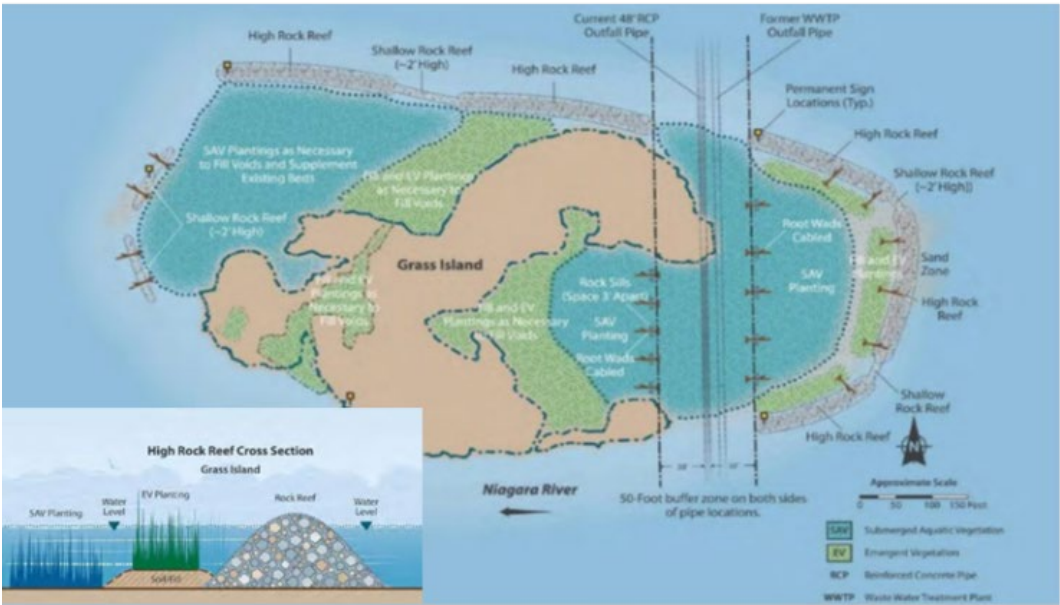
Figure 2-7: Burnt Ship Creek Restoration and Enhancement Concepts



Grass Island

Human actions, ice, and waves impacted the vegetation and habitat at Grass Island.

Figure 2.8: Grass Island Restoration Plan



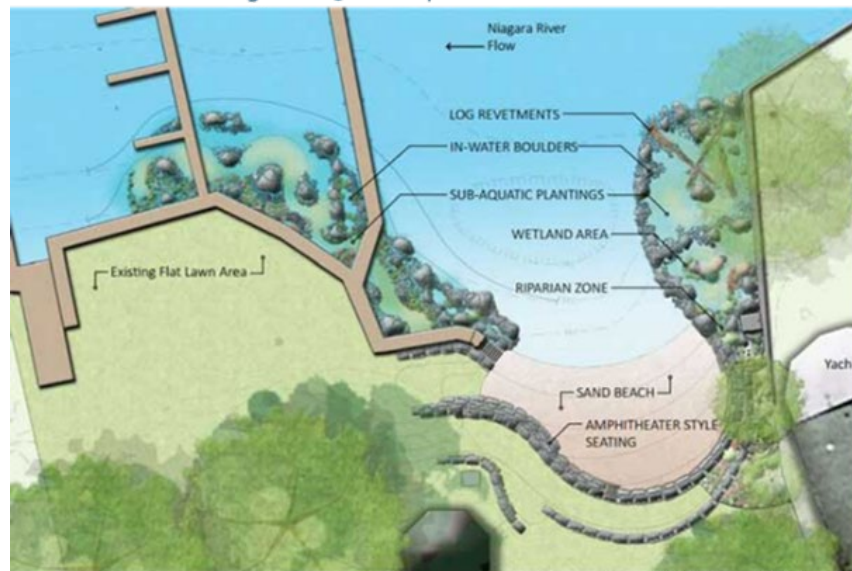
A restoration project was conducted to protect and enhance the existing habitat on Grass Island<sup>4</sup>, consisting of installation of shallow and high rock reefs, realignment of the WWTP outfall pipe, and aquatic and riparian plantings. The enhancements were funded by the U.S. Environmental Protection Agency (EPA), along with other restoration projects in the Niagara River as part of the process to delist the river as an Area of Concern (AOC)<sup>5</sup>.

### Sandy Beach Shoreline

In 2016, Buffalo Niagara Waterkeeper implemented a Living Shoreline project at the Sandy Beach Park Club, located on the north end of Grand Island. Sandy Beach Park Club is a community membership organization that provides a place for families within the Sandy Beach neighborhood to enjoy the waterfront, and features a picnic area, beach access, and small dock.

To create a new coastal wetland habitat in the Niagara River, enhanced access to the water, and improve water quality, a significant portion of the existing hardened sheet metal and concrete bulkhead was removed, the bank was graded to create a transitional living shoreline alongside a gradual sandy beach area, and boulders, rocks, and recycled logs were placed in the water to dissipate wave energy and other erosive forces, protect planting areas, and provide important hiding and resting areas for fish. In addition, to absorb and filter pollutants and nutrients, create critical habitat, and establish root systems that help to combat erosion native species were planted in-water along the shoreline and in upland areas.<sup>6</sup>

Figure 2-9: Sandy Beach Shoreline



Source: Buffalo Niagara Waterkeeper

<sup>4</sup> <https://parks.ny.gov/documents/parks/BuckhornIslandGrassIslandRevisedFinalDesign.pdf>

<sup>5</sup> <https://parks.ny.gov/documents/parks/BuckhornIslandGrassIslandRevisedFinalDesignDetails.pdf>

<sup>6</sup> <https://bnwaterkeeper.org/wp-content/uploads/2015/10/sandy-beach-press-event-poster.pdf>

## Spicer Creek

The habitat restoration project at Spicer Creek WMA will reverse the historic pattern of habitat loss and degradation on the 34-acre property managed by the New York State Department of Environmental Conservation (NYS DEC), which is located along East River Road in the town of Grand Island in Erie County. The site consists of nearly 26 acres of wetland and approximately eight acres of brushland and woodland.

Figure 2-10: Spicer Creek Restoration



Source: Buffalo Niagara Waterkeeper

The project placed low-profile berms along the shoreline to deflect wave energy and promote the growth of shallow-water vegetation near the WMA's shoreline. Eighteen segmented rock structures, each about 71 feet long, crest above the river. Log structures and single boulders were installed to further deflect wave energy from boat wakes. Approximately 3,760 linear feet of shoreline is now protected<sup>7</sup>. In addition, planting of native rooted vegetation and seed mixes promote long-term naturalized growth, which will enhance existing habitat. The added structures create a protected 'back water area' designed to keep the habitat safe from boat wakes, ice scour, sediment, and other factors that can affect vegetation growth and propagation.<sup>8</sup>

In addition, the Buffalo Niagara Waterkeeper addressed erosion through regrading and installation of native plants, live stakes, and salvaged boulders along the banks of Spicer Creek, on the property of the River Oaks Golf Club, outside of the Grand Island WRA. Also, step-pools

<sup>7</sup> <https://bnwaterkeeper.org/spicer-creek-restoration/>

<sup>8</sup> NYS DEC Press Release: Friday, May 14, 2021

were created in upland areas to slow, treat, and capture sediment from rainwater runoff and snow melt. Thousands of in-water plugs were installed to further protect banks, treat runoff, and create valuable habitat. In total, two-acres and 5,280 linear feet of shoreline were restored, while installing 7,622 plants.<sup>9</sup>

### Little Beaver Island

Little Beaver Island is located on the western edge of the Beaver Island State Park. Its shoreline is affected by ice in the winter and wave action year-round. The Buffalo Niagara Waterkeepers (BNWK) installed three barrier rock reefs in the water to protect the banks from eroding and provide a calm water environment for aquatic plant species to grow and provide habitat for fish and wildlife.

### West River Shoreline

The West River Shoreline Trail project was completed in 2018 and transformed two lanes of highway into a vehicle free multi-use, multi-season trail that runs along eight miles of the Niagara River from Beaver Island State Park to Buckhorn State Park. It includes refurbished overlooks, landscaping and year-round access to the water while closing a significant gap in the Niagara River Greenway Shoreline Trail.<sup>10</sup>

## BRIDGING THE FUTURE - 2018 TOWN OF GRAND ISLAND COMPREHENSIVE PLAN

In September 2018, the Town of Grand Island adopted an update to the Comprehensive Plan that provides refreshed goals and objectives, recommendations for achieving the goals, and an implementation strategy to put the plan into action.

The master plan expresses the vision for the entire town, including the Grand Island WRA:

*Grand Island is the “heart of the Niagara” - a unique community unlike any other in western New York combining a relaxed, island lifestyle with small town living. We will capitalize on our natural assets; enhance our Town Center; and create opportunities for growth to sustain our community for the future while striving for harmony between the natural environment, development, and our heritage.*

The following goals of the master plan apply to the entire community, including the Grand Island WRA:

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<sup>9</sup> <https://bnwaterkeeper.org/spicer-creek-restoration/>

<sup>10</sup> <https://parks.ny.gov/newsroom/press-releases/release.aspx?r=1462>

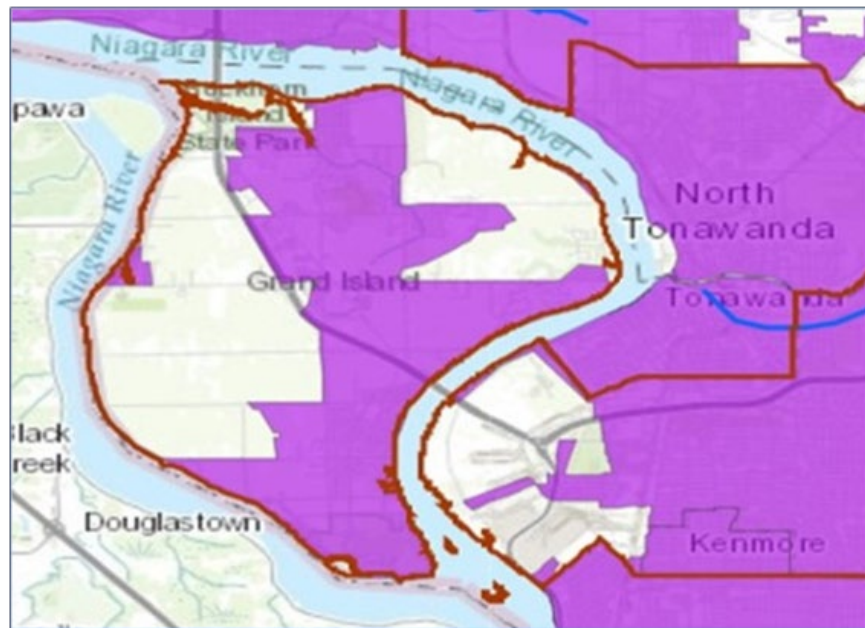


- ◆ Support the preservation of Grand Island’s many natural resources due to their contribution to the overall character of the Island as well as the numerous economic opportunities they can provide.
- ◆ Maintain a strong and diverse economy that capitalizes on the existing assets of the community (built and natural), provides a business environment that retains and attracts new ventures, and complements the “Island character” that is unique to Grand Island.
- ◆ Provide a safe and reliable multi-modal transportation system that balances the movement of people and goods through and within Grand Island, seeks to minimize congestion, supports economic development, and is visually engaging to users.
- ◆ Provide facilities and services that meet the physical, social, and cultural needs of Grand Island residents, builds community, and provides an attractive and inviting environment for current and future residents.
- ◆ Grand Island supports residential growth that provides a variety of housing choices, styles and, types while continuing to maintain the unique “Island character,” especially within existing neighborhoods and “urban villages.” Encouraging housing that is well-designed, affordable, and multi-generational helps ensure the possibilities for potential homeowners to live in Grand Island.

## STORMWATER MANAGEMENT PLANNING

The Town of Grand Island is a member of the Western New York Stormwater Coalition.

Figure 2-11: Coverage of Regulated MS<sub>4</sub>



Source: NYS DEC InfoLocator Mapper

The Coalition developed a Stormwater Management Plan as a shared resource to help local municipalities comply with the New York State Department of Environmental Conservation (NYS DEC) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4). This Plan provides policy and management guidance, including minimum control measures and best management practices for Public Education and Outreach, Public Involvement and Participation, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post-Construction Stormwater management, and Pollution Prevention/ Good Housekeeping for Municipal Operations. The Town has a designated Stormwater Management Officer, and a local law (Article XXXV of Chapter 407) that regulates stormwater management and erosion and sediment control.

## 2.4 DEMOGRAPHICS AND ECONOMIC CHARACTERISTICS

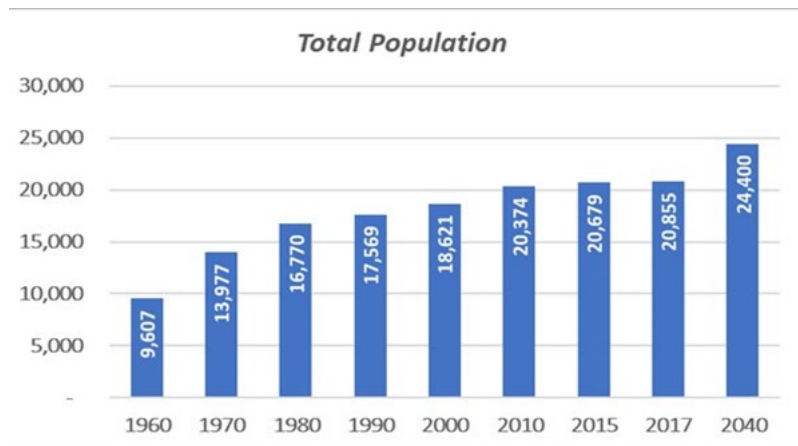
This section documents the demographic conditions in the Town, identifies patterns of community change and trends that influence planning for the future.

### POPULATION AND HOUSEHOLD CHARACTERISTICS

The Town of Grand Island has steadily seen an increase in population over the past few decades, although at a slightly lower rate since 2010 – from 2000 to 2010 the island population increased by approximately 1,750, however from 2010 to 2017 it is estimated that the population only increased by 480 people. The preliminary population projections for the Town out to 2040 indicate a continued population increase, reaching just over 24,400 people if trends continue in the same fashion.

By comparison, the County declined in population from 950,265 to 919,040 between 2000 and 2010 and has only in the past few years rebounded, slowly regaining its losses with an estimated 923,995 people in 2017. Although it's not the fastest growing suburban community in the County, Grand Island remains in the top 10 in the County in terms of overall population out of the 26 total towns. This growth suggests that development pressure will continue to remain steady throughout the

Figure 2-12: Grand Island Total Population



Data source: US Census Bureau



Town, although likely more on the interior rather than along the waterfront, due to the available land and presence of public infrastructure. The only exception to this may be the community of Ferry Village to the south, although it is predominantly built-out and limited in expansion by Beaver Island State Park to the south.

The median age on the Island is decreasing from 42.1 years to 41.6 unlike many other communities in the region, indicating that younger residents are moving to the Town, a positive sign for the sustainability of Grand Island. The distribution of age reflects many other areas in the region, with an increase in the number of empty nesters (roughly 55-65) and seniors (65+) – between 2010 and 2017 this age range increased by approximately four percent. The younger age cohorts (under 19 and 20-54) have decreased during the same range, although at a smaller percentage; these ranges represent the youth and the new/mature families. It is worth noting that within this range the 25 to 34 age group was the only one to experience growth (two percent) between 2010 and 2017.

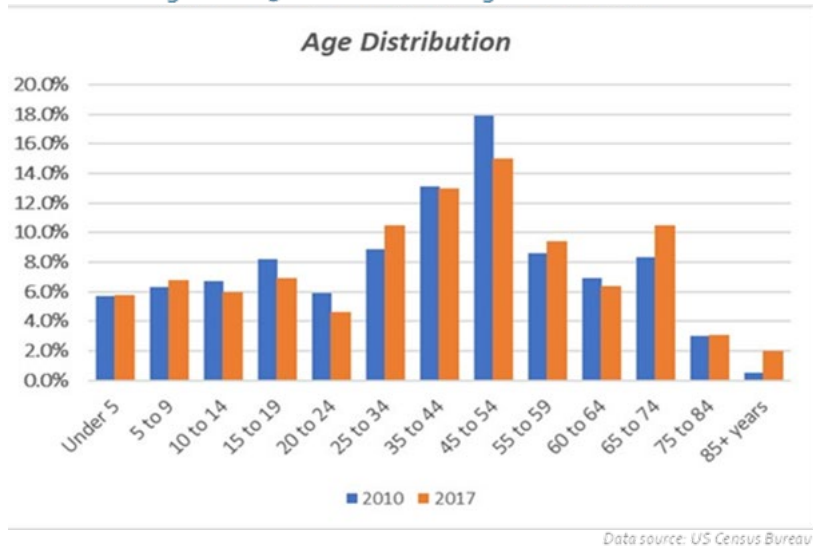
The average household size in the Town has also been on the decline, mirroring the trends regionally and nationwide, decreasing from 2.68 in 2000 to 2.51 in 2016. In terms of family households, the figures remained stable at around three-quarters of the total population in the same period.

## HOUSING

The number of housing units in the Town has grown steadily since 2000, from 7,355 to just over 8,500 in 2017 (estimated). Most of these units are occupied and consist of single-family detached homes (80 percent) followed by 5-unit to 9-unit structures (six percent).

Of these structures, the majority were constructed in the 1950's and 1970's, with 40 percent of the total housing stock made up of each of these decades; only four percent have been built in the past decade. With very few exceptions, the residential housing within the WRA consists of single-family dwellings.

Figure 2-13: Grand Island Age Distribution



## INCOME AND EMPLOYMENT

Generally, most employment centers are located along Grand Island Boulevard and in the vicinity of Interstate 190 through the center of Town; few large businesses are found within the waterfront. The exception to this is the Radisson Hotel located on the eastern shores of the Town at the end of Whitehaven Road. Several other smaller businesses are found within the WRA, providing community and tourist-related services that include, but are not limited to marinas, waterfront restaurants, yacht clubs and lodging. In terms of income, the Town overall has a median household income of approximately \$81,818 as of 2017 with the highest group in the \$100,000 to \$149,999 range (25.8 percent). Of those earning income in the Town, almost 80 percent are from wages followed by 32 percent from Social Security and 24 percent with retirement income, further highlighting the breakdown of seniors vs. non-seniors. While the Town supports and encourages development along Grand Island Boulevard, to facilitate a “Town Center” development approach, economic development is also supported within strategic areas on the waterfront, namely in Ferry Village and at Whitehaven where opportunities exist for redevelopment and revitalization. Of these two areas, the eastern end of Whitehaven Road is the only area that has experienced some recent revitalization in the form of newer housing stock and updates to local businesses, which improved the vibrancy of this area. For these two areas, the natural assets that exist along the waterfront are valuable for encouraging tourism, both from a recreational and ecological perspective.

## 2.5 EXISTING LAND USES

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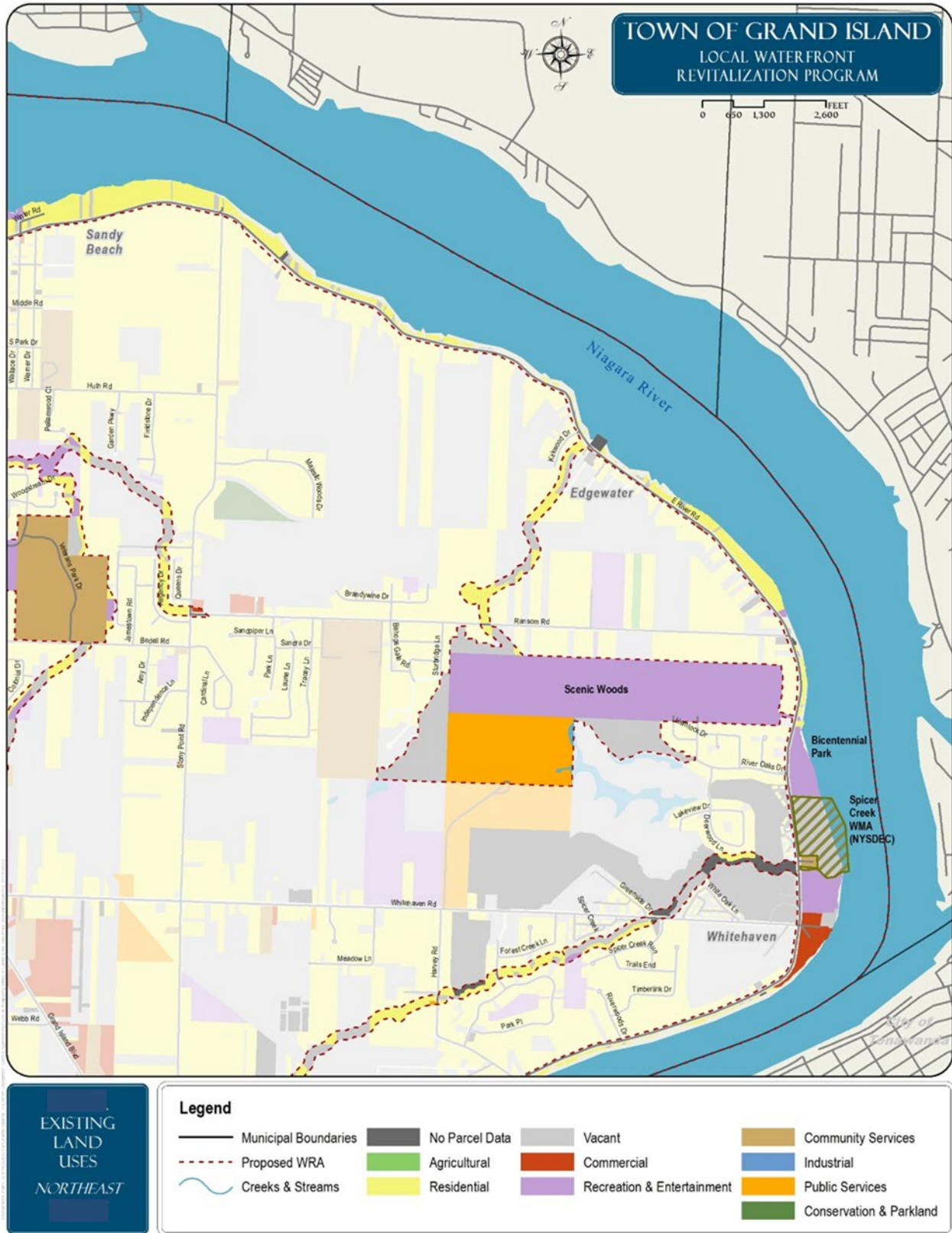
The Grand Island WRA extends around the island and contains several land uses. There are approximately 1,783 parcels of land that are contained within or crossed by the WRA, encompassing around 6,000 acres of land in total, although the actual land area within the WRA is much less than that. Based on the map of the Erie County Agricultural District #17, included in Appendix E, the WRA included just two very small sites of the Agricultural District #1. The eastern and western sides of the Grand Island WRA are markedly different in land use character. The east side of the Island is densely developed with shoreline residences, many with private boat docks, which stretch in a southeasterly direction from Sandy Beach on the north end of the Island to Ransom Road. In contrast, the west side of the Island has very limited residential development and is almost completely occupied by the former West River Parkway, which was converted to the West River Shoreline Trail in 2018-2019, repurposing the existing roadway into a multi-use trail that connects the State Parks and links with the Niagara River Greenway Trail. Except for the State Parks, which include Beaver Island, Big Six Mile Creek Marina and Buckhorn Island, land uses within the WRA consist of commercial uses in the

Whitehaven and Ferry Village areas and residential lands illustrated in Maps 2.2a, 2.2b, 2.2c, and 2.2d.

Map 2.2a Existing Land Use in the Northwest WRA



Map 2.2b Existing Land Use in the Northeast WRA





Map 2.2c Existing Land Use in the Southeast WRA



Map 2.2d Existing Land Use in the Southwest WRA





Residential land uses are found in several key hamlets and neighborhoods, including Sandy Beach, West Oakfield, Ferry Village, Grandyle Village, Whitehaven, and Edgewater. The locations of these hamlet/neighborhoods are generally described below.

### SANDY BEACH

The Sandy Beach hamlet<sup>11</sup> is located immediately east of Buckhorn Island State Park, at the north end of Grand Island, as illustrated on Figure 2-14.

Figure 2-14: Sandy Beach location



Approximately two miles of the shoreline east of the park is occupied by single-family homes and numerous private docks. Sandy Beach also contains a limited amount of commercial development (all of which is located further inland, outside the WRA boundary), a private yacht club (Sandy Beach Yacht Club), and the Sandy Beach Park Club. The corridor centered along Woods Creek contains a mixture of housing and woodlands.

### EDGEWATER

The Edgewater community is located near the mouth of Gun Creek, on the northeastern shoreline of the Niagara River. Single-family dwellings, many with private docks, extend along

<sup>11</sup> The term “hamlet” does not have a legal definition under NYS law, but is used to identify communities within Towns (such as the Town of Babylon) that are not part of incorporated villages, sometimes referred to as “unincorporated communities.” - <https://www.townofbabylon.com/639/What-is-a-Hamlet>

the shoreline for roughly two miles, with a few scattered vacant areas in between. A private sailing club is located at East River Road and Ransom Roads. The Gun Creek corridor is mainly undeveloped, with woodlands extending through the Scenic Woods conservation area and the public service lands immediately to the south.

Figure 2-15: Edgewater location



## WHITEHAVEN

The shoreline between Ransom Road and Whitehaven Road is largely protected floodplain and wetland areas under public ownership. Spicer Creek flows through a private golf course, wooded areas, and a wetland complex located at the confluence with the Niagara River. A small cemetery and a sanitary sewer pumping station are located near the mouth of the creek, approximately 500 feet from the edge of the Niagara River.

Figure 2-16: Whitehaven



Adjacent is the Spicer Creek Wildlife Management Area, an important coastal asset open to the public. The Radisson Hotel is situated at the east end of Whitehaven Road. River Oaks Marina, Bicentennial Park and Scenic Woods Park are other recreational and waterfront-commercial uses that are found in the Whitehaven area. An old ferry landing site exists on the southern edge of the Radisson property, which is one of a number that existed on the Island before the construction of the Grand Island bridges (Interstate 190 came about much later). Along the shoreline south of Whitehaven, residential parcels are split by East River Road. These properties have shorefront access to the Niagara River, where several private docks, boat houses and shelters hoists, and other similar facilities are located. A few small residences (cottages) can be found where there is enough land area between East River Road and the river for such development.

### GRANDYLE VILLAGE

Grandyle Village is a hamlet<sup>12</sup> and census-designated place (CDP)<sup>13</sup> located along the southeastern shoreline of the Niagara River, between the South Grand Island Bridge and Fix Road. This area is mostly an inland neighborhood, although much like the southern portion of Whitehaven, residential parcels are found here, split by East River Road with shoreline structures limited to private docks, boat houses and shelters, hoists, and other similar facilities.

The South Bridge Bed and Breakfast is located on the riverfront, just north of the South Grand Island Bridge, offering boat slips and docking. Fisherman's Landing, a public fishing access site and overlook park near the bridge, is also located in this area. A commercial marina (Island Marine) is located on East River Road at the foot of Broadway, and a waterfront restaurant/bar (Turner's Port of Call) and

Figure 2-17: Grandyle Village



<sup>12</sup> The term "hamlet" does not have a legal definition under NYS law, but is used to identify communities within Towns (such as the Town of Babylon) that are not part of incorporated villages, sometimes referred to as "unincorporated communities." - <https://www.townofbabylon.com/639/What-is-a-Hamlet>

<sup>13</sup> CDPs are statistical equivalents of incorporated places and represent unincorporated communities that do not have a legally defined boundary or an active, functioning governmental structure. Examples of CDPs include unincorporated communities, planned communities, military installments, university towns, resort towns, etc. - <https://www.census.gov/programs-surveys/bas/information/cdp.html>



the Niagara River Inn, which both offer dockage, are situated near the intersection of East River Road and North Colony. In the upland portion of the WRA in Grandville Village, residential uses are prominent adjacent to the various creeks and canals that flow to the Niagara River.

### FERRY VILLAGE

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

Figure 2-18: Ferry Village location



Today, the Ferry Village waterfront area extends south from Bush Road to the Beaver Island State Park and contains a mix of residential, commercial, retail, and marine uses. Commercial uses include restaurants, marinas, bait shops, boat launching and boat repair services.

Anchor Marine and Casey's Cabana, a waterfront bar and restaurant with dockage, are located off Ferry Road. Blue Water Marina and the Niagara River Fishing Station, which offers dockage, are located along East River Road. It is within this area that there are two paddlecraft launches that are ADA-compliant and open to the public. The Buffalo Launch Club, a private yacht club, is found just south of Bush Road. The Ferry Village community also includes a stable supply of older residential dwellings, along with newer residential development, vacant lands and public utility properties.

In addition to the flood zone immediately adjacent to the Niagara River, areas of potential flooding (100-year floodplain or 1% annual chance) extend partially into portions of Ferry Village. These areas primarily exist adjacent to Turtle Creek, several residential canals, Anchor Marine, Buffalo Launch Club, and Blue Water Marina. Localized flooding is influenced by and a result of fluctuations of water levels on the Lake, subject to water diversions for Niagara Falls Power Station, as well as ice action from the river. Development in and around this area should continue to be aware of and design in accordance with flood management practices.

## WEST OAKFIELD

Located on the west side of Grand Island, northwest of Beaver Island State Park, this area contains several single-family homes located between West Oakfield Road and the Niagara River. Most of these properties have private docks that extend into the river. Unlike the east side of the Island, this is the only section along the west side of the Grand Island WRA where residential property owners

have direct access to the river. The only National Register Historic Property on Grand Island, the privately owned Spaulding Sideway Boathouse, is in this area.

Figure 2-19: West Oakfield



## PARKS AND THE NATURE SANCTUARY

Although there is a significant amount of privately owned land in the WRA, much of which is developed with residential uses in hamlets and shorefront neighborhoods, approximately 1,364



acres of land is under the jurisdiction of the State of New York, as administered by the NYS Office of Parks Recreation and Historic Preservation and the New York State Department of Environmental Conservation. These lands include Beaver Island and Buckhorn Island State Parks; the State owned Big Six Mile Creek Marina; the West River Shoreline Trail; and the Wildlife Management Areas at Spicer Creek and Motor Island. In addition, the Town of Grand Island owns 366 acres of recreational land divided between Bicentennial Park, Scenic Woods, and Fisherman's Landing.

Another 145 acres comprises the Margery Gallogly Nature Sanctuary, which encompasses portions of Big Six Mile Creek and Little Six Mile Creek. This sanctuary was acquired in 2018 and is now owned by the Western New York Land Conservancy.

As described in this section, each of these public recreation sites contains some level of public improvements, with more significant resources found at Beaver Island State Park (e.g., an 18-hole golf course, bathing beach and sports fields) and Big Six Mile Creek Marina State Park (marina facilities), with the other parks/wildlife areas having a lesser extent of public amenities at this time, such as waterfront multi-use trails (and proposed trails) and paddle craft launching facilities. Improvements are planned for Scenic Woods and the Margery Gallogly Nature Sanctuary, which are moving forward as funding becomes available.

## **REVITALIZATION AND REDEVELOPMENT TRENDS**

Revitalization and redevelopment opportunities within the Grand Island WRA are primarily focused around two areas – Scenic Woods and Ferry Village. Scenic Woods is a recreational/natural resource area that is owned by the Town of Grand Island, encompassing more than 250 acres of land on the east side of the Island. The goal for Town is to maintain these lands as a nature preserve, but also with added passive recreational benefits, such as, but not limited to trails and supporting parking that provides users with public access to interior portions of the preserve.

A five-phase project scope was initially developed for the area with various trails, boardwalks, kiosks/trailheads, rest areas, and other related amenities. To date, only phases 1 and 1A have been completed with remaining sections still outstanding and the remainder of the preserve underutilized. Revitalization of this area would involve continued development of the trail system connecting the western portion of the lands to Bicentennial Park and the waterfront to the east. An additional 89 acres of adjacent land to the south that is under public-private ownership (WNY Public Broadcasters Association) is included in the WRA for this area as potential additional preservation space.

As noted above, Ferry Village is the oldest community on the Island and consists of a mix of uses anchored by several marinas. Development in the hamlet is constricted by Beaver Island State Park to the west and south, though several swaths of underutilized or undeveloped lands exist for commercial, residential, or potential mixed uses. The “core” of the hamlet, along Ferry Road, is the primary area for revitalization opportunities, building upon the existing character of the corridor and connecting side streets.

Other non-residential revitalization areas are scattered throughout the hamlet to the north blending into the neighboring hamlet of Grandyle Village. Through the recently updated Comprehensive Plan for the Town, individual neighborhood-level plans and design standards for Ferry Village and other key hamlets are recommended to guide future revitalization and redevelopment efforts in these areas. As the hamlet of Ferry Village already has public infrastructure available, it is one of the mixed-use neighborhoods that has the greatest opportunities for revitalization.

## 2.6 ABANDONED, UNDERUTILIZED AND DETERIORATED SITES AND STRUCTURES

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The Grand Island WRA contains a limited number of abandoned, underutilized, and deteriorated sites and structures, shown on Map 2.3. While a large portion of the shoreline is undeveloped parkland or open space or is developed with private residences, several areas contain lands that are primarily underutilized as opposed to abandoned or deteriorated; these areas include the Ferry Village hamlet and the Radisson Hotel property.

As previously noted, the Ferry Village hamlet is a mixed-use area consisting of primarily residential and commercial uses and is anchored by several marinas or boat launch facilities. An approximately 78-acre area with underutilized and adjacent undeveloped sites is located on the north side of Ferry Road and straddling both sides of East River Road.

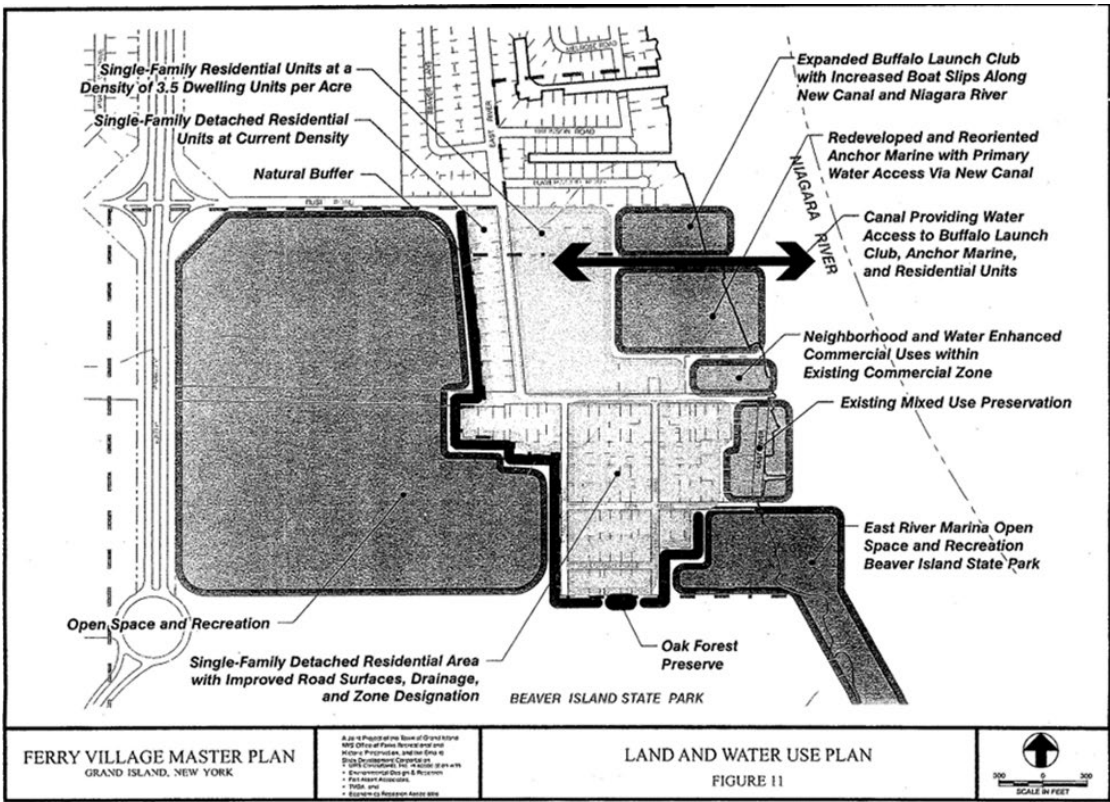
On the east side of River Road, the lands consist of an overflow boat storage yard along with other materials and vehicles/trailers; an access road from the main portion of Anchor Marine connects to this area. On the west side of River Road, in addition to frontage residential lots, past planning efforts have identified this area as open, natural, or recreational space to support and provide additional revitalization to the hamlet.

A conceptual build-out for a future East River hamlet is proposed in Figure 2-20, while Figure 2-21 shows the Master Plan for Ferry Village hamlet.

Figure 2-20: East River Hamlet Potential Build-out

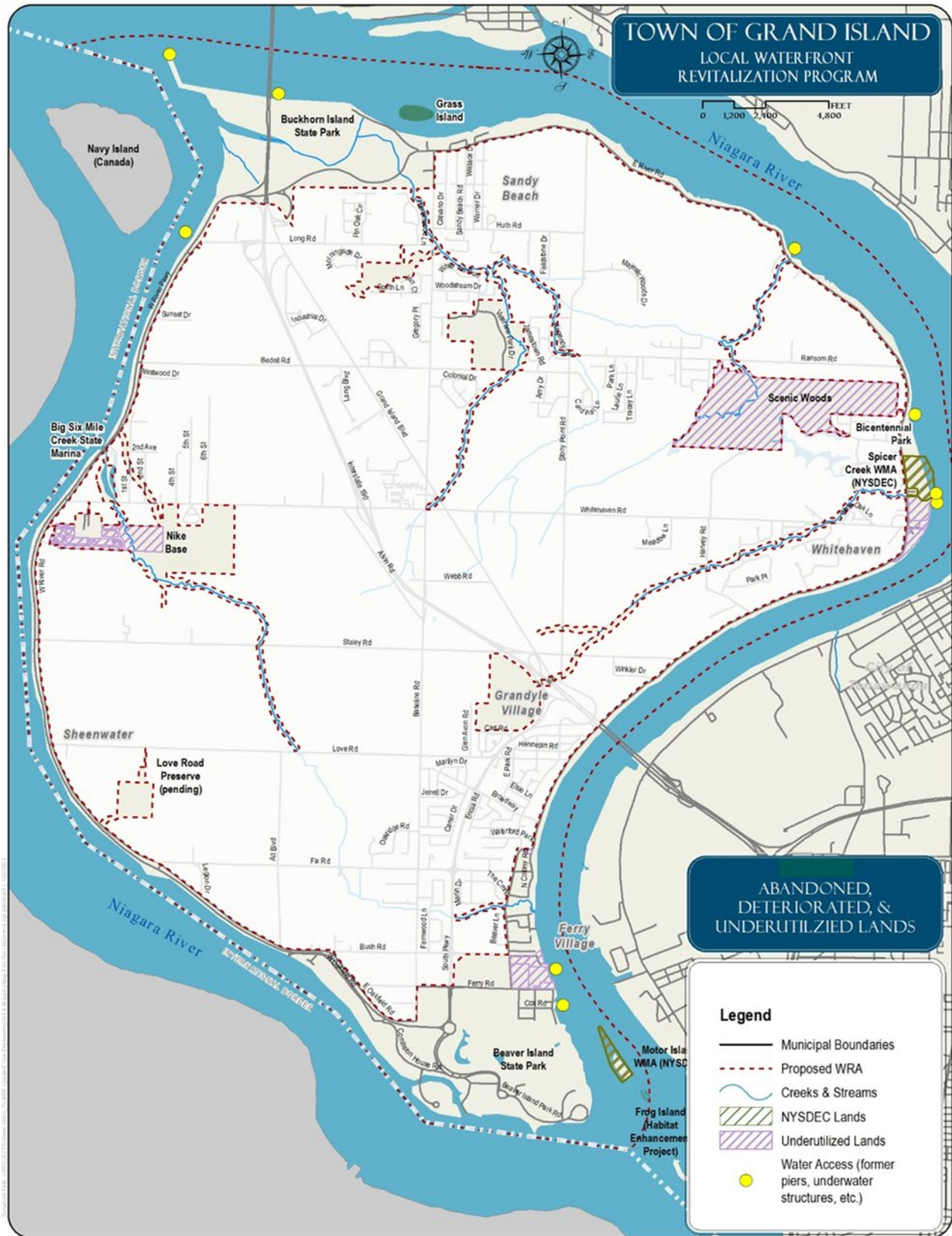


Figure 2-21: Ferry Village Master Plan





Map 2.3 – Abandoned, Deteriorated, and Underutilized Sites



The Town's previous Comprehensive Plan (1998) identified several potential use patterns for Ferry Village as shown in Figure 2-21. As evident in community outreach as well as the Town's recent Comprehensive Plan update, the Village-like, hamlet character is continued to be desired for Ferry Village in terms of building design and density. This area provides the Town and the hamlet with an opportunity for waterfront-enhanced uses and development, especially as it is already serviced with public utilities and is in an area outlined in the Town's Comprehensive Plan for revitalization and economic development.

The area surrounding the former Radisson Hotel in the hamlet of Whitehaven on the east side of the Island is another area that can be considered underutilized and has been the subject of several redevelopment concepts in recent years. This large swath of land consists of a large, multi-story hotel, several parking lots, green space, and an adjacent marina.

In addition, the former Grand Island to City of Tonawanda ferry landing site was historically located here. The current Comprehensive Plan highlighted several potential revitalization concepts that included a mix of uses including residential, commercial, public use, and recreational.

## 2.7 ZONING DISTRICTS

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Twenty-two different zoning districts and three zoning overlays cover the Town, with over 68 percent of the land zoned for residential use. Most of these districts cross the WRA boundary, as illustrated on Map 2.4. The actions of the agencies managing the State lands located within the town's Open Space District are guided by the local ordinances where feasible and practicable. The following zoning districts control land uses within the town.

- ❖ *Residential - Low Density Single Family (R1A), Single Family (R1B), Single Family (R1C), Medium Density Single Family (R1D), High Density Single Family (R1E), Attached/Detached Single Family (R2), Multiple Family (R3)*

Development in the R1A district is intended to maintain the rural character of Grand Island, with development occurring on larger properties and at a low density. In general, development density increases as you progress through the hierarchy of zoning districts, although the extent of permitted and specially permitted uses generally remains the same (single-family detached residential, public uses and limited home business). The R2 and R2A districts fall in the same category as the previous zones, but with a higher development density and allowing a greater variety of housing types (e.g., patio homes, townhouses, duplexes, apartment buildings, and uses that would not otherwise be known



as “traditional single-family residential.” The R3 district is the only classification that allows mobile homes.

❖ *Business - Town Center North (NBD), Town Center South (SBD), Highway Business (B1), Waterfront Business (B2), Hamlet Business (B3)*

The Business Districts apply to approximately four miles along Grand Island Boulevard, from Staley Road to Long Road, and are subdivided into three categories, North, Central and South, although only the North and South apply to the WRA by a very small margin. The northern and southern districts cater to automobile centric uses such as gas stations, drive-through businesses, smaller retail plazas, and motels, as well as various community and recreational uses. Limited design standards exist for any of these districts.

The General Business district further expands on the North and South Town Center Districts with the inclusion of additional automobile-oriented uses, such as dealerships, larger retail and restaurants, hotels, amusement enterprises, campgrounds, car repair, dance studios, etc. The North Business District includes apartments, nursing home facilities, senior housing, and a light industrial park. The start of the South Business District is the most traveled entrance to the Town and begins at the traffic circle and first exit ramp off the Grand Island Bridge and Thruway (Interstate 190).

The Waterfront Business District (B2) is intended to provide for uses that are waterfront-related and recreational in nature and in conformance with the LWRP. Promoting access to the Niagara River for residents and attracting tourists are also key objectives of the district, taking advantage of the primary natural resource of the Town. The smallest business district, Hamlet Business, is limited in its extent in the Town as well as its permitted uses. The goals of this district are to maintain the character of surrounding residential neighborhoods while providing local services.

❖ *Recreation and Open Space - Commercial Recreational Facilities (CR), Open Space (OS).*

The Commercial Recreational Facility district applies to businesses with large swaths of developed land on the island, including amusement parks, golf courses, and campgrounds, among others. As its names implies, the Open Space district delineates those areas of the Town that have severely limited or restricted development due to environmental features or are otherwise designated as public parklands. Development is generally limited to recreational amenities for public uses and non-livestock agriculture.

❖ *Enhanced Environmental Overlay District*

As an overlay district, the Enhanced Environmental Overlay (EEO) District adds another level of regulation to underlying districts, typically in the form of design standards or

additional regulations pertaining to a specific use or set of uses. This district adds an additional layer of protection to the Town’s six designated ecosystems as well as “portions of the Town ... containing or adjoining wetlands, those areas adjoining designated ecosystem areas, areas in floodplains, and any areas identified as home to any endangered or threatened species” from the previous Comprehensive Plan as well as the LWRP. Within the intent of the district “development must be directed by the intrinsic character of the land in order that the health, safety, welfare, and property of the citizens of the Town be protected and preserved. Proper and appropriate development is required for water and air quality, fish, wildlife, and plant habitat in order to prevent the irretrievable loss of natural resources and to maintain the character of the community.” Disturbance to these resources requires an additional level of review by the Town to ensure minimal impact and to identify appropriate mitigation measures that will offset adverse side effects.

❖ *Mining/Excavation Overlay District*

The Mining/Excavation Overlay (MEO) District sets aside areas within the community where mining and excavation can occur. The district is a flowing district that is used where any mining and/or excavating uses are proposed. With this overlay district, the Planning Board is given the ability to minimize any potential impacts these activities might have on the community.

❖ *Vehicle Sales Overlay District*

The Vehicle Sales Overlay (VSO) was created to help regulate, standardize, and define specific design and site regulations for motor vehicle and large equipment sales. This is intended to preserve the aesthetic of the community and to protect the health, safety, and general welfare of the public.

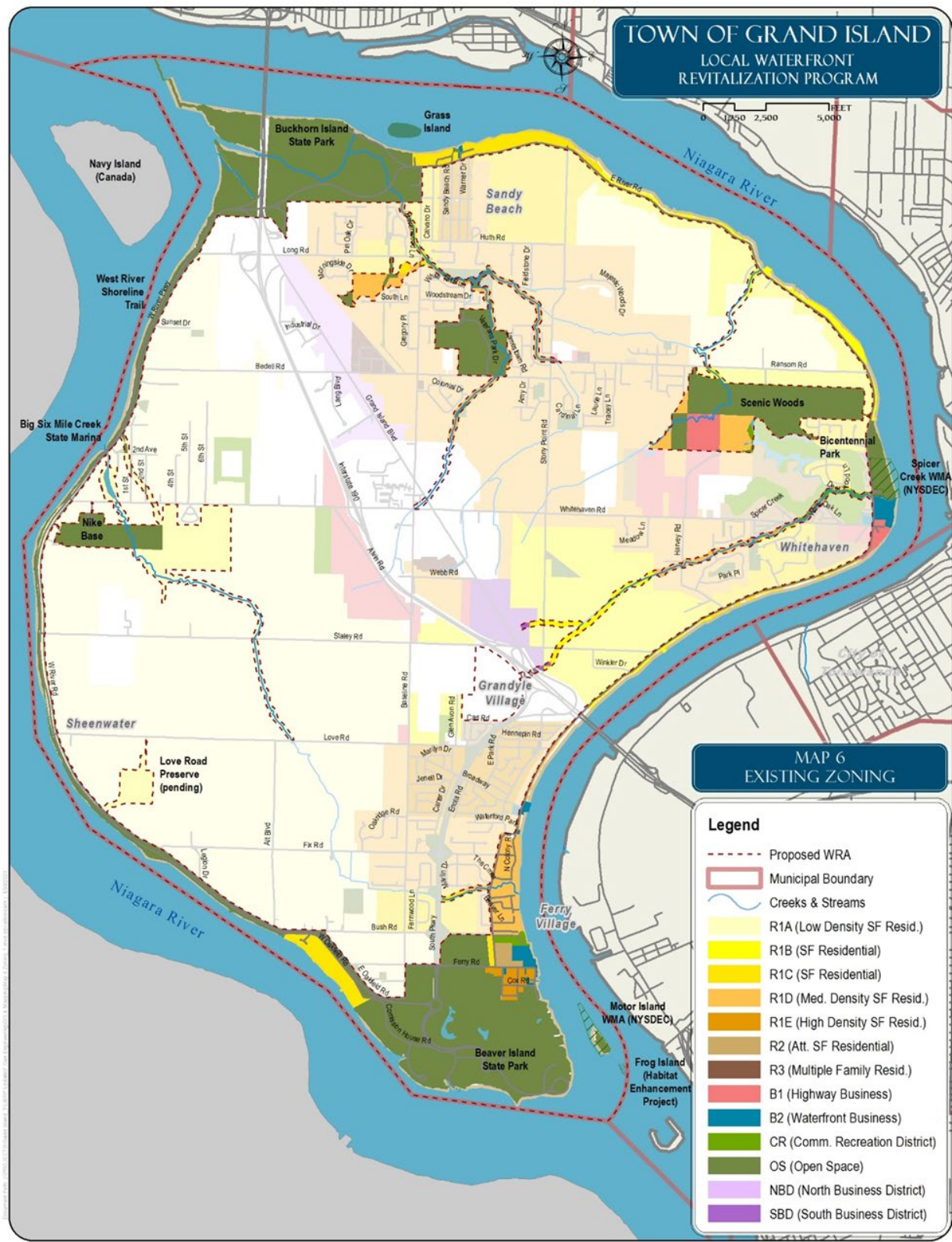
## **ZONING DISTRICTS IN THE WRA**

The primary zoning districts that apply within the WRA include Open Space (OS), Low Density Single Family (R1A), Single Family R1B and R1C, Medium Density Single Family R1D, High Density Single Family R1E and Attached/Detached Single Family R2. Business districts in the WRA include General Business B1 and Waterfront Business B2. The current<sup>14</sup> zoning districts in the WRA are illustrated on Map 2.4 and discussed as follows.

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<sup>14</sup> Effective in 2022

Map 2.4 – Zoning Districts



The northern portion of the WRA includes Buckhorn Island State Park, which is zoned Open Space. The shoreline, on the riverside of East River Road is zoned R1C from the Sandy Beach hamlet to just east of Stony Point Road, and R1B from there to Ransom Road.

The WRA on the east side of Grand Island is zoned Single Family R1B from Ransom Road to Bicentennial Park/Spicer Creek Wildlife Management Area (WMA). The State parks and WMA are zoned OS, as is the Scenic Woods area. The lands immediately south of Scenic Woods are zoned OS, General Business (B1) and Medium Density Single Family R1D. The Gun Creek corridor portion of the WRA is primarily zoned R1A, with areas of R1B zoning near Ransom Road and East River Road. The Radisson Hotel property, which is located south of the Spicer Creek WMA, is zoned Waterfront Business (B2) and B1. The Spicer Creek corridor portion of the WRA, which extends southwest of the WMA is zoned Commercial Recreation (where the creek extends through a golf course), and then Attached/Detached Single Family (R2), R1D and R1B, respectively, as you continue to the southwest.

The southeastern portion of the WRA, is zoned Single Family R1C from the Radisson Hotel Property to Harvey Road, and Single Family R1B from Harvey Road to the South Grand Island Bridge.

The WRA is zoned entirely Medium Density Single Family R1D from the South Grand Island Bridge to Bush Road/Towerwood Road, with the exception of a node of Waterfront Business (B2) zoning at the intersection of Broadway and East River Road (the Island Marine properties); and Turner's Port of Call Bar and Restaurant and the Riverstone Grill property which are both located at the intersection of East River Road and North Colony and are zoned B2 and Hamlet Business (B3), respectively.

The south end of the WRA includes the Ferry Village Hamlet, which is zoned a mix of Commercial Recreation (Buffalo Launch Club), B2 (Anchor Marine, Niagara River Fishing Station and Blue Water Marina) and Attached/Detached Single Family R2, Single-Family R1C and High-Density Single Family R1E. Beaver Island State Park and the open space located west of Ferry Village and north of the park are zoned OS. The West Oakwood residential community, northwest of the State Park is zoned Single-Family R1C.

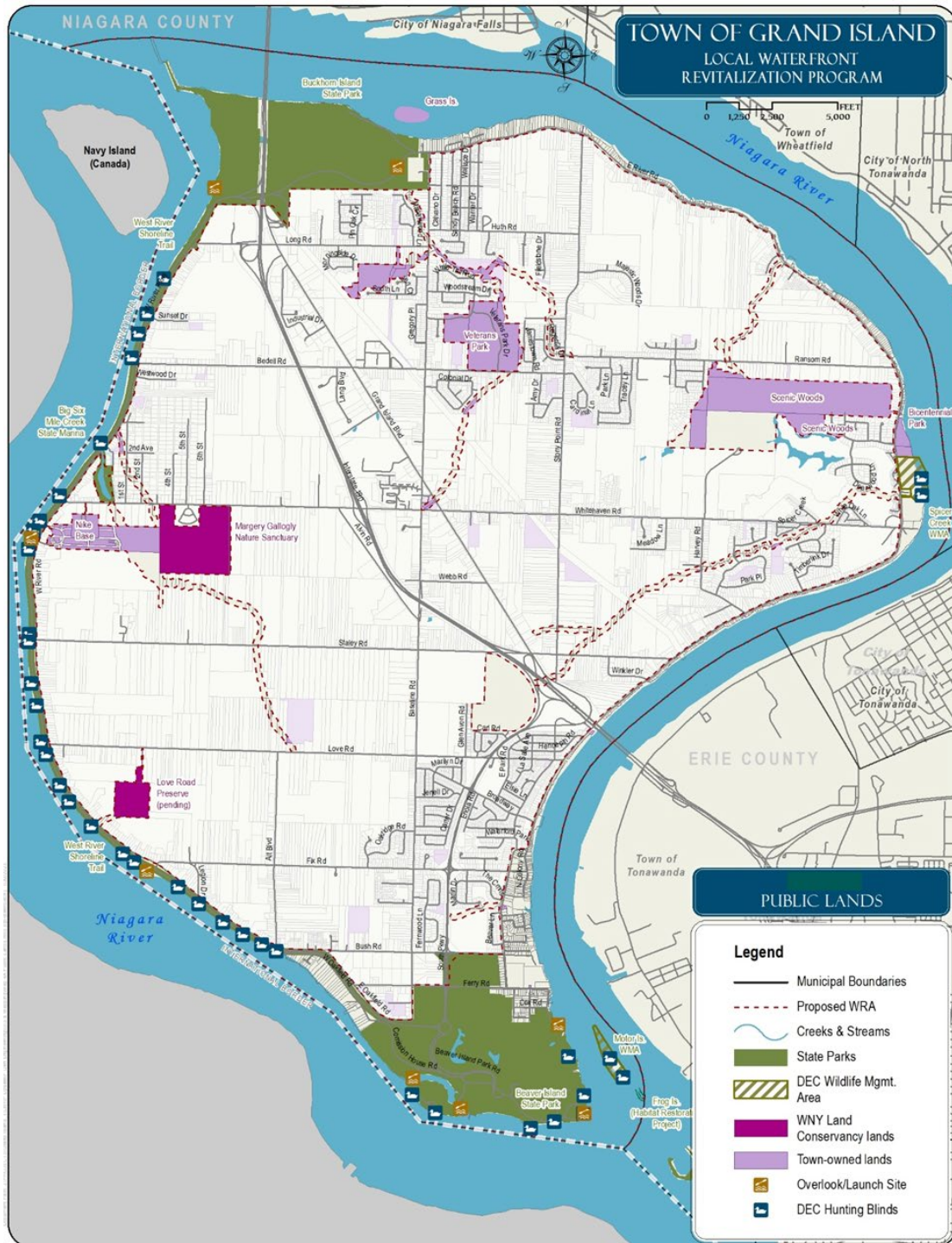
The WRA on the west side of Grand Island falls within the Low-Density Single Family R1A district, including the Big Six Mile and Little Six Mile Creek corridors and the 141-acre Western New York Land Conservancy property (which encompasses Little Six Mile Creek). The shoreline lying directly west of the West River Shoreline Trail, from Buckhorn Island State Park on the north to Bush Road to the south, is zoned Open Space (OS).



## 2.8 PUBLIC LANDS AND LAND OWNERSHIP PATTERNS

As described before, large areas within the WRA are publicly owned and maintained by State agencies and the Town of Grand Island.

Map 2.5 – Public Lands





Altogether, approximately 11,000 acres of land is under public ownership in the Grand Island WRA. The remaining lands are under private or commercial ownership, ranging from residential to marinas, boat storage facilities, and hotel lodging. There are no commercial port facilities in Grand Island, although a deep draft navigation channel exists offshore of the Island. That navigation channel, which brushes the WRA at several locations, is maintained by the Federal Government. Although no commercial port facilities exist on Grand Island today, there was some evidence of such waterfront use prior to the construction of the first bridges connecting the island to the mainland. At the foot of the intersection of Broadway and East River Roads, on the south end of the Island, the Standard Oil Company had established an oil terminal consisting of a commercial grade breasting dolphins and a catwalk for tankers. This deep draft port facility was established around 1930 but was closed when the Grand Island bridges were opened in 1935. All the storage tanks were removed. All that remains is the original deep draft mooring facility and the remnants of the storage tank earthen containment dikes. The waterfront and upland property are now a private marina and boat storage facility owned by Island Marine.

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## 2.9 WATER-DEPENDENT AND WATER-ENHANCED USES AND FACILITIES

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The Town of Grand Island WRA contains several water-dependent uses and facilities, including numerous private marinas, yacht clubs, and boat launch ramps, as labeled on Maps 2.5 and 2.6. Water related public facilities include Beaver Island State Park Marina, Big Six Mile Creek State Marina, and several kayak/canoe launch sites (both beach launches and handicap accessible launches), and the Town of Grand Island Wastewater Treatment Plant.

Sites where water-enhanced activities may occur include Beaver Island State Park, Buckhorn Island State Park, the Spicer Creek Wildlife Management Area (WMA), the Motor Island WMA and bird sanctuary, and an extensive multi-use recreational trail that follows most of the western shoreline of Grand Island. Motor Island Wildlife Management Area (WMA) is a 6-acre island located in the Upper Niagara River southeast of Grand Island. Currently, there is no public access onto the island. It is a restricted area to protect the colonial water birds that are critical to the Niagara River ecosystem. The only access to the island is during the waterfowl hunting season by permit only. A new island recently constructed upstream of Motor Island, managed by NYS DEC and the New York Power Authority (NYPA), is also part of the Town of Grand Island and part of a collection of several smaller islands unofficially referred to as the Strawberry Island Archipelago. The rest of these cluster of small islands are not part of the Town of Grand Island.

Map 2.6 – Water Use



Waterfowl hunting blinds are located along the western shoreline of the Niagara River, in Beaver Island State Park, on Motor Island, and in the Spicer Creek WMA. There are two handicapped accessible waterfowl blinds one in Beaver Island State Park and the other in the Spicer Creek Wildlife Management Area.

There are a few commercial uses that provide dockage to enhance the use of their shoreline properties, including the Radisson Hotel, South Bridge Bed and Breakfast, Turners Port of Call, the Niagara River Inn, and Casey's Cabana. Many shoreline residences have private docks or water access decks and boathouses along the Niagara River shoreline.

## RECREATIONAL FISHING

Recreational sports fishing is a popular pastime and a significant industry in the Niagara River. Whether from water or land, anglers are active throughout the year in search of species of freshwater fish. Fish species that can be found in the Lake Erie and Niagara River waters within the Grand Island WRA include largemouth bass, smallmouth bass, blue gill, carp, crappie, muskellunge, northern pike, bowfin, yellow perch, bullhead, smelt, rock bass and tiger musky, as well as sheepshead and carp. Every year the NYS DEC stocks fish in public streams, rivers, and lakes across the State to restore native species and to enhance recreational fishing, including the Niagara River. However, no stocking is done around Grand Island or within its tributaries to the Niagara River.

Figure 2-22: Water-dependent Uses



Images Source: unknown

Shoreline fishing is also popular, particularly in areas with public access. There are several locations in the WRA where fishing access is available. Fisherman's Landing, near the South Grand Island Bridge, is the only fishing access area owned by the Town of Grand Island. The waterfront along the Chippewa Channel on the west side of Grand Island offers up to eight miles of access via the West River Shoreline Trail, Beaver Island State Park, and the Big Six Mile Creek small boat harbor entrance breakwaters. There are fishing access points elsewhere including in Buckhorn State Park and the Spicer Creek Wildlife Management Area (WMA). There are also numerous private decks and docks along the east shoreline of the Niagara River that are utilized by residents and not accessible to the public. The provision of other public locations for shoreline fishing access in the WRA is planned.

There are several charter regional fishing clubs, charter fishing establishments, fishing derbies and locations for car top and trailer boat launching on Grand Island or in the surrounding vicinity. Charter fishing establishments operate during popular fishing times throughout the year.

### **SWIMMING AND SCUBA DIVING**

Swimming primarily occurs and is permitted at the public beach located within the Beaver Island State Park. Besides private use of land for swimming, the only other area that is known for swimming or wading is in the vicinity of Grass Island due to its shallow waters and relative calmness, though this is unofficial and informal. The ecological importance of this area is of critical importance to the Town and other conservation agencies and work continues to be undertaken to revitalize and protect it from the damaging effects of motorboats. As a result, swimming and wading in this area is viewed as impermissible and the Town is seeking avenues to enforce this. No other public swimming areas exist along the shoreline.

Scuba diving is a popular recreational activity in the river and along the shorelines of the Great Lakes. Recreational scuba diving exists throughout the Niagara River though no diving services exist on Grand Island.

### **HUNTING**

Hunting within Grand Island is allowed on private lands, subject to owner permission and rules and regulations set forth in NY Environmental Conservation law (6 NYCRR, Chapter I), as well as on specific public lands, such as the two State Parks and Wildlife Management Area at Spicer Creek. Within the State lands, waterfowl hunting is only permissible and subject to an annual lottery drawing for use of covered blinds. Chapter 239 of the Town Code (Parks) outlines local rules and regulations for hunting on Town lands, noting that no hunting is allowed in parks and trapping is by permit only on other Town-owned property.

### **BIRD WATCHING**

Many bird watchers are familiar with the bird migratory stopover and wintering sites along Niagara River. The Niagara River corridor is classified as an Important Bird Area of International Significance by the American and Canadian Audubon Societies. Additional information about the importance of the Niagara River bird habitats is included in Appendix C.

### **BOATING AND MARINE FACILITIES**

There are several public and private marinas, yacht clubs and other boating facilities in the Grand Island WRA and, except for one facility on the west side of the island, all provide access



to the east channel of the Niagara River. Most support the needs of the recreational boating public providing marine goods and services, fuel, repairs, boat storage and launching, seasonal and transient dock space, and vessel pump out facilities. Other marinas function as social organizations that provide dock space for their members, as well as other amenities.

Several marina service facilities are found along the east coast of Grand Island, particularly in the Ferry Village area where Anchor Marine and Bluewater Marina are located (both of which are full-service marinas). Anchor Marine also sells boats, while Bluewater operates the only ecotourism business on Grand Island, providing kayak ecotours and leasing bicycles for use on island trails. The Niagara River Station Fishing Club (NRSFC), which is located between Anchor Marine and Bluewater, is a member only organization that supports fishing and sound water resource management; the NRSFC hosts annual events designed to interest children in fishing. The nearby Buffalo Launch Club is the oldest operating motorboat club in North America. It has a large marina, swimming pool, tennis courts and annually hosts the Antique Boat Show.

A surplus government range light, which is often mistakenly referred to as a lighthouse, is located on the launch club property. This unmanned range light predated the existing federal navigation channel and was used to help ships maintain a safe course in the deepest part of the natural river channel. This

Figure 2-23: Anchor Marine



Source: canada247.info

Figure 2-24: Bluewater Marina & Niagara River Station Fishing Club



Source: marinas.com

Figure 2-25: Buffalo Launch Club docks



Source: marinas.com



range light was in service on the Tonawanda side of the Niagara River around 1905 and, when removed from service following the establishment of the federal navigation channel, the light was acquired by the Fix family who brought it over to Grand Island on a barge.

River Oaks Marina was excavated from dry land and subsequently connected to the Niagara River. It can be found along the edge of East River Road, just north of the foot of Whitehaven Road. The remaining marine facilities that lie to the north include the Niagara Sailing Club, on East River Road near Ransom Road, and the Sandy Beach Yacht Club at Winter Road just off East River Road.

Figure 2-26: River Oaks Marina



Source: marinas.com

New York State operates an 80-slip marina facility at Beaver Island State Park, along with two separate handicapped accessible paddlecraft launches for kayaks, paddleboards and canoes that are within the park. Both launches are situated on floating platforms that are designed to provide easy and safe launching for paddlers. The State also operates the Big Six Marina on Big Six Mile Creek, which is the only marina located adjacent to the Chippewa Channel on the west side of Grand Island. This marina has 134 seasonal slips, a boat launch, fuel facilities and a vessel waste pump-out station.

Figure 2-27: Big Six Marina



Source: Niagara-Gazette.com

Grand Island has the only dedicated paddlesports trail on the Niagara River. Known as the Paddles Up Niagara Bluewater Trail it traverses the entire perimeter of the island allowing paddlers an opportunity to see some or all Grand Island's diverse shoreline. Blueway Trail launches are located at Woods Creek, the Eagle Outlook in Buckhorn Island State Park, some of which are handicapped accessible while others are natural shoreline launches (see Map 2.6). An additional launch is planned either at the Spicer Creek Wildlife Management Area or the north end of the Town of Grand Island Bicentennial Park.

Figure 2-28: Beaver Island State Park EZ Dock Launcher



Source: nystateparks. blog

All the launch sites are located on public land and are operated and maintained by the New York State Office of Parks, Recreation and Historic Preservation. There are a small number of overlooks located along the shoreline, as well. West River Shoreline Trail overlooks are found at the Whitehaven and Fix Roads launch site, as well as Little Beaver Island, Beaver Island, River Lea and the East River Marsh within Beaver Island State Park.

Other local establishments that offer transient dockage include the Niagara River Inn, Turners Port of Call, the South Bridge Bed and Breakfast, and the Radisson Hotel. The Radisson Hotel property includes a large dock and an historic ferry landing that is abandoned and offers the opportunity for revitalization as a location for ferry usage or boat docking. A few private properties in the Ferry Village area are underutilized, offering opportunities for the expansion of marine uses.

Fisherman's Landing owned by the Town of Grand Island provides access to the river for relaxation or fishing. There are no docking facilities at this location. All these facilities are located along the east coast of Grand Island.

Figure 2-29: Excavated inland canals north of Buffalo Launch Club

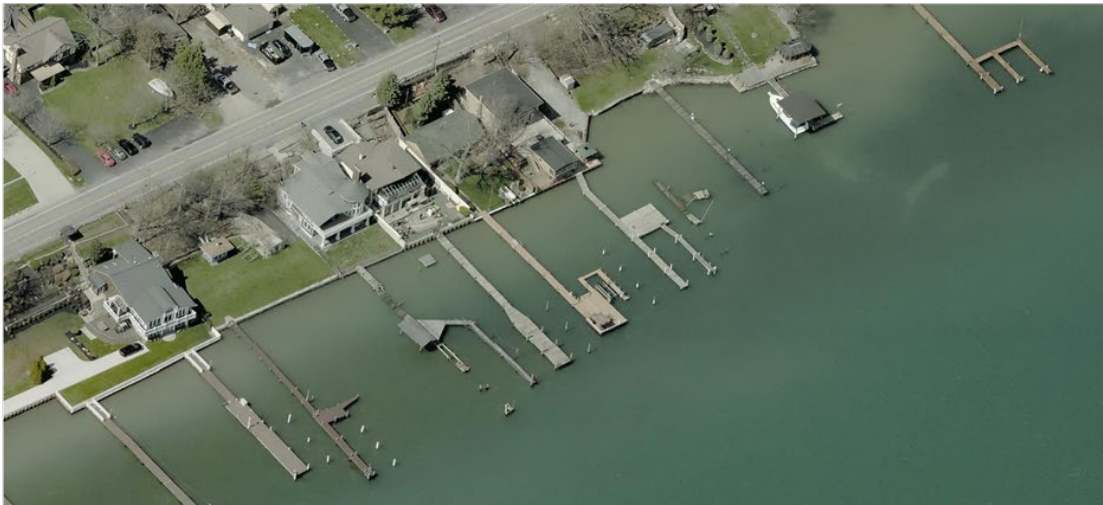


Source: Eagleview pictometry



There are two excavated, inland canals just to the north of the Buffalo Launch Club property. One canal is located between Towerwood and Bronson Roads while the other lies between Bronson and Melrose. The land adjacent to both slips is privately owned. Private waterfront bulkheads and docks are owned and used only by upland homeowners. Most of the shoreline is bulkheaded, although there are a few sites where rock riprap has been used for erosion control.

Figure 2-30: Private docks



Source: Eagleview pictometry

There are numerous private docking facilities along much of the Niagara River shoreline that support active recreational boating in the Niagara River. Most are associated with residential homes on the upland and are found along most of the private properties on the banks of the Niagara River. Most of the western side of Grand Island, where the land along the shoreline is owned, managed, and regulated by New York State and private properties are not as numerous as anywhere else along the Grand Island shoreline, private docks and boathouses are less numerous, concentrated mostly along the southwestern shore of the island. There are a few launch ramps at private marinas on Grand Island that charge a fee for watercraft launching. There is also a motorboat launch ramp within the State-owned Big Six Mile Creek Marina.

## 2.10 NAVIGATION AND HARBOR MANAGEMENT

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The Harbor Management Area encompasses the waterside of the Grand Island WRA, between the shoreline and the town boundary in Niagara River.

The depths of both branches of the Niagara River that extend around Grand Island are irregular, averaging between 15 and 20 feet. According to the Navigation Chart No. 14832 developed by the National Oceanic and Atmospheric Administration (NOAA), which is included in Appendix D of the LWRP, depths between 25 and 30 feet are reached in the waters west of Oakfield and

Beaver Island State Park, reflecting the relatively deep natural character of the west branch of the river. Nearshore depths<sup>15</sup> around the island are less extreme, ranging between two to eight feet. The waters offshore of Beaver Island State Park and Motor Island are very shallow, supporting extensive submerged aquatic plant beds. Depths of six feet are not reached within 1,500 feet of the island shoreline at that location. Depths in the Strawberry-Motor Island shallows average two to three feet. Periods of extreme low water precipitated by intense northeasterly winds and/or drought conditions in the Great Lakes Basin above Lake Erie can expose the shoals between these two islands. Motor Island is owned by New York State and is a designated Wildlife Management Area.

The South Grand Island Bridge is crossing Tonawanda channel about 3.4 miles below Strawberry Island. This bridge has twin fixed highway spans with a clearance of 99 feet at the center of the central spans. Vessels requiring the full height must keep at least 90 feet from the face of the piers. Two overhead power cables with a minimum clearance of 115 feet cross the channel about 0.75 mile downstream of the bridge.

North Grand Island Bridge, a twin fixed highway bridge, crosses the river between Niagara Falls, NY, and Buckhorn Island. The bridge has a clearance of 50 feet for a center width of 260 feet over the central span of the Niagara River Channel. Two overhead power cables crossing the river about 0.5 and 0.7 mile below the bridge have clearances of 79 and 75 feet, respectively. Cable support towers in the river are marked by lights.

At the northwest end of Grand Island, opposite Niagara Falls, a two-section permanent flow control dike extends northwest from the west end of Buckhorn Island closing off the former Buckhorn Channel. Lights mark the ends of the dikes.

Vessels used along the Niagara River waterfront in the Town of Grand Island WRA are limited to recreational small craft consisting of motorized pleasure boats, sail boats, and paddlecraft. Use of paddlecraft has increased nearly exponentially over the past decade rivalling the number of traditional power boats. The increase in paddlesport popularity, including the use of kayaks, canoes, standup paddleboards, racing sculls and the like, is expected to continue. There are no mooring, docking, or port facilities for commercial vessels in Grand Island WRA, although in recent history (circa 1935) there was a deep-water port on the Niagara River for the petroleum industry at the foot of Broadway and East River Roads.

Commercial fishing facilities are also absent since such activities are no longer permitted in Lakes Erie and Ontario and the connecting Niagara River. The Niagara River provides

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<sup>15</sup> [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf)



recreational fishing opportunities for largemouth and smallmouth bass, blue gill, carp, crappie, muskellunge, northern pike, and sheepshead, among other species of fish.

The only public bathing beach on Grand Island is located within Beaver Island State Park at the south end of the island. Recreational diving and snorkeling activities are also common although there are no diving services on Grand Island.

At the northwest tip of Grand Island, within Buckhorn Island State Park, there is a concrete breakwater structure in the offshore Niagara River waters and another breakwater structure that extends north from the Grand Island shoreline. Both structures measure approximately 1000 feet in length and are equipped with day and night aids to navigation that are operated under permit from the US Coast Guard by the New York Power Authority. The breakwaters were established to preserve a safe channel for recreational boats circumnavigating Grand Island.

While in a few places the nearshore bottom is sandy, the river bottom is predominately mud and silt. According to the NOAA navigation charts, there are underwater obstructions in the form of ruins, rocks, pilings for abandoned docks (some submerged) and cribs at various locations around the island.

Figure 2-31: Abandoned pier/dock piles



Remains of docks, piers, landing sites and other dilapidated and abandoned in-water structures are found throughout the waterside of the WRA. There are also wrecks of barges, tugs, commercial and recreational vessels at various places around the perimeter of the island. Map 2.3 illustrates the location of the most important shipwrecks. Many shipwrecks are marked on conventional navigation charts but there are others that have no such identification. Most vessel wrecks

are found around the locations of old ferry docks or former commercial areas that operated a century or more ago.

Wrecks can be found in the Chippewa Channel off the western terminus of Long Road, in the shallows between Motor Island and Strawberry Island, at the foot of Cox Road in the Tonawanda Channel, in the shallows just south of the mouth of Spicer Creek, in the Edgewater area at the mouth of Gun Creek, and in the shallows near the northbound North Grand Island Bridge.

## **NYPA, WATER DEPTH, AND NAVIGABILITY**

Water depths in the Niagara River are impacted by the variation in the water levels of Lake Erie and the daily diversion of river water for the Niagara Power Project, in Lewiston, New York, which is operated by the New York Power Authority (NYPA). The manipulation of water levels in the Niagara River is defined by legal agreement between the United States and Canada. At night, a substantial portion of Niagara River water (up to 600,000 gallons per second) is diverted through a massive underwater, intake structure located near the end of the Federal navigation channel in Niagara Falls. The intake structure conveys water to the pumped storage facility in the Town of Lewiston, New York, which is located about 4.5 miles to the north of the Niagara River. In 1950, the United States and Canada signed the treaty that regulates the amount of water diverted for hydroelectricity production. On average, more than 200,000 cubic feet per second (cfs), or 1.5 million gallons of water each second, flows from the Niagara River through the tailraces into the lower Niagara River and Lake Ontario. The 1950 treaty requires that at least half of the normal flow over the falls (100,000 cfs) is maintained, at least during the daytime throughout the tourist season (8:00AM to 10:00PM April 1 through September 15, and 8:00AM to 8:00PM September 16 to October 31) to sustain the necessary output of electricity. At night and during the winter months (non-tourist season), the flow over the Niagara Falls may be reduced to a quarter of its volume or about 50,000 cubic feet per second (cfs).

The diversion of river water for the Niagara Falls Power Project causes the water level in the surrounding river to drop significantly (often referred to as the “NYPA tide”). There are times when the river shallows are fully exposed and access to navigable water is precluded from shore, especially during seasonal and long-term Great Lakes Basin water level fluctuations<sup>16</sup>. Although the flow of water through the dredged navigation channel in the mid-section of the river is swift, the current velocity diminishes closer to shore. Any sediment entrained in the moving river water drops out in these areas creating shoals. Although the presence of these shoals can impact the launching of motorized recreational small craft, they serve to enhance fishery habitat value and stimulate aquatic plant growth that is vital to the adjoining wetlands. Where shallow waterfronts abut privately owned shoreline property, the owners often must extend the length of their docks to reach deep enough water or bear the onerous cost of recurrent dredging and dredged material disposal. Areas where current driven sedimentation occurs are well known to recreational boaters and waterfront users. More importantly, the constant river level fluctuation, which becomes more pronounced as you approach the downstream end of Grand Island, imposes significant stress on the aquatic ecosystem. The fluctuating water levels also impact shoreline icing during the winter months. Although NYPA

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<sup>16</sup> [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf)

uses an ice boom at the eastern end of Lake Erie and specialized ice breakers to manage ice flow in the Niagara River to protect the intake structures for the power project, that protection does not extend to riverfront residential and business property owners.

## VESSEL WASTE

Pursuant to Clean Water Act Section 312(f)(3), the State of New York has determined that the protection and enhancement of the quality navigable surface waters in the State requires greater environmental protection. Therefore, as a key component of a larger strategy to protect water quality, the State has designated most coastal waters and connecting waterways as Vessel Waste No Discharge Zones (NDZ). An NDZ is a location where it is illegal to discharge on-board sanitary

wastewater from boats into surface waters. Boaters are required to use appropriate pump-out facilities, which are available at many marinas, to dispose of treated and untreated vessel wastes. Sewage from boats often contains harmful levels of pathogens as well as chemicals such as formaldehyde, phenols, and chlorine, which harm water quality, pose a risk to people's health, and impair marine life and habitats. The designated Lake Erie DNZ includes upper Niagara River.<sup>17</sup> To support the enforcement of the restrictions within the NDZ, a new sewage pump-out station was recently installed at the Big Six Mile Creek State Marina, as illustrated in Figure 2-32.

The Town of Grand Island does not have any regulations that prohibit boats or other vessels that utilize the public docking facilities to discharge the contents of any septic holding tank, garbage, oil, sludge, refuse matter or waste of any other kind into the Niagara River or navigable portions of local creeks. To reinforce NYS regulations and protect local water quality and habitat value, the Town is assessing the impact of adopting local regulations that prohibit the discharge of sanitary wastewater from boats into surface waters and require marinas to provide vessel waste pump-out facilities for use by patrons or transient boaters.

Figure 2- 32: Boat Sewer Pumpout Station



Image source: State Marina

<sup>17</sup> "NYS has proposed to establish a "Vessel Waste No Discharge Zone" for the NYS area of Lake Erie stretching from the Pennsylvania-New York State boundary to include the upper Niagara River to Niagara Falls"  
<https://www.govinfo.gov/content/pkg/FR-2014-06-20/pdf/2014-14489.pdf>

## UNDERWATER LANDS WITHIN THE HMA

New York, upon attaining Statehood, succeeded the King of England in ownership of all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (New York State Public Lands Law, Section 4; *People v. Trinity Church*, 22 N.Y. 44, 1860; *Langdon v. Mayor of the City of New York*, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to all underwater lands not otherwise conveyed away by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public under the Public Trust Doctrine (*People v. Steeplechase Park Co.*, 218 N.Y. 459, 1916; *Appleby v. City of New York*, 271 U.S. 364, 1926; *Coxe v. State of New York*, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the sovereign had the right of way, an "incorporeal hereditament", to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty, which cannot be surrendered, alienated, or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is the fact that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction, and infringement by others, whether public or private.

It is in the public interest that State and other governmental ownership of public trust lands be maintained and, when possible, recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment.

Occupation of public trust lands by riparian (upland) owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner that does not unnecessarily interfere with the public's right of passage upon, the use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly owned underwater lands and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.



Ownership of Lakes Erie and Ontario within the territorial limits of New York State and all submerged lands, including the subsurface lying under the lakes and the Niagara River, is held by the State of New York, unless ownership has been granted to any other person or entity. The underwater lands of the Great Lakes and the Niagara River are susceptible to private ownership only for special purposes. The NYS Office of General Services (NYS OGS) is the administrator of most of the underwater lands in public trust. The boundary line between State ownership of the lakebed and ownership of the adjacent upland is ordinary low water mark and a riverbed and ownership of the adjacent upland is the ordinary high-water mark<sup>18</sup>.

### Management of Underwater Lands

As noted, State-owned underwater lands in the Niagara River are managed by the NYS OGS, who issues grants, leases, easements and other interests for the use and occupation of these underwater lands. They also investigate encroachments on littoral rights (the right of an upland owner to access the navigable waters of the lakes or river) and make sure there is no interference with navigable channels. The NYS OGS reviews all NYS DEC and U.S. Army Corps of Engineers (USACE) permit applications for proposed projects that affect State-owned bottom lands to ensure that the benefits of the public will not be deprived, and that the environment will not be adversely impacted. In addition, in the coastal area of the State, the NYS Department of State reviews federal permits, funding, and projects that are issued or proposed by USACE.

The Bureau of Land Management is responsible for issuing grants, leases, and easements for the use of underwater lands, and for other interests for docks and associated marine-related structures that are placed on State-owned underwater lands. In the case of the Town of Grand Island, the Bureau of Land Management within NYS OGS also authorizes the use of underwater lands for docks or other water dependent structures proposed along the Niagara River shoreline. The construction of any commercial dock or any private, non-commercial dock that exceeds 4,000 square feet in area (“as measured at the outermost perimeter, including surface waters directly between or encompassed within the structure”) or exceeds 15 feet in height above the mean high water line or exceed the capacity of five boats would require the granting of an interest (a license) from the NYS OGS, pursuant to Public Lands Law (Article 6, Section 75, Subsection 7(a)); Non-commercial structures that are less than this threshold and have a capacity of five or fewer boats, do not need an interest from the NYS OGS. Hence, there are some docks along the Niagara River that are not grandfathered through historic underwater land grants and do not have standing interests as mapped or otherwise noted by NYS OGS. Commercial or non-commercial structures that exceed 4,000 square feet in size would need

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<sup>18</sup> <https://ogs.ny.gov/real-estate/lands-now-or-formerly-underwater>

review and approval by the NYS OGS and the NYS DEC, as well as review and approval by the USACE and NYS DOS, depending on the extent of bottom land disturbance.

### Underwater Land Grants and Leases

Over the years, numerous underwater land grants, easements and other interests have been issued or authorized by the State along the Grand Island shoreline of the Niagara River. A few of these grants were issued for the express purpose of beneficial enjoyment. Beneficial enjoyment grants were given to shorefront property owners without restriction and provided complete title to the underwater lands granting full ownership rights to designated bottom lands of the Niagara River. Around 1890, the State began to restrict the grants issued for beneficial enjoyment; in making grants of underwater lands, the State also began to impose conditions on the use of these land interests.

The existing water grant index maps for the Grand Island WRA provided by the Bureau of Land Management within the NYS Office of General Services (OGS) are included in Appendix D. These maps indicate the underwater land grants issued along the Grand Island shoreline, primarily during the late 1800's and the mid 1900's. Approximately 39 grants, easements, or other interests were issued between 1895 and 2016, as listed in Table 2-1, Town of Grand Island Underwater Land Grants and Easements. These underwater grant and easement lands often included offshore areas that were used for the installation of docks, pipelines, or other offshore structures.

Table 2-1: Town of Grand Island Underwater Land Grants and Easements

Granted Easement	Type	Date Issued	Location	Size
<b>M.P. Pfohl</b>	Easement for dock	2/14/1972	East River Road, north of Whitehaven	unknown
<b>Mary A. Nice and Others</b>	Underwater lands along shoreline for beneficial enjoyment	7/23/1893	Offshore lands from north of Whitehaven Road to Ransom Road	28 acres
<b>August &amp; Ruth Schwender</b>	Easement for dock	5/6/1957	East River Rd., north of Gun Creek	unknown
<b>Louis Niro</b>	Easement for dock	10/11/1965	East River Rd., north of Gun Creek	unknown
<b>Valentine &amp; Irma Ivancic</b>	Easement for dock	8/9/1960	East River Rd., west of Gun Creek	unknown
<b>John &amp; Susan Robinson</b>	Easement for dock – 25-year term	3/15/1985	East River Rd., east of Baseline Rd.	30'x150'

Granted Easement	Type	Date Issued	Location	Size
<b>Sandy Beach Yacht Club</b>	Easement for marina basin area	10/21/1957	East River Rd., at Baseline Rd.	unknown
<b>Sandy Beach Yacht Club</b>	Easement for dock extension	11/23/1965	East River Rd. at Baseline Rd.	unknown
<b>Niagara Frontier Parks Commission</b>	Transfer of jurisdiction of offshore lands	4/2/1952	Offshore lands along west side of Island	unknown
<b>State Conservation Department, Division of Parks</b>	Transfer of jurisdiction of offshore lands	1/14/1941	Lands off the north and west sides of Buckhorn Island Park	162.6 acres
<b>Niagara Mohawk Power Corporation</b>	Easement for pipeline	1/27/1958	North side of Buckhorn Island Park	60 feet
<b>Empire State Pipeline Co.</b>	Easement for pipeline 25-year term	2/3/1995	Western terminus of Love Road	unknown
<b>Earl &amp; Rose Blamplin</b>	Easement for dock	5/9/1951	West Oakfield Road	unknown
<b>George Gesegnet</b>	Easement for dock	12/5/1944	West Oakfield Road	unknown
<b>Victor Nowak</b>	Easement for dock	12/5/1944	West Oakfield Road	unknown
<b>Elsie Wetter</b>	Easement for dock	10/25/1957	West Oakfield Road	unknown
<b>Deuel Lapey and Co.</b>	Easement for dock	3/13/1952	Oak Harbor Road	unknown
<b>Walter C. Weed</b>	Easement for dock	1/30/1952	Oak Harbor Road	unknown
<b>Thomas &amp; Anne Buscaglia</b>	Easement for dock	7/20/1966	West Oakfield Road	unknown
<b>Niagara Frontier Parks Commission</b>	Transfer of jurisdiction of offshore lands	1/14/1941	Offshore lands at Beaver Island State Park	117 acres
<b>Albert Brinkman</b>	Easement for dock	3/20/1942	West Oakfield Road	unknown
<b>Edward Kinkel</b>	Easement for dock	11/1/1940	West Oakfield Road	unknown
<b>Buffalo Dredging Co.</b>	Beneficial Enjoyment	3/8/1895	Frog Island	11.9 acres
<b>Buffalo Fishing Station</b>	Easement for dock	11/20/1964	Ferry Rd. at East River Rd.	unknown
<b>Buffalo Launch Club</b>	Offshore easement	4/15/1910	Terminus of Bush Road	unknown

Granted Easement	Type	Date Issued	Location	Size
<b>Buffalo Launch Club</b>	Offshore easement	1/27/1949	Terminus of Bush Road	unknown
<b>Buffalo Launch Club</b>	Offshore easement	12/28/1971	Terminus of Bush Road	unknown
<b>Charles &amp; Dorothy Baird – assigned to James Hallett</b>	Easement for dock 25-year term	5/29/1961-2/6/1974	Vicinity of South Colony Road	unknown
<b>Lawrence &amp; Margaret Mayer – assigned to Garrett McKenna – assigned to James and Linda Morrone</b>	Easement for dock	4/10/1962 12/12/1989 9/23/2004	Vicinity of North Colony Road	unknown
<b>William A. Wolf</b>	Easement for Dock	unknown	Terminus of Fix Road	Unknown
<b>Clyde H. Good</b>	Easement for Dock	unknown	Terminus of Fix Road	Unknown
<b>Louise B. Kreher</b>	Easement for Dock	unknown	Terminus of Fix Road	Unknown
<b>Standard Oil Co. of NY – Transferred jurisdiction to NYS DOT</b>	Offshore lands	4/25/1925 10/2/1975	East River Road, between Love and Fix Roads	3.83 acres
<b>Town of Grand Island</b>	Offshore land on east side of Island	4/18/1968	South of South Grand Island Bridge	8,238 s.f.
<b>National Fuel Gas</b>	Easement for pipeline – 25-year term	3/11/1986	South of South Grand Island Bridge	10 feet
<b>Lakehead Pipeline Co. – renewed with Enbridge Energy LLP</b>	Easement for pipeline	10/7/1963 8/1/2016	East River Road, east of South Grand Island bridge	50 feet
<b>William J. Ziegele</b>	Easement for dock	10/10/1888	Terminus of Staley Road	Unknown
<b>Julia Dingens</b>	Easement for dock	10/10/1888	Terminus of Staley Road	Unknown



Granted Easement	Type	Date Issued	Location	Size
<b>Niagara Mohawk Power Co. - renewed to same</b>	Easement for transmission line	1/27/1958 9/26/2008	Niagara River shoreline	35 feet – increased to 60 feet

*Source: Bureau of Land Management NYS OGS*

Based on discussions with the Bureau of Land Management (Kaleb Winters, OGS, May 2019), the interest in underwater lands is attached to either the new upland property that is created through fill activity of Waters of the State of New York, or to the coterminous upland property. As ownership of the land changes hands, the historic interest in the underwater land moves with the title to the land. For private property, because the interest in the underwater lands is attached to the title, there is no need for the State to reconvey the lands to the new landowner. Therefore, underwater land ownership has been transferred through property sales, over the years, to the present-day owners of the upland properties. In the future, when shoreline property owners are proposing the installation of offshore docking facilities or other structures that require the use of bottom lands, confirmation of the historic land grants will be cleared with the NYS OGS.

## EXISTING AUTHORITIES AND JURISDICTIONS WITHIN THE HMA

### Town Regulatory Authority

The authority for the regulation of structures and uses above the mean high-water mark in New York State is granted to the local municipalities. This is enacted locally by zoning and subdivision ordinances. Section 46-a of the Navigation Law and Section 130.17 of the Town Law provide municipalities with the authority to regulate certain vessel uses upon waters within a municipality or bounding a municipality to 1500 feet from shore. These enabling statutes only apply to the regulation of the over-water use of vessels. Where a municipality's corporate limits end at the shore, Sections 46-a of the Navigation Law and Section 130.17 of the Town Law provides municipalities with the extraterritorial authority to regulate the over-water use of vessels up to 1500 feet from shore. However, Section 130.17.(3) of the Town Law prohibits a town from regulating the overwater use of vessels upon waters within a village, or within 1,500 feet from the shore of a village. Section 46-a(2) of the Navigation Law specifically names certain towns and villages that are authorized to regulate the construction and location of boathouses, moorings and docks in any waters within or bounding the specifically named municipalities. Accordingly, “the town of Grand Island in the county of Erie,... may adopt, amend and enforce local laws, rules and regulations not inconsistent with the laws of this state or the United States, with respect to the restriction and regulation of the manner of construction and location

of boathouses, moorings and docks in any waters within or bounding the respective municipality to a distance of fifteen hundred feet from the shoreline.”

### Authorities Regulating Navigation on Niagara River

The waters of Lake Erie east of Long Point, Canada, are part of the St. Lawrence Seaway and are under the navigational control of the Saint Lawrence Seaway Development Corporation, a corporate agency of the United States, and the St. Lawrence Seaway Management Corporation of Canada. These agencies issue joint regulations covering vessels and persons using the Seaway. The regulations are codified in 33 CFR 401 and are also contained in the Seaway Handbook, published jointly by the agencies. A copy of the regulations is required to be kept on board of every vessel transiting the Seaway.<sup>19</sup>

Although the eastern channel of the Niagara River supports the operation of deep draft commercial vessels, most are limited to operating within the designated Federal navigation channel that extends north from the City of Buffalo to Niagara Falls. This deep draft navigation channel is maintained by the Federal Government and has a minimum depth of 21 feet throughout its entire length. There is a turning basin in the Niagara River channel, located east of Ransom Road, at the northern end of Tonawanda Island. Nautical charts of the river are included in Appendix D.

The U.S. Army Corps of Engineers (USACE) conducts surveys periodically to determine where the channel may need maintenance dredging. A segment of the Niagara River Channel was last dredged by the Corps in August of 2008. Disposal areas are designated by the U.S. Army Corps of Engineers for depositing dredged material where there is sufficient depth not to cause shoaling or create a danger to surface navigation. The current nautical chart for the Upper Niagara River identifies the location of a designated open water dumping ground in the river shallows just offshore and to the east of the mouth of Woods Creek and Buckhorn Island State Park. However, open water disposal of dredged and fill material is no longer permitted in the Niagara River by the US Army Corps of Engineers or the New York State Department of Environmental Conservation.

The U.S. Coast Guard, New York State Office of Parks, Recreation and Historic Preservation (NYS OPRHP), and NYS DEC, together with the Erie County Sheriff's Marine Division, are responsible for enforcing navigation law and vessel regulations within the WRA. In the event of an underwater rescue, the Tonawanda Police Underwater Recovery Team or the Niagara County Sheriff's Department may assist the Erie County Sheriff's Office, depending on the location.

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<sup>19</sup> [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf)

The U.S. Coast Guard, an agency within the U.S. Department of Homeland Security, has a regulatory and public safety presence on the Niagara River, providing an array of air and water operational support within the areas of law enforcement and search and rescue. Located in Buffalo Harbor, U.S. Coast Guard Station Buffalo has several patrol boats that are used for law enforcement, search and rescue, spill response, and monitoring of the aquatic environment. The active-duty members at this station are supported by the volunteer members of the U.S. Coast Guard Auxiliary. The Coast Guard Sector Command is collocated with Station Buffalo, although both operate within the context of the established chain of command.

The Erie County Sheriff maintains a fleet of patrol boats, as well as airborne resources, that enforce navigation law and conduct search and rescue operations. Their Marine Units patrol the Niagara River within the jurisdictional boundary of Erie County but often work with other local law enforcement or government agencies, such as the Niagara County Sheriff's Department, the U.S. Border Patrol and the Grand Island Fire Company.

The Town of Grand Island does not engage in marine law enforcement. However, local search and rescue assistance is provided by the Grand Island Fire Company.

#### *Authorities Regulating Docks and Other In-water Structures*

The Town of Grand Island regulates boathouses and docking facilities pursuant to Section 407-146 of the Zoning Code. Docking facilities include any dock, pier, ramp or berth for vessels or boathouses located in, or attached to, a residentially zoned upland or shoreline area.

At the state level, the installation of a structure in the navigable waters of the state requires NYS DEC permits. Additionally, structures, including historical fill materials, docks, piers, or other structures, located in, on, or above state-owned lands under water are regulated under the Public Lands Law. Accordingly, for projects involving underwater lands, the upland property owner would need a permit from the NYS OGS Bureau of Land Management. Underwater lands, as defined by the NYS OGS, include lands currently or formerly under water. The OGS Bureau of Land Management has the authority to convey interest in real property for the use of state-owned lands underwater. This includes transfer of property through easements as well as leasing of property through licenses and collection of fees. Therefore, any landowners interested in utilizing underwater state-owned lands for any purpose need to contact the NYS OGS to determine what the requirements may be for the property in question.

At the federal level, the installation of docks, pilings, decks, and boathouses along the Niagara River is regulated by the USACE and requires the issuance of a permit, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, where applicable. As part of its responsibility for administering the New York State Coastal Management Program

(NYS CMP), Department of State (NYS DOS) conducts consistency reviews of federal actions proposed with the coastal area of New York State, including USACE permits. NYS DOS renders determinations on whether actions within or affecting the state's coastal area directly undertaken by, or on behalf of, federal agencies; or which require a permit/regulatory approval from a federal agency, or involve federal financial assistance, are consistent with the NYS CMP.

### Federal Authorities

Federal authority rests with the USACE under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and under Section 404 of the Clean Water Act. Section 10 of the Rivers and Harbors Act of 1899 was established to protect the public's right to navigation and access to navigable waters and establishes regulatory control over any activity above, below or upon a designated navigable water. On the list of navigable waterways where permits are required under Section 10, the USACE Buffalo District specified that "Niagara River is navigable throughout, above and below Niagara Falls including East and West Branches".

Structures or activities typically regulated under this statute include but are not limited to piers and docks (including floating, seasonal, and permanent structures), bulkheads, bank stabilization, transmission lines, pipelines, breakwaters, boat houses, boat launches, jetties, revetments, mooring facilities, aids to navigation, and dredging.

The USACE also regulates activities in Waters of the United States under Section 404 of the Clean Water Act (33 CFR 322 and 323). Under the provisions of this section of the Clean Water Act the USACE regulates the discharge of dredged and fill material into Waters of the United States. Waters of the United States include all navigable waters like the Niagara River, all waters tributary to the Niagara River and associated wetlands. The determination of navigability is made by the USACE.

Federal permits in the coastal zone require a concurrence from the NYS DOS that the project is consistent with New York coastal management policies and Federal Section 404 permits require the issuance of a Water Quality Certification by the NYS DEC.

### State Authorities

New York State regulates surface waters including rivers, lakes, and ponds that are used for drinking water, recreational bathing, agriculture, and industrial use or are essential to the preservation and continued existence of fish and wildlife resources. New York is rich with valuable water resources that are essential to the health and welfare of the public interest, particularly rivers, streams, lakes, and ponds. These water resources and their associated fish and wildlife habitats have essential and far-reaching values, whether used for recreational purposes, agriculture, commerce, research, education, or aesthetic appreciation. Certain



human activities can adversely impact and even destroy the delicate balance of aquatic ecosystems impairing their value as beneficial public natural resources.

The following laws control activities on the State's water bodies. NYS DEC implements and enforces these Environmental Conservation Laws (ECL).

Article 15, Title 5, Protection of Waters,<sup>20</sup> requires permits for projects involving: disturbance of the bed or banks of a protected stream or other watercourse;<sup>21</sup> construction, reconstruction or repair of dams and other impoundment structures; construction, reconstruction or expansion of docking and mooring facilities;<sup>22</sup> excavation or placement of fill in navigable waters and their adjacent and contiguous wetlands;<sup>23</sup> water quality certification for placing fill or undertaking activities resulting in a discharge to waters of the United States. Also, in accordance with Section 401 of the Clean Water Act, applicants for a Federal license or permit for activities including but not limited to the construction or operation of facilities that may result in any discharge into waters of the United States are required to apply for and obtain a Water Quality Certification from DEC indicating that the proposed activity will not violate water quality standards.

Accordingly, the following activities proposed to be undertaken within the Town of Grand Island WRA, would require authorization by the NYS DEC:

- Disturbance of the bed or banks of a protected stream or other watercourse;
- Construction, reconstruction or repair of dams and other impoundment structures;
- Construction, reconstruction, or expansion of docking and mooring facilities; and
- Excavation or placement of fill in navigable waters and their adjacent and contiguous wetlands.
- Water quality certification for placing fill or undertaking activities resulting in a discharge of dredged or fill material into Waters of the United States.

To implement this law, the New York State Department of Environmental Conservation (NYS DEC) created the Protection of Waters Regulatory Program. Under this program, the NYS DEC strives to prevent undesirable activities by establishing and enforcing regulations that are:

- compatible with the preservation, protection, and enhancement of the present and potential values of the water resources,
- protect the public health and welfare, and
- are consistent with the reasonable economic and social development of the state.

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<sup>20</sup> <https://www.dec.ny.gov/permits/6042.html>

<sup>21</sup> <https://www.dec.ny.gov/permits/6554.html>

<sup>22</sup> <https://www.dec.ny.gov/permits/6550.html>

<sup>23</sup> <https://www.dec.ny.gov/permits/6548.html>

As a part of the Article 15 regulatory program all waters of the State are assigned a class and standard designation based on existing or expected best usage of each water or waterway segment, as follows:

- Classification AA or A is assigned to waters used as a source of drinking water,
- Classification B indicates a best usage for swimming and other contact recreation, but not for drinking water,
- Classification C is for waters supporting fisheries and suitable for non - contact activities, and
- Classification D, which is the lowest classification.

Article 24, Freshwater Wetlands Act:<sup>24</sup> for permits regarding activities that are proposed within the mapped State-regulated wetland areas or within a 100 feet wide adjacent area. Permit issuance standards are contained in the NYSDEC regulations found at 6 NYCRR Part 663.5. Article 24 provides the means to prevent the despoliation and destruction of freshwater wetland larger than 12.4 acres. The NYS DEC regulates all activities in wetlands, including the discharge of dredged or fill material, in order to preserve, protect and conserve these vital resources. This goal is achieved through the regulated use and development of such wetlands to secure the natural benefits of these wetlands, consistent with the general welfare and beneficial economic, social, and agricultural development of the state. The primary difference between this program and the Federal program is that the regulatory authority of the State extends to any activity that would impact a freshwater wetland. Both the Corps and NYS DEC water resource regulatory permit programs play a key role in the restriction of any development activity on Grand Island that involve wetlands.

Article 24 was amended in 2022 with provisions going into effect in 2025 and 2028 that may bring additional freshwater wetlands under the jurisdiction of NYSDEC. In 2025, the jurisdictional nature of the existing state freshwater wetlands maps will be eliminated by removing “as shown on the freshwater wetlands maps” in the definition of Freshwater wetlands in § 24-0107.1. As a result, it will be more important to contact NYSDEC to determine whether a wetland is 12.4 acres or larger or of unusual importance and therefore subject to NYSDEC regulation. In 2028, the threshold for state regulated wetlands will be reduced from 12.4 acres to 7.4 acres (also in § 24-0107.1), potentially bringing more wetlands under NYSDEC’s jurisdiction. Sponsors of proposed projects in Section 4 should be aware of the law in effect at the time they undertake development and determine its applicability before commencing work.

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<sup>24</sup> <http://www.dec.ny.gov/permits/6058.html>

Section VI of the LWRP provides a complete list of actions and programs of federal and State agencies and authorities that could impact or be impacted by the approval and implementation of this LWRP.

## 2.11 RECREATIONAL RESOURCES

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Within the Grand Island WRA, two State parks located at the opposite ends of the town offer public waterfront access and opportunities for recreation that are complemented by several public and private marinas and boating clubs, launch areas for kayaks and canoes, and numerous private docks that provide access to Niagara River and support a growing recreational boating and fishing industry. The public access and recreation sites and facilities within the WRA are labeled on Map 2.6.

A concerted effort is being made to restore, protect, and enhance the critical environmental resources of the Niagara River. Much of this work is taking place around Grand Island or within the shallow water habitat that surrounds the entire island. Decades of industrialization, and commercialization, coupled with expansive housing development, had compromised native habitat either through direct loss or modification that allowed invasive species to proliferate and have an unfair advantage over native flora and fauna. The social, economic, and environmental benefits of habitat restoration, coupled with the growth of ecotourism on Grand Island, have stimulated programs that are actively funding the restoration of aquatic and terrestrial habitat throughout the Niagara River. The benefits of these projects extend beyond habitat restoration and include amenities like non-intrusive trails, scenic overlooks and bird watching blinds. Several of these areas, as further highlighted below, exhibit one or more characteristics that mirror those that constitute State Significant Coastal Fish and Wildlife Habitats, including Grass Island, Spicer Creek, Scenic Woods, and the Little Six Mile Creek wetlands. Future consideration for adding these to the list of existing State Significant Coastal Fish and Wildlife Habitats will be considered by the Town.

### BUCKHORN ISLAND STATE PARK

Buckhorn Island State Park is located at the northern tip of Grand Island and encompasses 895 acres of marsh, meadows, and woods that provide the last vestige of the once vast marshlands and wet meadows that bordered the Niagara River. The public is welcome to walk the nature trails, hike, bike, kayak, canoe, fish, and cross-country ski in the park.

Because of the Park's ecological significance as one of largest remaining marshes on the Niagara River, it necessitates proper stewardship and is classified as a park preserve. It offers nature trails for hiking and biking, as well as snowshoeing and cross-country skiing during the winter

months, and several scenic viewing areas on the Niagara River, like Eagle Overlook and the Buckhorn Marsh Bird Observation Overlook. It also offers public access for shoreline fishing, with a handicapped fishing pier located along Woods Creek. There are shoreline paddlecraft launching sites for canoes and kayaks, two sites on Woods Creek and another is at the Eagle Overlook. These sites are accessible to island residents and visitors, as well as paddlers who are using the Paddles Up Blueway Trail.

Figure 2-33: Buckhorn Island Wildlife and Vegetation



Source: NYS Parks

Figure 2-34: Buckhorn Island State Park Trail Map



Source: NYS Parks



## GRASS ISLAND

Just offshore of Buckhorn Island State Park is an area known locally as Grass Island (it is not historically related to another island by the same name that was removed during the construction of the Niagara Power Project). Grass Island was established more than 50 years ago during the excavation of the nearby Federal navigation channel that was needed to bring deep draft vessels to the New York Power Authority facility in Niagara Falls. Although it is referred to as an island, most of its land mass consists of dredged material that lies below the water surface. This shallow water habitat is ideal for the growth of native aquatic vegetation which, in turn, attracts a wide variety of bird species who depend upon such habitat for growth and reproduction.

The shallow depth of the water covering the island and its clarity have also made the island a haven for hundreds of recreational boaters. During the boating season scores of boats anchor in the shallows of Grass Island often disrupting native wildlife and the river bottom sediment while wading and swimming in this area. The conflict over the need to preserve and protect the habitat value of this area versus the demand by the boating public to use it for recreation has seriously impaired

Figure 2-35: Grass Island



Source: [buffalonews.com](http://buffalonews.com)

nesting at this location by the Pied-billed Grebe, Least Bitten, Sedge Wren and the Northern Harrier, all of which are classified as Threatened Species by the State of New York. A restoration project is planned for Grass Island by the New York State Office of Parks, Recreation and Historic Preservation who is wholly responsible for the use and management of Grass Island and its surrounding waters.<sup>25</sup> As currently envisioned the project will include rock barriers as well as elevation variations in the bottom sediments that will enhance the growth of essential native aquatic plants that in turn will benefit the threatened species that inhabit Grass Island.

## BEAVER ISLAND STATE PARK

Beaver Island State Park is located at the southern tip of Grand Island and possesses the only public sand beach on the Niagara River in Erie County. This 950-acre park is open year-round and contains a wide range of active recreation facilities, including baseball diamonds, an 18-hole championship golf and disc golf course, sledding hill, picnic groves, playgrounds, nature

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<sup>25</sup> <https://parks.ny.gov/documents/parks/BuckhornIslandGrassIslandUpdate1.pdf>

center, four miles of bicycle and nature trails, shoreline canoe/kayak launches including two that are handicapped accessible, a fishing jetty and docks for car top boats, and an 80-slip marina with seasonal and transient boat slips. Strawberry Island is a part of Beaver Island State Park but lies outside the municipal boundary of the Town of Grand Island.

Beaver Island State Park Marina is a public marina located at the south end of the State Park, near the half-mile sandy swimming beach, operated by a private company. It has 70 seasonal slips and 8 transient boat slips, water, electricity, and sewage pump-out facilities. In 2002, depths of 5 feet were reported in the entrance with 4 feet alongside the berths.

Currently, there are no camping facilities within the park although such recreational amenities are planned. The inland periphery of the park is largely forested, often laced with vernal pools.

Figure 2-36: Beaver Island State Park Marina



As with Buckhorn Island State Park, the NYS OPRHP is also undertaking habitat restoration improvements at Beaver Island State Park. The original East River Marsh was restored around 2003, adding 25 acres of prime coastal wetland habitat to the Niagara River ecosystem. It was designed to calm the nearshore waters of the Niagara River in a way that reduces erosion and promotes the growth of aquatic vegetation. It is a wetland that has all the key components of aquatic plant succession, beginning with submergent flora and ending in floodplain forest.

A habitat enhancement project upstream of the existing East River Marsh project site was completed during the winter of 2018. Other habitat enhancements near the River Lea historic site and at Beaver Island State Park were completed during the 2019 construction season. The East River Marsh, including its most recent addition, forms the eastern perimeter of Beaver

Island State Park. This project included the construction of additional rock reefs, enhanced shoreline protection, and expanded wetland plantings and improved access to the Niagara River.

Waterfowl hunting is also permitted during specific seasons at designated blinds within the Beaver Island State Park and along the course of the West River Shoreline Trail. Assignment of the blinds is made during hunting season through a daily lottery conducted by the New York State Office of Parks, Recreation and Historic Preservation. There are two handicapped accessible duck blinds, one is located within Beaver Island Park and the other is at the Spicer Creek Wildlife Management Area, on the east side of Grand Island. No waterfowl hunting is permitted within Buckhorn Island State Park but is permitted on Strawberry Island and Motor Island using the same lottery system. Waterfowl hunting is the only time throughout the year when public access is permitted on Motor Island. During the winter months, park visitors can snowmobile by permit, or engage in forms of passive recreation like cross-country skiing and snowshoeing.

Beaver Island State Park is also home to the Grand Island Historical Society, which is housed within historic River Lea, an 1870 home built by entrepreneur Lewis Allen for his son.

### **BIG SIX MILE CREEK STATE MARINA**

Big Six Mile Creek State Marina includes the only marina on the west side of Grand Island, about 7.5 miles from the upper end of the Chippawa Channel. The marina has seasonal berths for boats. Usage by the public for a fee is determined through a lottery system run by the NYS Parks (NYS OPRHP).

Figure 2-37: Big Six Mile Marina



Source: Montana International



Gasoline, water, electricity, sewage pump-out facilities and launching ramps are also available. The marina has docks able to accommodate 134 boats, along with launch ramps for trailered and car top boats. Parking is provided for slip renters and boat trailers, as well as visitors. A small shop within the marina sells gasoline, oil ice and other items. In addition, there is also a public sanitary waste pump out station for boats. Boat owners and their guests can arrange to stay overnight. The marina occupies 20.6 acres and follows the lower reach of Big Six Mile Creek connecting directly with the Niagara River.

### SPICER CREEK WILDLIFE MANAGEMENT AREA

Located on the east side of Grand Island, north of River Oaks Marina, this 34-acre wildlife area is owned by the New York State Department of Environmental Conservation who maintains this forested wetland and its associated shallow water habitat as a designated Wildlife Management Area (WMA). The primary purposes of Spicer Creek Wildlife Management Area<sup>26</sup> (WMA) are for wildlife management, wildlife habitat management, and wildlife-dependent recreation.<sup>27</sup> This ecologically sensitive area includes the mouth of Spicer Creek and approximately 1,600 feet of undeveloped shoreline abutting a dense forested wetland that is located

Figure 2-38: Spicer Creek Wildlife Management Area Map



Source: NYS DEC

between East River Road and the Niagara River. It includes a shelter that serves a dual purpose. During most of the year it is used as an observation overlook but during the waterfowl hunting season it serves as a handicapped accessible blind.

The Wildlife Management Area contains several trails and has a small vehicle parking lot just off East River Road. Hunting<sup>28</sup> and trapping<sup>29</sup> at this location are permitted only by permits that are issued through the New York State Office of Parks Recreation and Historic Preservation. This Wildlife Management Area abuts the Town of Grand Island Scenic Woods/Bicentennial Park

<sup>26</sup> <https://www.dec.ny.gov/outdoor/83193.html>

<sup>27</sup> [https://www.dec.ny.gov/docs/wildlife\\_pdf/p51expressterms.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/p51expressterms.pdf)

<sup>28</sup> <https://www.dec.ny.gov/outdoor/28182.html>

<sup>29</sup> <https://www.dec.ny.gov/outdoor/9209.html>



parcel, which is a passive recreational resource with nature trails and directed access to the Niagara River.

### MOTOR ISLAND AND ISLETS

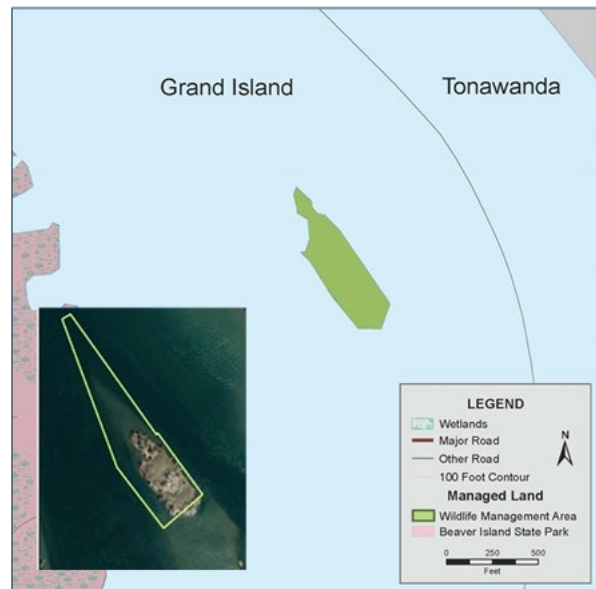
Motor Island, which lies just to the east of Beaver Island State Park, is managed by the New York State Department of Environmental Conservation as a designated Wildlife Management Area. This island is the only heron rookery on the Niagara River and is home to the Great Blue Heron, Common Egret, Black Crowned Night Heron, and Little Green Heron. There are hundreds of active nests on this island and to protect the adults and chicks, no public access is permitted.

Motor Island is an isolated island in the Niagara River that is about 1,500 feet east of Beaver Island State Park. The island, which today encompasses about 2.5 acres, is a designated New York State Wildlife Management Area owned and managed by the New York State Department of Environmental Conservation. This island is situated in the middle of the east branch of the Niagara River, designated as the Tonawanda Channel on nautical charts, and is about 1,500 feet east of Ferry Village and Beaver Island State Park. The island has been a prominent feature of the local history of Grand Island and the upper Niagara River region.

First surveyed by James Tanner on behalf of Simeon Dewitt the First Surveyor General for the State New York in 1824 the recorded original name of the island was Frog Island. The island was renamed Motor Island in the early 1900's following its purchase by James "Fingy" Connors a well-known notorious figure in the Buffalo Harbor grain shipping business.

Soon after the island was purchased it was cleared of vegetation. The island was cut and filled in such a way that it resembled the shape of a boat sailing upstream in the Niagara River. The island became the home of the Buffalo Motorboat Club that had a clubhouse, bunkhouse, and an official U.S. Government Storm Warning Station. During the decades following the island became a prominent boat racing center where many world records were established, broken and reestablished. The yacht club faded away during the depression and the island was eventually sold and used as a private residence. During the 1980's the island was sold again to a

Figure 2-39: Motor Island Wildlife Management Area



Source: NYS DEC

consortium who sought to develop a waterfront campground. During that time the name of the island was officially changed again and became known as Pirate's Island a name that exists today although most local residence still refer to it as Motor Island.

The island was acquired by the New York State Department of Environmental Conservation in 1998 to protect and manage a large colonial nesting bird sanctuary that had been steadily growing over the previous decade. Birds regularly observed nesting within on this island include the Great Blue Heron, Common Egret, Black Crowned Night Heron and the Little Green Heron as well as the ubiquitous Double Crested Cormorant. Public access to the island and its beaches is prohibited and strictly enforced. There is limited public access during the winter waterfowl hunting season for two waterfowl hunting blind stations, which are regulated by the New York State Office of Parks, Recreation and Historical Preservation.

Historically, there has been confusion regarding the original and current name of this island. The local media has compounded the problem by conveying the notion that Frog Island, the original official name of Motor Island, is in a different place. The original survey by James Tanner that was produced in 1824 is documented in his handwritten journal that is on file in the research library of the Erie County Historical Society. The designation of Frog Island also appears on nautical charts drawn by the Federal Government that date as far back as 1864. However, an underwater lands map from the archives of the New York State Office of General Services depicts a shallow water area just upstream of Motor Island as "Frog Island". This designation is historically incorrect. The shallow water area was at best an ephemeral island that came about after the government designated this area an official spoil disposal site for dredged and fill material. During its earliest existence it was a disposal area for material that was excavated during the construction of the Erie Canal. It is entirely possible that this river bottom parcel was so designated because it was adjacent to the original Frog Island. The underwater land map included in Appendix D of the LWRP depicts the limits of the old spoil area. That map only dates to about 1905 – 1910, after the official name of Frog Island had been changed to Motor Island.

In 2014, the shallows of this once ephemeral island were enhanced to create a diverse and more permanent aquatic habitat addition to the upper Niagara River. A collection of small islets, submerged rock beds, anchored dead tree trunks and channels of various depths created the diverse habitats needed to attract native fish species, wading and migratory birds, waterfowl, amphibians, and reptiles. The integration of these different habitats insured that a vibrant food chain was established capable of supporting local and visiting wildlife. To add to the biological diversity the soil areas of each island were planted with native vegetation. Over the past four years this unnamed island, part of a series of small islands that is referred to as the Strawberry Island Archipelago, has been home to Common and Caspian Terns, Great Black

Back, Ring-billed, Herring and Bonaparte Gulls, Great Blue Herons, Common Egrets, Ospreys and immature Bald Eagles. The value of this new island as a resting, feeding and potential nesting area is gradually increasing. On June 19, 2019, an extremely rare shore bird, the Black-necked Stilt, was observed and photographed on this unnamed island. It was the first recorded observation of this wading bird in Erie County. Restoration of this islet was funded by the New York Power Authority. As with Motor Island, there is no public access to this island complex.

In 2015, another smaller island was completed by the New York Power Authority as a condition of the renewed license granted by the Federal Energy Regulatory Commission (FERC) allowing continued operation of the Niagara Power Project in Lewiston, New York. This island was constructed upon the footprint of an ephemeral island that ceased to exist back in the 1960's and had its origin in the disposal of excavated material during the building of the Erie Canal. It contains a variety of habitat types designed to attract fish species, waterfowl, wading birds, reptiles, and amphibians. Originally dubbed Frog Island by the New York Power Authority and the local media, the name was later withdrawn since the original name of Motor Island was Frog Island. Instead, it remains an unnamed island that is a part of the series of small islets that comprise the Strawberry Island Archipelago. Both islands are located approximately 1,500 feet offshore of the eastern shoreline of Grand Island.

In the summer of 2022, Bever Island, Motor Island Wildlife Management Area, and the East River Marsh were the destinations of the Paddles Up Niagara tour, where paddlers enjoy the view of the only colonial bird nesting area on the Niagara River and observe the Great Blue Heron, Common Egret, Black Crowned Night Heron and Little Green Heron.

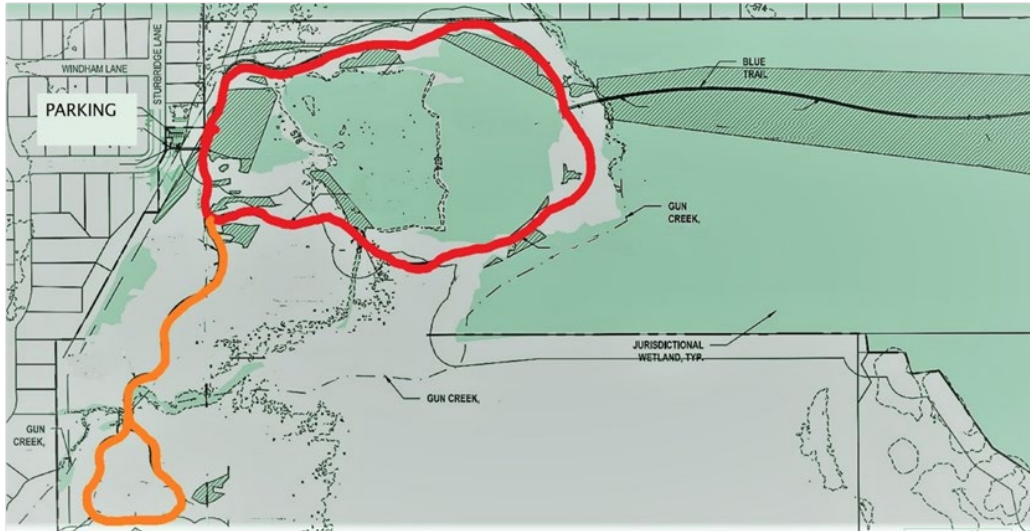
### **WEST RIVER SHORELINE TRAIL**

The West River Parkway was converted into a year-round multi-use trail now known as the West River Shoreline Trail. The trail footprint follows the alignment of the former highway and makes use of the original pavement. The trail provides more than eight miles of scenic vistas along the west branch of the Niagara River, facing the Province of Ontario, Canada. Locally, it connects to Beaver Island State Park, the State Marina at Big Six Creek, and Buckhorn Island State Park. At the midpoint near Whitehaven Road there will be a connection to the Town of Grand Island Nike Base Park. In addition to the local connections, the new trail also connects with the mainland trails endorsed by the Niagara River Greenway Commission, including the Erie Canal Greenway Trail that extends eastward to Albany joining the Hudson River Valley Greenway Trail to New York City. Trail lanes are segregated for up bound and down bound bicycle traffic and a separate dedicated lane is provided for pedestrians. The river overlook/rest areas that were a part of the original parkway still have the same function but also provide parking space for vehicles carrying canoes or kayaks.

## SCENIC WOODS/BICENTENNIAL PARK/GUN CREEK WOODS

This passive recreation park consists of two parcels owned by the Town of Grand Island. The waterfront component known as “Bicentennial Park” consists of a rectangular forested wetland situated between East River Road and the Niagara River. At the present time there are no amenities for public access although passive recreational trails will eventually be added at this site.

Figure 2-40: Scenic Woods Bicentennial Park Plan



Source: Engineering Department Town of Grand Island

Figure 2-41: Scenic Woods Trail



Source: Town of Grand Island

The second parcel known as Scenic Woods lies inland of East River Road, extending westward to the backyards of homes along Sturbridge Lane. Consisting of several hundred acres the area includes emergent wetlands, wet meadows, shrub, and forested wetlands. Where there are no wetlands, the area is largely occupied by flood plain forest. Approximately, 2.7 miles of trails and boardwalk wetland make the park accessible to the residents in the adjacent neighborhoods. Scenic Woods is also positioned near the Grand Island High and Middle Schools, establishing opportunities for environmental education. Another small woodland parcel abutting Scenic Woods, known as Gun Creek Woods, is owned by the Town of Grand Island, and

managed by the Western New York Lands Conservancy. The Scenic Woods/Bicentennial



Park/Gun Creek Woods area has several planned recreational improvements that have not yet been realized and this area may be considered underutilized.

### **FISHERMAN'S LANDING**

Fisherman's Landing is a town-owned site on the Niagara River, located south of the South Grand Island Bridge. Formerly the site of an outdated sewage treatment facility, the park was established on the bulkheaded footprint of the old plant. Funding for this project was provided by the Niagara River Greenway Commission and the New York State Department of State. It was officially opened in May of 2012 and since then it is open to the island residents and visitors during daylight hours. Often the site is used by photographers for wedding and graduation photos. In 2016, submerged rock rubble was added to the river bottom fronting the park to enhance fishing success. There is a small parking lot across the street, adjacent to East River Road, with handicapped parking available on the waterside portion of the park. In the winter the driveway to the riverfront parking spaces is closed for safety reasons, although the entire park remains open to pedestrian visitors.

Conventional heavy-duty park benches exist along the riverfront and there are several trees that provide shade. An environmental feature was included in the design of this park that established a water garden to collect and filter surface water runoff.

Figure 2-42: View from Fisherman's Landing

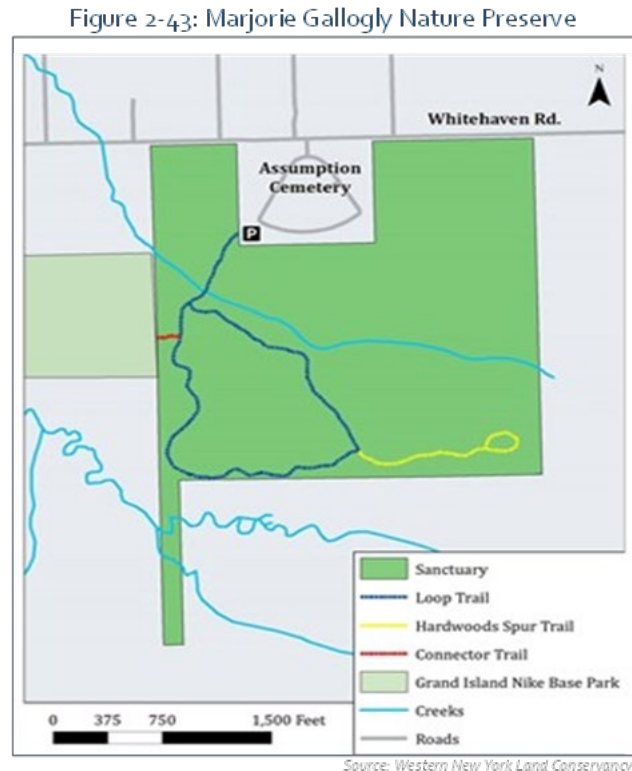


Source: Town of Grand Island

### **MARJORIE GALLOGLY NATURE SANCTUARY AND NIKE BASE PARK**

In September 2018, the Western New York Land Conservancy purchased a 145-acre tract of land adjacent to the Assumption Cemetery consisting of wetlands, vernal pools, meadows, shrublands, floodplain and upland hardwood forest. This parcel encompasses a substantial portion of the upper watersheds of Little Six Mile Creek and Big Six Mile Creek. The property includes all the unused land outside the footprint of the Assumption Cemetery that is still owned and managed by the Catholic Diocese of Western New York. Both creeks are major tributaries to the Chippewa (western) Channel of the Niagara River. Funding for this

preservation project was provided by the Niagara River Greenway Ecological Standing Committee and the Gallogly Family Foundation. It is the largest privately-owned remaining tract of woodland within the Niagara River watershed. Future plans for this property include the addition of low impact nature trails, ecological enhancements and the removal of invasive species. The preserve contains many old growth white oak and hickory trees and is home to a diverse population of amphibians and reptiles, including the Spotted Salamander that is listed as a species of concern by New York State. It is also a haven for resident songbirds and neotropical migrants.



Although not physically connected to the Niagara River Greenway or the West River Shoreline Trail that follows the west side of Grand Island, there is access via Town of Grand Island parkland. The nature preserve property abuts Town owned Nike Base Park, with a footprint that extends eastward from the West River Shoreline Trail to the western boundary of the Gallogly Preserve. The Nike Base Park is the Town's second largest municipal park and features a play unit and swings, 6 tennis courts, softball diamond, Par 3 Golf Course, and nature trails. Work is already underway to extend a low impact nature trail from West River Road eastward through Nike Base Park and across Big Six Mile Creek to a connecting trail in the nature preserve. To accomplish this connection, a low impact footbridge will cross Big Six Mile Creek.

Figure 2-44: Nike Base Diamond



## LOVE ROAD PRESERVE

Located on Love Road, on the western side of the Grand Island, an undeveloped 44-acre forest preserve was purchased by the Western New York Land Conservancy, with funding from the Greenway Ecological Standing Committee, from the Buffalo Ornithological Society. The forest preserve was established to enhance bird species diversity and nesting potential. It does not contain any improvements or trails and does not have a parking lot. In addition, the forest collects, absorbs, and filters stormwater, reducing flooding in adjacent areas and improving Niagara River water quality.

Isolated tracts like this woodlot provide essential habitat for resident bird species as well as Neotropical migrants.

Figure 2-45: Grand Island flora



*Photo Source: Ana Hernández-Balzac*

## DESIGNATED BIRD AREAS

Buckhorn Island State Park is a part of the designated Important Bird Area, which is understandable considering the vast diversity of avian life that exists there. The marsh areas in and around the park, and the surrounding shallows, attract significant numbers of gull species that must spend time in the Niagara River to complete their lifecycles. Usage of the park by bird species is significant all year round but peaks during the fall and spring migration periods. The value of the marsh areas rests in their diversity. There are plant meadows, flood plain forests, marshes, and shoals each of which cater to a specific species or classes of species that need to use the park for nesting, feeding, or rearing of their young. The marsh areas also serve as a feeding, resting, and breeding area for ducks, coots, moorhens, and rails.

The Buckhorn Island Marsh is a Bird Conservation Area (BCA) within the Niagara River corridor, and is crossed by a heavily traveled international highway, which makes the marsh one of the state's most visible wetlands and a highly visible site for demonstrating wetland restoration. Its ecological position as one of the two largest remaining marshes on the Niagara River necessitates proper stewardship. The area is a significant concentration area for large numbers and diverse species of gulls. Buckhorn Island will continue to support gull populations, as well as a diverse waterfowl population. The marsh at Buckhorn provides important nesting habitat for listed species such as Least Bittern, Northern Harrier, and Sedge Wren. The marsh serves as a

feeding, resting, and breeding area for ducks, coots, moorhens, and rails. Listed species include Northern Harrier (threatened), Common Tern (threatened), Sedge Wren (threatened) and Least Bittern (threatened).

Additional birds of interest include a variety of species of ducks, herons, coots, moorhens, and rails. Spring and fall migrations along the Niagara River corridor can bring large numbers of gulls (several species) to this site.

In 2005, the Niagara River Greenway Commission was established by the State of New York to exercise stewardship over the Niagara River. In May of 2008, the Federal Government established the Niagara Falls Heritage Area pursuant to Public Law 110-229. Congress acted on behalf of this critical environmental resource establishing the need for management, local coordination and regulations governing funding, property rights and assistance through other federal agencies. The heritage area, which consists of the lower Niagara River and a portion of the upper Niagara River, is managed by the National Park Service.

More recently, the Niagara River was accorded international recognition by the Ramsar Convention, which is a global treaty supporting the conservation and sustainable use of wetlands and related waters. On October 3, 2018, the Ramsar Convention on Wetlands awarded and celebrated the designation of the Niagara River corridor as the 40<sup>th</sup> Wetland of International Importance in the United States.<sup>30</sup> The designation culminated a near decade long effort by an interdisciplinary team of volunteers, which included the University of Buffalo and a host of other academic, research and stewardship organization and government agencies. Achieving this designation adds the Niagara River to a diverse group of just 2,400 wetlands that are recognized worldwide for their rare and unique habitat, wildlife, biodiversity, and cultural importance.

## 2.12 NIAGARA RIVER AND ITS TRIBUTARIES

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Lake Erie has its outlet in the Niagara River. The Town of Grand Island is at the center of the Niagara River, and it is surrounded by it. Niagara River waters are utilized for a variety of uses, including recreational/ boating, swimming, sport fishing, diving, and waterfowl hunting. The Niagara River is also a source of drinking water and the receiving water body for wastewater effluent for the Town of Grand Island. All local surface water bodies receive stormwater discharges, whether through point sources or overland flow.

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<sup>30</sup> <https://ourniagarariver.ca/ramsar/>



The Niagara River is a major connector for the Great Lakes, linking Lake Erie with Lake Ontario. *About 5 miles below the head, the river is divided into two channels by Strawberry Island and Grand Island. Tonawanda Channel and Niagara River Channel, the U.S. channels, lead to the east of these islands, and Chippawa Channel, the Canadian channel, leads to the west of these islands. Northwest of Grand Island, at the lower end of the island, the channels rejoin and lead for about 3.5 miles to the falls.*<sup>31</sup>

The Niagara River is divided in an upper section and a lower section separated by Niagara Falls. The river flows northward from Lake Erie convey an average flow of about 200,000 cubic feet of water per second. The Niagara River supplies Lake Ontario with about 80 percent of its water, which is more than all other sources that contribute to the Lake's water supply, including the Genesee River in Rochester, Oswego River in Oswego, and the Black River outside Watertown, New York. Lake Ontario also receives tributary flow from the Canadian Province of Ontario, which borders the lake to the north. The Niagara River is 36 miles in length, with the upper extent between the eastern terminus of Lake Erie and Niagara Falls being approximately 24 miles in length, while the lower river corridor extends about 14 miles in length.

The international boundary between the United States and Canada follows a general middle of the river course in the upper Niagara River from the head of the river downstream to the head of Grand Island where the river forks around the island. The boundary then follows Chippawa Channel and is generally less than 1,000 feet off the west shore of Grand Island until Chippawa Channel and Niagara River Channel join at the northwest end of Grand Island. The boundary again follows a general middle of the river course around the south side of Goat Island and over Niagara Falls.<sup>32</sup> This makes Grand Island a border town. The length of the Niagara River shoreline that circles the Town of Grand Island measures about 25 miles. The main tributary creeks that flow through the WRA and discharge to the Niagara River include Spicer Creek, Gun Creek, Woods Creek, Burnt Ship Creek, Big Six Mile Creek, Little Six Mile Creek, and Turtle Creek, as well as several smaller unnamed tributaries. Most of the major creeks are first order, headwaters streams that serve as important spawning and nursery habitats for native migratory fish species. Many of these watercourses have been impacted by the construction of various local roadways, particularly where they enter the Niagara River, as well as Interstate 190 (I-190) that cuts through the center of Grand Island. Although culverts have been added in many locations to improve or manage drainage, most of these structures have impaired the ecological value of local creeks by creating barriers to fish migration. Many of the same

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<sup>31</sup> [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf)

<sup>32</sup> [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp6/CPB6_WEB.pdf)

tributaries have been further impaired either by physical obstructions like dead trees or sedimentation that has slowed water flow and obstructed drainage.

### SPICER CREEK

The mouth of Spicer Creek is located just north of Whitehaven Road, on the east side of Grand Island. Spicer Creek extends inland to its headwaters, which are situated southeast of I-190. The area around the mouth of Spicer Creek is a State-designated Wildlife Management Area. The lower reach of Spicer Creek, which passes through a private golf course, is being restored by the Buffalo Niagara Waterkeeper. Navigation is limited to paddlecraft access at the creek mouth.

### WOODS CREEK

The mouth of Woods Creek is located on the north shore of Grand Island, at the east end of Buckhorn Island State Park. Flowing to the Niagara River, the upper reach of this creek bifurcates in the vicinity of Baseline Road, between Sandy Beach and Long Roads, with both branches meandering through developed and undeveloped areas to the headwaters area located in the center of Grand Island. Between the Niagara River and Baseline Road the creek is accessible to paddlecraft.

Figure 2-46: Woods Creek View



*Source: Niagara Region Park Interpretive Programs Office*

### BURNT SHIP CREEK

The mouth of Burnt Ship Creek is located at the northeastern tip of Grand Island. This creek extends through Buckhorn Island State Park, although water control structures were added during the 1990's to increase the water elevation adjacent to the surrounding marshes. The creek is not currently navigable for paddlecraft, although a plan has been developed by the NYS OPRHP to improve habitat and water circulation within the creek corridor.

Figure 2-47: Burnt Ship Creek



*Source: NYS Parks*

### **GUN CREEK**

The mouth of Gun Creek is located just south of Kirkwood Drive, in the Edgewater area on the east side of Grand Island. Gun Creek extends inland, flowing through the Town- owned Scenic Woods preserve and branching out into its headwaters in the vicinity of Stony Point and Whitehaven Roads. The lower reach of this tributary is navigable for recreational small craft.

### **TURTLE CREEK**

The mouth of Turtle Creek is located on the east side of Grand Island, between the termini of North Colony and South Colony Roads, just north of Fix Road. This creek flows east from headwaters that are located inland, and west of Baseline Road and south of Fareway Lane.

### **LITTLE SIX MILE CREEK**

The mouth of Little Six Mile Creek is located on the western shoreline of Grand Island. Most of its lower reach has been channelized and culverted in the vicinity of the former West River Parkway (now a multiuse bicycle and pedestrian trail). Upstream of the culverted reach, the creek extends inland to its headwaters between Whitehaven and Staley Roads. South of Whitehaven Road the creek watershed is largely encompassed by the Marjorie Gallogly Nature Preserve, which is owned by the Western New York Land Conservancy.

### **BIG SIX MILE CREEK**

The lower reach of this creek, north of Whitehaven Road, has been dredged and widened to accommodate a small craft marina that is owned and managed by the NYS Office of Parks. The culvert at Whitehaven Road is a barrier to migratory fish species that would otherwise ascend into the rest of the watershed, the majority of which is old growth forestland. Above Whitehaven Road the creek flows through Nike Base Park, which is owned by the Town of Grand Island, and a portion of the Marjorie Gallogly Nature Preserve. This creek extends inland in a southeasterly direction to headwaters located south of Love Road.

### **STREAMS WATER QUALITY**

Grand Island is a part of the Niagara River Watershed. It is a segment of the Niagara River Main Stem sub-watershed. The Niagara River is the receiving waterbody for the Niagara River watershed, which drains the northern portion of the Niagara River/Lake Erie Basin.

Pursuant to Article 15 of the Environmental Conservation Law, New York State Department of Environmental Conservation (NYS DEC) created the Protection of Waters Program to prevent undesirable activities on water bodies by establishing and enforcing regulations that are compatible with the preservation, protection and enhancement of the present and potential

values of the water resources; protect the public health and welfare; and are consistent with the reasonable economic and social development of the State. The discharge of any and all pollutants from municipal, industrial and commercial uses into the Niagara River and its contributing major creeks and creek tributaries shall conform to Article 15, as well as all other State and Federal water quality standards and must be in full compliance with all applicable regulations that govern such discharges.

In accordance with Title 6 of the New York Code of Rules and Regulations (NYCRR), Part 701- Classifications - Waters and Groundwaters, the NYS DEC assigns water quality classifications to surface waters in New York State. These classifications identify existing or expected best usage for each waterway or waterway segment in the State. Water quality classification categories that apply to the waterbodies within the WRA are noted below and in Table 2-2.

Table 2-2: Water Quality Classifications

Waterbody Segment	Index No.	Classification
Niagara River	Ont 158 (portion 2) Lake Erie- Niagara River	A-Special
Chippewa (West) Channel	Ont 158 (portion 3) Lake Erie- Niagara River	A-Special
Grand Island (all tributaries to the Niagara River)	Ont 158 G.I. – 1-6 Lake Erie- Niagara River	B
<i>Source: Title 6 of the New York Code of Rules and Regulations, Part 701</i>		

**Classification A-Special (A-S)** - The best usages of Class A-S waters are a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification A** - The best usages of Class A waters are a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification B** - The best usages of Class B waters are primary and secondary contact recreation and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification C** - The best usage of Class C waters is fishing. These waters shall be suitable for fish, shellfish and wildlife propagation and survival. These waters may be suitable for primary and secondary contact recreation, although other factors may limit the use for such purposes.



In certain locations, surface waters with classifications A, B, and C may also have a standard of (T) or (TS) attached, which indicates the presence of trout or trout spawning. In such cases, this designation may afford additional protection for these waters. None of the surface waters in the Grand Island WRA carry this distinction.

The water quality classifications assigned to waterbodies do not necessarily (or accurately) reflect all water quality issues and conditions. The Federal Clean Water Act requires states to periodically assess and report on the quality of waters in their jurisdiction. Therefore, the NYS DEC has developed a State-wide inventory of specific waterbodies that is based on monitoring and information drawn from other programs and sources. This inventory characterizes general water quality, the degree to which water uses are supported, and progress made toward the identification of quality problems and improvements. The NYS DEC Division of Water periodically publishes a list of the surface waters that cannot be fully used as a resource or have problems that can damage their environmental integrity.

The “Waterbody Inventory/Priority Waterbodies List” is used as a base resource for the NYS DEC Division of Water program management. Separate Waterbody Inventory/Priority Waterbodies List Reports are prepared and maintained for each of the major drainage basins in the State. The list includes an assessment of water quality for waterbodies under six categories, which include:

Impaired Segments – These are waterbodies with well documented water quality problems that result in precluded or impaired uses. This category includes “High and Medium Resolvability” segments where the Division of Water considers the expenditure of additional resources to improve water quality to be worthwhile given public interest and/or the expectation that a measurable improvement can be achieved; and “Low Resolvability” segments with persistent/intractable problems on which the Division is not likely to spend any significant resources (e.g., segments affected by atmospheric deposition, etc.).

Waters with Minor Impacts – These are waterbody segments where less severe water quality impacts are apparent but uses are still considered fully supported. These waters correspond with waters that are listed as having “stressed” uses.

Threatened Waterbody Segments – These are waterbody segments for which uses are not restricted and no water quality problems exist, but where specific land use or other changes in the surrounding watershed are known or strongly suspected of threatening water quality. Also included in this category are waterbodies where the support of a specific and/or distinctive use makes the waterbody susceptible to water quality threats.

Waterbodies with Impacts Needing Verification – These are segments that are thought to have water quality problems or impacts, but for which there is insufficient or indefinite documentation. These segments require additional monitoring to determine whether uses should be restricted.

Waters with No Known Impacts – These are waterbody segments where monitoring data and information indicate no use restrictions to overall uses, although minor impacts to component indicators, such as biological assessments, may be present.

Unassessed Waterbodies – These are waterbody segments where there is insufficient water quality information available to assess the support of designated uses.

Impaired waterbodies are deemed waters that frequently do not support appropriate uses. Impaired segments, waters with Minor Impacts and Threatened Waterbody segments are the focus of remedial/corrective and resource protection activities by the NYS DEC.

Table 2-3: Water Quality Impairments

Water Body	Category	Impaired Uses/ Conditions	Severity	Type of Pollutant	Causes/ Sources
<b>Niagara River Upper, Main Stem (Ont 158 - portion 2)</b>  <b>24.8 miles</b>	Impaired Segment	FISH CONSUMPTION	Impaired (known)	<u>Known:</u> PRIORITY ORGANICS - PCBs	<u>Known:</u> CONTAMINATED/ TOXIC SEDIMENTS; HABITAT MODIFICATION
		HABITAT/ HYDROLOGY	Impaired (suspected)	<u>Suspected:</u> PRIORITY ORGANICS - PAHs	<u>Suspected:</u> LANDFILL/LAND DISPOSAL;
		Water Supply	Threatened (possible)		Combined and Sanitary Sewer Overflows and Urban/ Stormwater Runoff
		Aquatic Life	Stressed (suspected)	PESTICIDES - Organic Chlor./HCB Water Level/Flow, Restricted Passage Possible: Nonpriority Organics (PAHs)	

Water Body	Category	Impaired Uses/ Conditions	Severity	Type of Pollutant	Causes/ Sources
<b>Chippewa (West) Channel Lower, Main Stem (Ont 158-portion 3)</b>  <b>13.8 miles</b>	Impaired Segment	FISH CONSUMPTION  Water Supply	Impaired (known)  Threatened (possible)	<u>Known</u> PRIORITY ORGANICS -PCBs  <u>Possible:</u> Other Pollutants	<u>Known:</u> CONTAMINATED/ TOXIC SEDIMENTS  <u>Suspected:</u> LANDFILL/ LAND DISPOSAL  <u>Possible:</u> Other Sources
<b>Grand Island Tributaries (all tributaries to the Niagara River (Ont 158 G.I. 1 thru 6))</b>  <b>53.7 miles</b>	Need Verification	Aquatic Life  Habitat/ Hydrology	Stressed (possible)  Threatened (suspected)	<u>Suspected:</u> SILT/SEDIMENT, Nutrients	<u>Suspected</u> HYDRO MODIFICATION, Urban Stormwater Runoff
Note: Capital letters indicate major pollutants/sources					
Source: NYS DEC Lake Ontario Basin and Niagara River/Lake Erie Basin Priority Waterbodies Listings, August 2007, and September 2010.					

Table 2-3: Water Quality Impairments outlines the use impairments, types of pollutants and sources for each listed waterbody located within the Grand Island WRA, which is part of the Niagara River/Lake Erie Basin Waterbody Inventory area for the Priority Waterbodies List. This inventory evaluates conditions in the Niagara River (the eastern and western channels), but water quality conditions in the major tributary creeks on Grand Island have not been assessed. Water quality in the creeks (including Woods Creek, Burnt Ship Creek, Little Six Mile Creek, Big Six Mile Creek, Spicer Creek, and Gun Creek) is a significant local concern as the fishery

resources and aquatic life are thought to be threatened by elevated water temperatures, silt/sediment and other non-point source inputs related to suburban/urban development on Grand Island. Most of the creeks are notable locations for fish spawning, including northern pike. These tributaries are classified as Class B waters.

The creeks on Grand Island need to be assessed to determine if water quality is impaired and potential remedies are available to address identified or suspected problems. A biological (macroinvertebrate) assessment of the tributary creeks was attempted in 2000, but stream flow, water depth and substrate were deemed unsuitable for this type of sampling. Conditions since then are unlikely to have improved. However, water quality and habitat assessment are a priority.

Habitat/hydrological uses in the upper main stem of the Niagara River are impaired due to toxic contaminants that restrict fish consumption and degrade benthic habitat (sediments). Other habitat modifications include shoreline development, bulkheading and dredging. Aquatic life is expected to experience impacts as well. Current information does not indicate any impacts to water supply, but the use of local surface water resources as a water supply and the activities in the watershed suggest that additional protection efforts may be needed.

Fish consumption in the upper Niagara River is impaired due to a NYS Department of Health advisory that recommends eating no more than one meal per month of carp, based on elevated levels of polychlorinated biphenyl (PCB). The source of this contamination is the river bottom sediments that have been polluted by a century of industrial and municipal waste discharges.

Freshwater acidification occurs when acidic inputs enter a body of fresh water through the weathering of rocks, invasion of acidifying gas (e.g., carbon dioxide), or by the reduction of acid anions, like sulfate and nitrate within the lake.<sup>33</sup> Freshwater acidification is primarily caused by sulfur oxides (SO<sub>x</sub>) and nitrogen oxides (NO<sub>x</sub>) entering the water from atmospheric depositions and soil leaching. Runoff that contains these compounds may be accompanied by acidifying hydrogen ions and inorganic aluminum, which can be toxic to marine organisms. Acid rain is also a contributor to freshwater acidification. It is created when SO<sub>x</sub> and NO<sub>x</sub> react with water, oxygen, and other oxidants within the clouds.<sup>34</sup>

Section 303(d) of the Federal Clean Water Act also requires states to identify Impaired Waters wherein specific designated or appropriate uses are not supported requiring the development of a Total Maximum Daily Load (TMDL) or other restoration strategy to reduce the input of the specific pollutant(s) that restrict waterbody uses and restore and protect such uses. The 2010

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<sup>33</sup> Psenner, Roland (March 1994). "Environmental impacts on freshwaters: acidification as a global problem". *Science of the Total Environment*. 143

<sup>34</sup> Irwin, J.G.; Williams, M.L. (1988). "Acid rain: Chemistry and transport". *Environmental Pollution*. 50 (1–2): 29–59



Section 303(d) List of Impaired Waters includes the upper Niagara River as surface waters that require some level of attention to further identify and confirm water quality impairments and strategies to achieve water quality standards. Additional monitoring and verification of Polycyclic Aromatic Hydrocarbons (PAH) and pesticides is necessary to develop a Total Maximum Daily Load (TMDL) or other appropriate strategy to address fish consumption advisories related to the known presence of contaminated sediments.

## 2.13 SOILS AND TOPOGRAPHY

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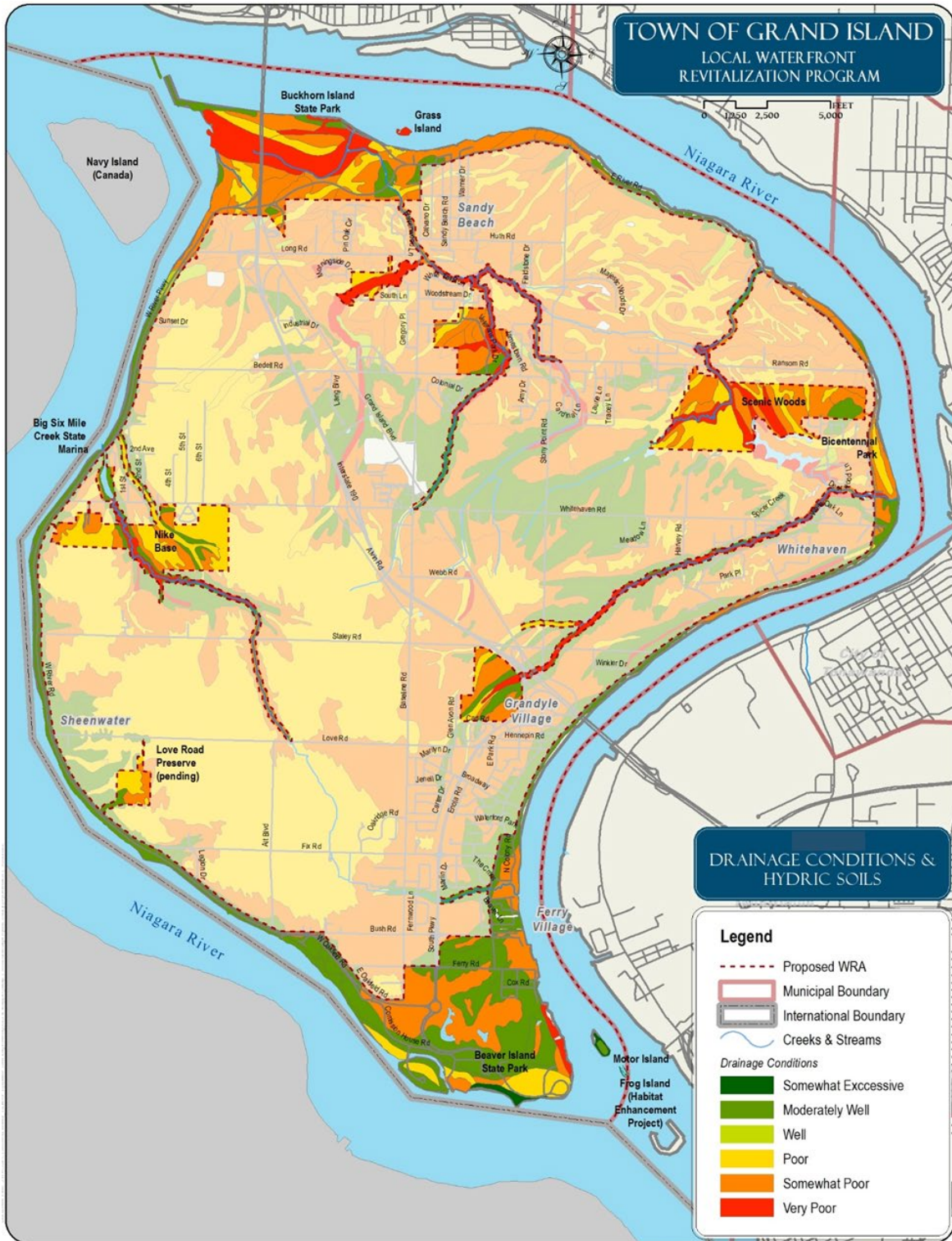
Soils within the WRA generally consist of various classes of silty loam, predominantly in the Odessa-Schoharie-Rhinebeck complex, characterized as nearly level and gently sloping, deep, somewhat poorly drained to well drained, medium textured and moderately fine textured soils on lowland plains.<sup>35</sup> Soils in this complex exhibit a low rate of water movement with a high seasonal water table, especially in the Odessa and Schoharie classes; the Rhinebeck portion of this complex is more moderately well drained by comparison. Parts of this complex are susceptible to flooding with seasonal wetness, slow or very slow permeability, and clayey textures (sticky when wet) being the main limitations of these soils. Soil drainage conditions are highlighted in Map 2.7, showing that aside from the narrow portions of the shoreline and a significant portion of Beaver Island State Park, most of the WRA consists of poor to very poor draining soils. Hydric soils, which are formed under conditions of high-water saturation, flooding, or ponding for a long enough duration to develop anaerobic conditions, are also found throughout the WRA.

Hydric soils are typically associated with wetlands and support the growth and regeneration of hydrophytic vegetation that provides the essential food, cover, and habitat for fish and wildlife species. This vegetation is also important for stabilizing shorelines and providing natural control of flood waters. For the most part, the soils within the WRA are not classified as prime agricultural soils except for those in Beaver Island State Park to the south. Historically, the footprint of Beaver Island State Park was encompassed by Allenton Farms owned and operated by Lewis Allen. The farm was exceptionally productive and diverse although the historic accounts don't make any references as to the unique nature of the farm's soils.

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<sup>35</sup> SSURGO soils, Erie County NY - <https://cugir.library.cornell.edu/catalog/cugir-002723>

Map 2.7 - Soils and Drainage Conditions



The topography within the WRA is generally flat with gentle slopes leading to the Niagara River and along upland banks of stream corridors. Steeper slopes are typically found at select

locations along the Niagara River because of glacial scouring that occurred at the end of the Wisconsin Ice Age. It was during the time the glaciers were receding that the upper Niagara River surrounding Grand Island was formed. Steeper slopes are generally found along the eastern edge of the island, between Riverwoods Drive and Whitehaven Road. More moderate sloping shorelines can be found to the south of the South Grand Island Bridge terminating around the vicinity of East River Road and North Colony Road. There are similar areas on the west side of Grand Island that border the Chippewa Channel, which is geologically older, predating the arrival of the glaciers during the most recent Wisconsin Ice Age.

## 2.14 WETLANDS AND HABITATS

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The NYS DEC has jurisdiction over wetlands that are 12.4 acres in size or larger under Article 24, the Freshwater Wetlands Act and has uniquely identified and mapped each of those wetlands, as illustrated on Map 2.8. Wetlands perform a variety of functions that benefit the public. They filter suspended and dissolved solids from surface runoff, prevent shoreline erosion, store, and slowly release floodwaters, provide critical habitat for migratory and resident fish and wildlife species, sequester substantial amounts of carbon, provide educational opportunities, and support recreational and economic activities like fishing, hunting and ecotourism. They also add to the quality of life providing aesthetic opportunities for passive activities.

Eight mapped freshwater wetlands exist within the Town's WRA. Two wetlands (TW-19, TW-20) are located within Buckhorn Island State Park; three others are within the boundary of Beaver Island State Park (BW-1, BW-2, BW-5). Other wetlands are located north of Spicer Creek, on the east side of the island, part of which is located within Bicentennial Park (TW-12), and adjacent to Buckhorn Island State Park, where a large wetland is located near the mouth of Woods Creek (TW-20), while another emergent wetland can be found north of Sandy Beach, along the Tonawanda Channel of the Niagara River (TW-18).

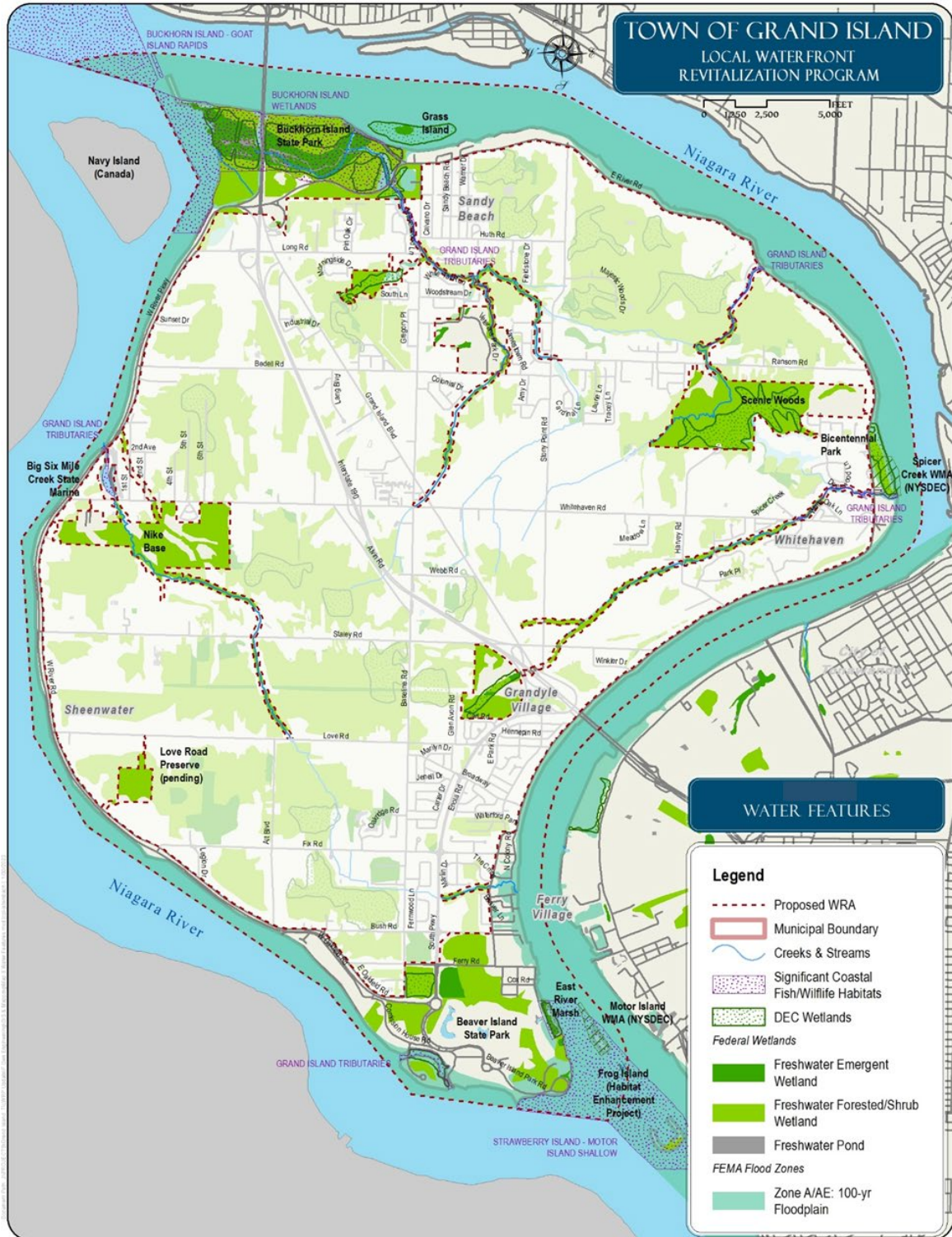
Wetlands are dynamic systems and precise boundary locations vary over time, which is one of the fundamental reasons that a regulated 100-foot buffer zone is established around the perimeter of each of the mapped wetlands.

The NYS DEC maintains files related to the characteristics of each of the state wetlands and periodically revises boundaries based upon field delineations. The NYS DEC also retains the right under Article 24 to add mapped wetlands after allowing opportunity for public review and comment. Prior to commencing work near or adjacent to any mapped wetland the NYS DEC should be consulted to determine the extent of regulatory jurisdiction and potential permitting



requirements. Wetlands within or adjacent to navigable waters may also require approval under Article 15.

Map 2.8 – Water Features





Wetlands are also regulated by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act. The Corps does not map wetlands, establish jurisdictional buffer zones, or define its regulatory jurisdiction in terms of acreage. Project related wetland delineations must be prepared by the permit applicant or a qualified consultant and submitted to the Corps for review and approval. All wetlands regardless of size are subject to permitting by the Corps of Engineers if they meet the definition of a Water of the United States and the proposed activity involves the discharge of dredged or fill material. On Grand Island all wetlands are potentially subject to regulation under this provision of the Clean Water Act.

Also, any activity or structure occurring within or adjacent to a navigable water will also require authorization under Section 10 of the Rivers and Harbors Act of 1899. The overlapping regulatory jurisdictions of the USACE and the NYS DEC can be confusing at times. However, both agencies encourage permit applicants to schedule time saving agency pre-application meetings to discuss jurisdiction and project review requirements.

### **SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS**

Shoreline development, bulkheading and other shoreline protection structures, dredging and other stream modifications have negatively impacted fish and wildlife habitat along the Niagara River. There are five New York State designated significant coastal fish and wildlife habitats located within the Grand Island WRA. The habitat protection policy included in Section III applies to actions proposed in the WRA, located within or outside the designated area and subject to consistency review.

#### **Buckhorn Island – Goat Island Rapids**

The Buckhorn Island-Goat Island habitat of approximately 850-acre is located between Grand Island and Goat Island. Appendix C of the LWRP includes the Coastal Fish & Wildlife Habitat Rating Form, and the formal description and map of the significant habitat. Only a portion of this habitat is situated within the Grand Island WRA. This habitat developed in a wide, fast moving and relatively shallow section of the upper Niagara River, with a sparsely vegetated bedrock substrate, and contains some extensive areas of undisturbed natural habitat conditions. Relatively little of the area has been disturbed by excavation or filling. This habitat area is part of one of the most important waterfowl overwintering areas (November through March) in the northeastern United States, especially diving ducks. Mid-winter surveys have identified large concentrations of common and red-breasted mergansers, goldeneye, canvasbacks and scaup, with lesser numbers of black duck, mallard, bufflehead, and long tailed ducks. The entire area serves as a resting and feeding zone for these waterfowl species. Bird species nesting in the area are highly vulnerable to disturbance from April to July. Significant

human activity (e.g. fishing, boat landing, or maintenance) could eliminate a nesting colony and must be minimized during this period.

Figure 2-48: View of Buckhorn Island SCFWH



*Images Source: NYS Parks*

In addition to having significant bird concentrations, the Buckhorn Island-Goat Island Rapids habitat is believed to be a very production area for native fish populations that inhabit the upper Niagara River. However, relatively little is known about fishery resources in this area because of the extreme river conditions that preclude most research activities. The rocky shoals and swift currents provide highly favorable habitat conditions for spawning by smallmouth bass, which are abundant throughout the area. Important species of fish and wildlife would be adversely affected by activities that pollute the water.

### **Buckhorn Island Tern Colony**

The Buckhorn Island Tern Colony habitat is located at the furthest northwest north tip of Grand Island, offshore from Buckhorn Island State Park. The largest part of this area consists of two man-made breakwaters that were placed to define the small craft navigation channel around this part of Grand Island and to divert river water into the downstream Grass Island pool adjacent to the New York Power Authority intake. They are rock rubble mounds about 1,000 feet in length that have flat gravel surfaces surround by perimeter strip of vegetation consisting of native and invasive shrub and tree species. Each structure is about 35 feet in width. In addition to the breakwaters there are two transmission tower footings consisting of artificial islands framed by interlocking steel sheet piling filled with rock rubble and gravel that is kept free of vegetation. Only one of the breakwaters is accessible to the public via a hiking trail in Buckhorn State Park. The remaining structures have no public access.

The Buckhorn Island Tern Colony structures as a group provide valuable habitat for various avian species. For decades these structures have served as a major nesting site for the common terns, ring-billed gulls, and herring gulls. It is one of only several active gull and tern colonies in western New York and at times supports the largest flock of such birds in the region. A critical beneficial feature of these structures is their isolation from mammalian predators and lack of significant human intrusion.

Figure 2-49: View of Terns



Image Source: NYS Parks

### Buckhorn Island Wetlands Area

The Buckhorn Island Wetlands Area covers about 500-acres including habitat that is comprised primarily of emergent marshes and deciduous forested wetlands associated with Burnt Ship Creek and Woods Creek. Burnt Ship Creek is a very shallow backwater channel of the Niagara River, bordered by a dense stand of cattail. The Increased growth of marsh vegetation in the creek has constricted the available acreage of open water areas needed to attract waterfowl and shorebirds.

During the 1990s water control structures were added to control the growth of emergent aquatic plants to reduce the dominating cattail cover. In addition, selective dredging was initiated to create open water pools within this ecological complex. However, encroachment of open water continues and there are plans to remove a large portion of the choked emergent aquatic plant life to improve the flow characteristics of Burnt Ship Creek and Woods Creek, which are the largest tributary streams on Grand Island.

Burnt Ship Creek has a broad channel with a variable but relatively shallow depth and little flow due to the constraints imposed by the water control structures. Woods Creek on the other hand has a persistent flow that is significantly reduced in the upper reaches during the dry summer months.

The creek is bordered by a broad area of sedges, rushes, and grasses, and appears to have been dredged or channelized in the past. This area also includes the relatively large shoal area between Burnt Ship Creek and Navy Island in the Province of Ontario, Canada. It supports extensive beds of submergent aquatic plants some species of which are adapted to growth in

fast moving water. Historically, this habitat was impaired by the construction of Interstate Route 190 and the installation of a high voltage transmission line. Since that time there has been little intrusion. The public can access this area but due to the dense vegetation access is restricted to existing paved and unimproved trails.

Figure 2-50: Wild Ducks and Gulls



*Images Source: NYS Parks*

The Buckhorn Island Wetlands habitat is one of the largest coastal wetland complexes in western New York. It is the largest undeveloped marsh within the Niagara River corridor that includes an extensive riverine littoral zone. This area provides valuable habitat for a variety of fish and wildlife species and serves as a feeding, resting, and nesting area for ducks, herons, coots, moorhens, and rails. Probable or confirmed breeding bird species include the pied-billed grebe, green-backed heron, mallard, black duck, wood duck, American widgeon, belted kingfisher, marsh wren, red-winged blackbird, and swamp sparrow. During the spring and fall migration (March-April and October-November), considerable numbers of waterfowl frequent the area. Other wildlife species found in this area include the muskrat, mink, raccoon, and white-tailed deer. The habitat also supports a diverse population of neotropical and resident bird species making the area quite attractive for birdwatching, nature study and ecotourism. Although fishing is permitted within this area all hunting is prohibited by the NYS Office of Parks, Recreation and Historic Preservation.

Woods Creek, and to a lesser extent Burnt Ship Creek, contain extensive and valuable littoral habitat that attracts a variety of native warm water fish species including

northern pike, yellow perch, black crappie, bullhead, rock bass, white sucker, and carp. The Woods Creek corridor also serves as a nursery for young of the year muskellunge, a critically important sport fishing species. Both areas are also one of the most productive spawning areas for smallmouth bass.

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



chemical pollutants would result in adverse impacts on the fish and wildlife resources of the area.

Elimination of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area. However, habitat management activities, including water level management, may be designed to maintain or enhance populations of certain species of fish or wildlife. Barriers to fish migration in Woods Creek, whether physical or chemical, could have a significant effect on the fish populations of the area, as well as in the Niagara River. Any disturbance of littoral areas between February and July, when northern pike and muskellunge are in the area, would be especially detrimental. Development of motorboat access to the Niagara River from Buckhorn Island State Park would significantly increase human disturbance of the habitat, reducing its potential value to various fish and wildlife species. Existing woodlands bordering the Buckhorn Island Wetlands should be maintained for their value as roosts, breeding habitats, perch sites, and buffer zones for a variety of wildlife species.

### Grand Island Tributaries

The habitat of the Grand Island Tributaries includes portions of Woods Creek extending to a point two miles above Buckhorn Island State Park, Gun Creek (from the mouth upstream approximately 0.75 mile), Spicer Creek (from the mouth upstream approximately 0.75 mile), and Big Six Mile Creek (from the mouth upstream (within the existing marina about 0.5 mile above the mouth. All these creeks are slow, meandering and less than six feet deep except Big Six Mile Creek which is dredged up to eight feet deep between Whitehaven Road and the Niagara River. Most of the creek bottoms are heavily silted and debris-strewn bottoms except for Big Six Mile Creek which is kept clear of snags to insure safe navigation. Some reaches of the Grand Island Tributaries can be intermittent during periods of low flow or extended drought conditions. Flow rates range from nearly undetectable to fast flowing during periods of heavy runoff. The upper reaches of all these tributaries drain relatively flat agricultural and residential land. A steep drop of approximately three to six feet occurs in some of the creeks. Within this habitat area there is a ten-acre strand wetland that follows the Niagara River shoreline around the perimeter of Beaver Island. About a decade ago an enhancement project was undertaken along the inland side of Beaver Island that involved the removal of grass covered upland fill substantially enlarging coastal wetland acreage and improving aquatic habitat diversity.

The extent of development along each of these creeks varies. The area between Whitehaven Road and the mouth of Big Six Mile Creek has been modified to accommodate a marina of the same name that is owned and operated by the New York State Office of Parks, Recreation and Historic Preservation. However, the undeveloped riverbank opposite the marina continues to

serve as fish spawning and nursery habitat. Above the marina at Whitehaven Road the creek culvert elevation is often too high to accommodate ascending fish species even during the spring spawning season. The lower reach of Woods Creek, which flows into a large marshland at Buckhorn State Park, is largely undeveloped; the lower portion of Gun Creek was channelized during the middle of the last century. Most of the creek bank has been bulkheaded to accommodate docks for recreational powerboats. Spicer Creek still has a well-preserved stretch below East River Road, although upstream of this location the creek has been substantially modified following the development of a large golf course.

The Grand Island Tributaries are typical of many Niagara County stream ecosystems but are the least developed of those that drain into the upper Niagara River. Despite some alterations, these creeks and wetlands still contain some valuable fish and wildlife resources that are unusual in this section of the New York coastal area. The five zones that comprise this habitat are an integral part of the upper Niagara River ecosystem, providing important spawning and nursery areas for warm water fish species, including northern pike, muskellunge, brown bullhead, lake emerald shiner, yellow perch, black crappie, bullhead, rock bass, white sucker and carp. The floodplains and wetlands associated with these creeks also provide nesting sites for wading birds as well as resident and migratory dabbling and diving duck species. They also serve as habitat for various small mammals including muskrat, beaver, raccoon, coyote, mink, rabbit, and squirrel.

### Strawberry – Motor Island Shallows

The Strawberry-Motor Island Shallows habitat located in the upper Niagara River is found just offshore and to the east of the southern tip of Grand Island. Occupying over 400 acres, this area is a conglomeration of different habitat types within a broad shoal with depths ranging from a few inches to as much as eight feet deep. The flora within this habitat zone encompasses all the plant communities typically found in coastal lake environments where there is hydrarch succession. From the open waters of the upper Niagara River which is directly impacted by the hydrologic functions in Lake Erie to the upland habitats of Grand Island there are beds of submerged aquatic plants, floating aquatic flora, soft emergent and robust emergent aquatic plants, water tolerant shrubs and floodplain trees. The islands have suffered degradation over the past century brought about by intrusive land use practices and natural forces particularly the exploitation of sand and gravel resources, storm driven shore modification and erosion, relentless wave action caused by recreational boat wakes and water level fluctuation. In the past, much of the damage to this habitat has been attributed to ice scouring. Ironically, ice formation in these shallow waters provides seasonal protection from winter storm driven waves. Once the ice sheets form larger floes of ice are not able to enter these areas.

The submerged beds, wetlands and islands together form one of the largest areas of riverine littoral zone in the Niagara River. Areas such as this are rare in the Great Lakes Plain ecological region and are extremely valuable. This collection of habitats is one of the most important fish spawning and nursery areas of the upper Niagara River. It is one of two principal spawning grounds for muskellunge in the river. The area is also one of the most productive spawning and nursery areas for smallmouth bass and yellow perch, as well as other sport fishing species. The prevalence of large concentrations of fish species throughout the year attracts shoreline anglers, fishing boats and even ice fishermen during the winter months. In fact, fishing in these waters and those around Grand Island has been the impetus for a whole cadre of local and regional fishing tournaments that are growing in popularity.

The Strawberry-Motor Island Shallows of the Niagara River is one of just a few major waterfowl overwintering areas found in New York State. During the winter months, from November through March, tens of thousands of diving ducks like the canvasback, goldeneye, scaup and merganser congregate in the shallow but fast-moving waters between Motor Island, Strawberry Island and Grand Island that remain ice free throughout the winter. The presence of multiple species of waterfowl also attracts local and out of state duck hunters. The New York State Office of Parks, Recreation and Historic Preservation manages such hunting within Beaver Island State Park and the two State-owned Wildlife Management Areas through a lottery system. Hunters selected during the drawing are assigned to specific blinds. There are two handicapped accessible duck blinds, as well. One is in Beaver Island State Park and the other at the Spicer Creek Wildlife Management Area.

### **IMPORTANT BIRD HABITAT**

Grand Island is unique from other communities in that it has retained much of its greenspace. The island is dotted with wetlands, open meadows, shrub thickets as well as floodplain and hardwood forests. Habitat juxtaposition, especially when interlaced with areas of current or former agricultural land use, adds substantially to their ecological value.

The Niagara River corridor and specifically those segments of the river around Grand Island have the diverse floral, escape cover and food sources needed to sustain resident and migratory species of waterfowl, wading birds, and perching birds. The floral habitat along the river shoreline supports a diversity of neotropical songbirds during spring and fall migrations. The larger marshes, such as those found at Buckhorn Island State Park and Beaver Island State Park, support nesting species of least bittern, northern harrier, wood duck, belted kingfisher, sedge wren, great blue heron, common egret, black crowned night heron, little green heron, and the spotted sandpiper, among others. Both parks are popular destinations for bird

watchers and nature enthusiasts. The quality of the environmental setting of both parks has led to an increased interest in ecotourism.

The Niagara River corridor is a haven for a variety of gulls migrating to and from North and South America during the spring and fall migration periods. Bird observers have identified 19 individual gull species within the Niagara River corridor, ranging from the more common herring gull, ring-billed gull and, greater black backed gull to the less common California gull, Iceland gull, Franklin's gull, Sabine's gull, and the Ross's gull. During the winter and early spring for example, the river hosts 50,000 to 75,000 Bonaparte's Gulls, about 10 percent of the world's population. Less common or rarer species observed on the river include, the California gull, Iceland gull, Franklin's gull, Sabine's gull, slaty-backed gull, and the Ross's gull.

The Niagara River is a major overwintering area for numerous species of ducks, cormorants, loons, geese, and swans. Species such as the American widgeon, redhead, canvasback, common golden eye, white winged scoter, arctic duck, common merganser, red breasted merganser, bufflehead, and long tail ducks are frequent visitors to the river.

Figure 2-51: Black-Necked Stilt

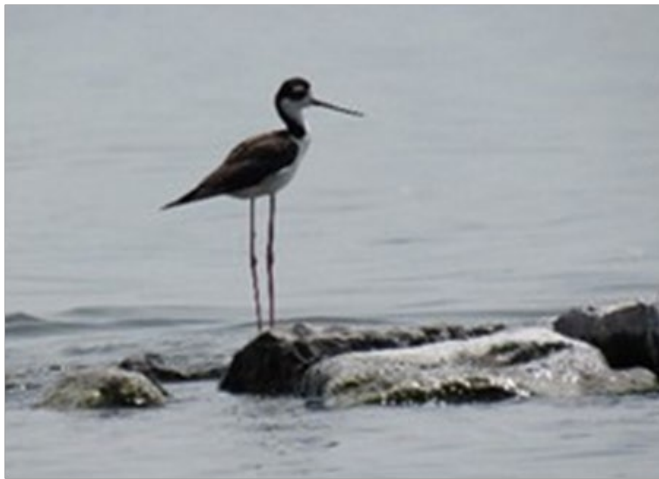


Image Source: NYS Parks

The enhancement of existing river habitat and the addition of new wetland and shallow water habitat have added substantial ecological value to the Niagara River around Grand Island. As the quality of these habitats increases, their value as resting places for migrating or transient avian species also rises. On June 19, 2019, a Black Necked Stilt never seen before in Erie County New York was observed on the new island immediately upstream of the Motor Island Wildlife Management

Area. Changes in the home ranges of southern bird species together with ongoing climate change and the increased frequency of violent storm fronts have the potential to bring new migrants into the Niagara River. These species end up residing here because of the availability of quality resting and feeding habitat.

## INVASIVE SPECIES

An invasive species is a plant or animal that is not indigenous or native to a particular area or ecosystem that causes or is likely to cause economic harm, environmental harm, or harm to human health. The negative impacts of such species have significantly altered the Great Lakes



ecosystem. These long-term changes have greatly affected the health and well-being of people who rely on this ecosystem for food, water, and recreation. Invasive species have been identified as second only to habitat destruction as a cause of the decline of global biodiversity. They contribute to habitat degradation and loss; the disruption of natural ecological processes; the reduction of native fish populations, wildlife, and tree species; as well as the degradation of water resource recreation and the subsequent loss of income. Common invasive species found in the Niagara River and its tributary watersheds include but are not limited to:

Zebra Mussel ( <i>Dreissena polymorpha</i> )	Quagga Mussels ( <i>Dreissena bugensis</i> )
Fishhook Waterflea ( <i>Cercopagis pengoi</i> )	Sea Lamprey ( <i>Petromyzon marinus</i> )
Alewife ( <i>Alosa pseudoharengus</i> )	Common carp ( <i>Cyprinus carpio</i> )
Round goby ( <i>Neogobius melanostomus</i> )	Spiny water flea ( <i>Bythotrephes cederstroemi</i> )
Water chestnut ( <i>Trapa natans</i> )	Purple loosestrife ( <i>Lythrum salicaria</i> )
Eurasian watermilfoil ( <i>Myriophyllum spicatum</i> L.)	European buckthorn ( <i>Rhamnus cathartica</i> )

Aquatic invasive species can displace native species and reduce biological diversity. In the 1980s, zebra mussels entered State waters via the ballast water discharges from foreign commercial vessels plying the waters of the Saint Lawrence Seaway. Quagga mussels were first reported in North America in 1988 and the Erie Canal in 1989. The round goby followed the Zebra and Quagga mussels into Lake Erie. Although the round goby feeds upon both species of mussel, they also feed upon the eggs of native fish species reducing reproductive success and diminishing the populations of the year class. In localized areas, they can rapidly become the most abundant fish species present. Round goby has also been implicated at reservoirs of both avian botulism and viral hemorrhagic septicemia virus. Although some view the zebra mussel-eating goby as a beneficial invader, there is evidence that such value is offset by their ability to bioaccumulate or concentrate contaminants found in the flesh of those mussels and their ravenous appetites for the eggs of sport fish species like the large and small mouth bass.

The movement of invasive species occurs naturally through migration patterns, climatic events, and other environmental factors. Natural movement of species outside of their natural range happens infrequently and occurs over the course of many years. Humans, however, have greatly contributed to the movement of species, primarily through economic and social activities. In recent years, technological advancements, accelerated participation in world trade, and recreational activities have accelerated the pace of intentional and unintentional movement of species. Many species are introduced to new ecosystems, sometimes with disastrous results. According to the Ontario Ministry of Natural Resource's Aquatic Invasive Species Program, pathways for the introduction and spread of invasive species include:

Shipping – large ocean-going vessels (e.g., commercial, naval and cruise ships) that operate in the Great Lakes and St. Lawrence River basin. Organisms are carried and released in ballast water or attach to the hulls of vessels.

Recreational and commercial boating – includes all watercraft, motorized vessels, personal watercraft, sailboats, paddlecraft, and the trailers or carriers used to transport them and their fishing equipment. Organisms can attach themselves to vessels and equipment or can be transported between waterbodies in vegetation entangled on boat motors or via water left behind in hull bilges or fish live wells.

Movement of live bait – the use of live or dead organisms, such as minnows, worms, leeches and insect larvae, to catch fish. Live baitfish, crustaceans and other organisms unintentionally accumulate parasites, plant fragments and other non-target creatures and if released can introduce new invasive species into waters not previously contaminated.

Aquarium and water garden trade – the intentional release or unintentional escape of organisms, such as fish, plants, invertebrates, amphibians, and reptiles, which are used either indoors as aquarium pets or outdoors in water gardens. These organisms can survive and reproduce and since there are few predators their numbers can increase exponentially; plants can spread to new areas carried there by flood events.

Canals and other water diversions – artificial connections are built for transport and for water diversion between or within watersheds providing unnatural pathways for organisms.

Monitoring aquatic ecosystems is critical to preventing, detecting, and reducing the spread and impact of aquatic invasive species that threaten waters in the Niagara River. Educating landowners as to the proper control and eradication of invasive plant species is a critical part of maintaining watershed health. Identifying and removing invasive species is a vital aspect of restoring ecological health. Early detection and response are critical for effective control.

Another important, and often overlooked component, is the proper disposal of invasive plants. If not disposed of properly they will only contribute to the spread of new infestations.

Also, residents may be asked if they would like to volunteer to become local boat stewards that could perform a vital function in protecting Niagara River waters and raise public awareness about aquatic invaders. They could help people learn how to inspect, clean, drain, and treat watercraft and equipment. Stewards could also learn to identify invasive species found in the Niagara River.<sup>36</sup>

To address the risks posed by invasive species, the NYS DEC has developed the Invasive Species Comprehensive Management Plan (final plan issued in November 2018), as directed in Title 17

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<sup>36</sup> [https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/wispfactsheet.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/wispfactsheet.pdf)

of the Environmental Conservation Law Article 9, to encompass all current and future invasive species and ecosystem types found across New York State. The goal of the Invasive Species Comprehensive Management Plan is to minimize the introduction, establishment and proliferation of invasive species thereby limiting potential negative impacts. This plan positions New York State as the lead for management of invasive species and protection of state natural resources for future generations. This plan is framed around eight focus area initiatives:

- ◆ Continue to build partnership and capacity
- ◆ Commit to a centralized framework for sharing invasive species information
- ◆ Set priorities for invasive species management and advanced preparedness
- ◆ Engage and inform the public
- ◆ Advance prevention and early detection
- ◆ Improve the response to invasive species
- ◆ Recover ecosystem resilience
- ◆ Evaluate success

Each initiative includes recommended actions to guide management activities of State agencies and to align the priorities of regional and local natural resource managers to State-level actions. Once established in a new environment, invasive species are often difficult and expensive to eradicate. Although control efforts may be ineffective and costly, they are sometimes necessary to minimize or eliminate the impact of invasive species on the environment. Complete eradication of invasive plants may be desirable; however, this is not always feasible. Controlling existing populations and preventing their spread in the WRA is a more practical and attainable goal. Control methods and timelines for treatment vary for each species. As needed, consultation with the NYS DEC, the Western New York Partnership for Regional Invasive Species Management (PRISM),<sup>37</sup> New York Sea Grant, or the Buffalo Niagara Waterkeeper as well as community volunteers is recommended to help the Town deal with this Issue.

In general, more public education is needed on the state of local and regional surface waters, habitats and invasive species, water quality and stormwater management. Aside from providing information to the public through various advisory boards, and the Town's website, the town board can extend the public outreach effort through coordination with surrounding Towns and Erie County, the NYS DEC, or groups like the Buffalo Niagara Waterkeeper.

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<sup>37</sup> [www.wnyprism.org](http://www.wnyprism.org)

## 2.15 HISTORIC RESOURCES

### SITES AND STRUCTURES

Within the WRA, the only structure that is listed on the National Register of Historic Places is the Spaulding-Sidway Boathouse (98NR01333), located on private property in the southwest portion of the town, off West Oakfield Road. This historic resource, built in the 1870's in a Victorian Stick style, stands on concrete and steel piers located approximately 36 feet from the shoreline, reached by a wooden walkway. The structure is two-stories and contains a single, large boat room on the first floor and a second-floor recreation area with access to the four balconies. Additional steel was added to the structure to stabilize the deteriorating wood. The boathouse was later moved approximately 0.5-mile northwest of its current location on the west branch of the river.

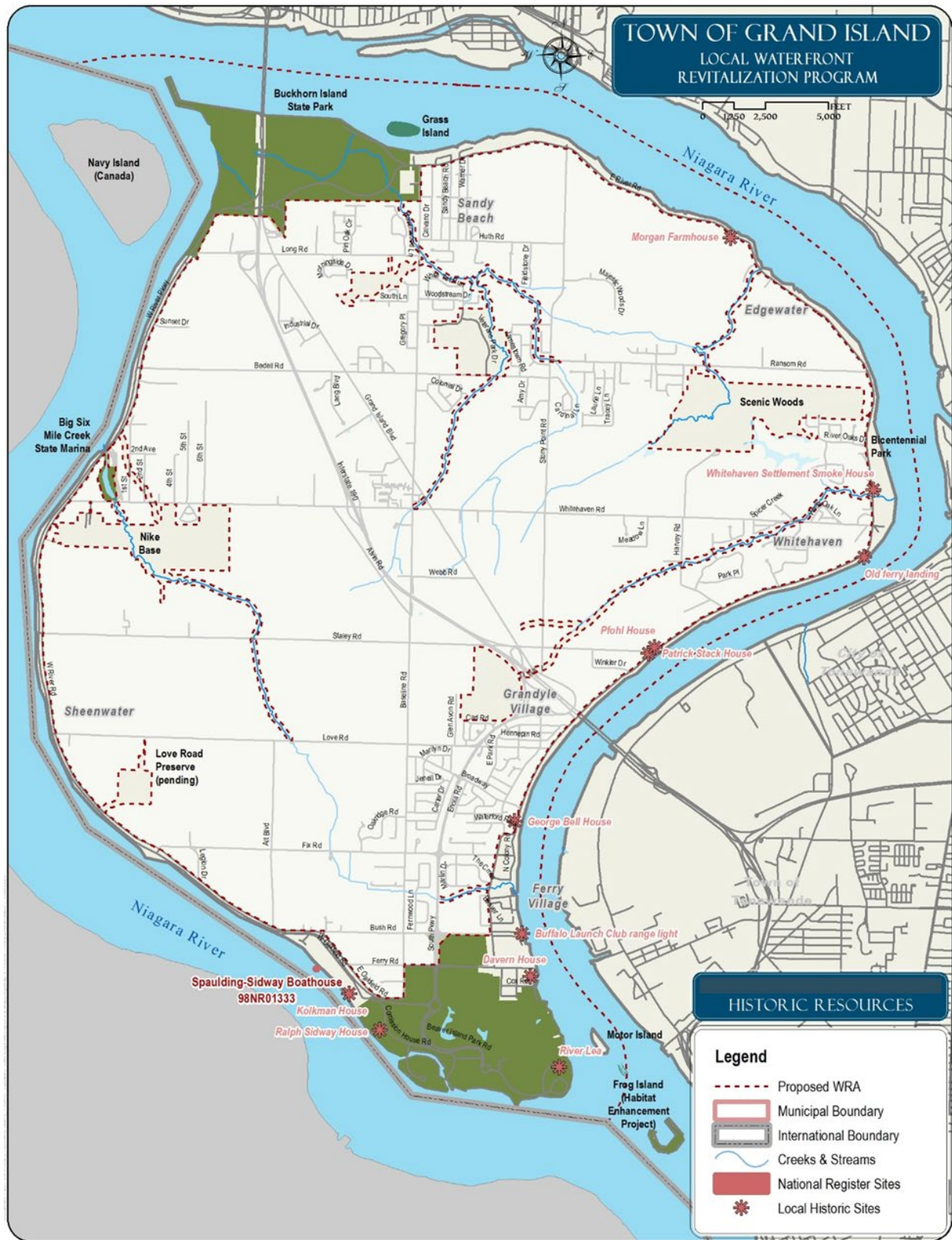
Figure 2-52: Spaulding Sidway Boathouse



Image source: <http://www.isledegrande.com/preservation.htm>

According to available NYS Historic Preservation Office (NYSHPO) records, the former West River Parkway, now the West River Shoreline Trail, is noted as being an eligible resource as it “embodies characteristic features of period parkway design, including restricted access, fully separated, smooth driving surfaces, curbs, scenic overlooks and an essential connection to recreational areas.” This transportation corridor is now permanently preserved following its conversion to a multiuse trail for bicycles and pedestrians.





As labeled on Map 2.9, several other locally recognized but non-listed historic resources exist within the WRA. These resources are potentially eligible for listing in the National Register of Historic Places.

- "River Lea," formerly an estate and home that Lewis Allen built for his son in 1873, which currently houses the Grand Island Historical Society in Beaver Island State Park;
- The old ferry landing at the former Bedell House (in Ferry Village);
- "Tuckers Store" (Ferry Road near Orchard), the last remaining general store in the Town;
- The Morgan Farmhouse (4410 East River Road), constructed around 1860 and a fine example of period residential architecture;
- The Whitehaven Settlement Smoke House north of the Holiday Inn at the site of a major lumber milling area established around 1825;
- The Davern House (358 East River Road);
- The Buffalo Launch Club range light (503 East River Road);
- The George Bell House (1040 East River Road);
- The Patrick Stack House (1918 East River Road);
- The Pfohl House (1952 East River Road);
- The Kolkman Home (2196 West Oakfield);
- The Ralph Sidway House located in Beaver Island State Park;
- Klopp House (Oakfield) (Superintendent's Residence, Beaver Island State Park); and
- Old ferry landing near East River Road south of the Radisson Hotel.

Another historic resource that existed in the Town, though long abandoned and forgotten, is a former promenade that was constructed sometime in the 1930's by the CCC (Civilian Conservation Corps) and CWA (Civil Works administration) in conjunction with the CCC workers camp(s) that were located in the area prior to becoming a State Park. Though much of the physical history of

the CCC camp(s) in the park has been removed and, in some cases, relocated to other parts of the Town, Figure 2-53 identifies the approximate, historical location of the promenade.

Figure 2-53: Location of former promenade on Buckhorn Island



Restoring this resource in some fashion would tie the history of the CCC to the formation of Buckhorn Island State Park and the Grand Island waterfront.

### ARCHEOLOGICALLY SENSITIVE AREAS

According to NYSHPO, several areas of potential sensitive archaeological significance exist within Grand Island's WRA; such areas are generalized and dispersed throughout the waterfront. The identification of the location of specific archaeological sites is prohibited by Historic Preservation Law. NYSHPO should be consulted to assess the sensitivity of any potential projects for impacts on cultural resources.

### SHIPWRECKS

New York's extensive network of waterways has resulted in an extraordinary legacy of submerged archeological sites. In addition to the provisions of the State and National Historic Preservation Acts and the Archeological Resources Protection Act, submerged archeological resources in New York State water are protected under Section 233 of the State Education Law. Section 233 states that it is unlawful to disturb archeological resources (including most shipwrecks and underwater archeological sites) on public lands without first obtaining a permit from the New York State Museum. Wrecks of old ferry boats and small steam powered cargo vessels exist at the foot of Cox Road and Edgewater Avenue at the mouth of Gun Creek.

## 2.16 SCENIC RESOURCES

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There are no designated Scenic Areas of Statewide Significance (SASS) within the Grand Island WRA. The only areas designated by the NYS Secretary of State are found in the Hudson River Valley and on Long Island. The State Parks on the northern and southern tips of the Town as well as the newly created West River Shoreline Trail offer informal scenic resources.

However, the Grand Island WRA has a considerable number of natural resources of scenic qualities, such as State parks, wildlife management areas, and a sizable parkway along the shoreline. The Niagara River Important Bird and Biodiversity Area, which includes the western half of the Grand Island WRA, is an internationally designated conservation area that contributes to the scenic characteristics of the Grand Island WRA. The Buckhorn Island Bird Conservation Area was designated by NYS DEC, pursuant to ECL Title 20,<sup>38</sup> the legislation that established the BCA program modeled after the National Audubon Society's Important Bird Areas (IBA) program. The town is committed to protect and, to the greatest extent feasible, improve the visual quality and visual accessibility of its WRA, recognizing these important

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<sup>38</sup> <https://www.dec.ny.gov/animals/30935.html>

resources and designations during siting and design of new development. Map 2.5 indicates the location of existing overlooks, parklands, and conservation and wildlife management areas that offer magnificent viewsheds and are considered scenic areas of local importance.

## 2.17 FLOODING AND EROSION

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Floodplain mapping for the Town of Grand Island is carried out and maintained by the Federal Emergency Management Agency (FEMA) through a series of Flood Insurance Rate Maps (FIRM), which were used to develop Map 2.8. Eighteen separate panels cover the Town and, due to the extent of the WRA around the Island and several interior creeks, all these panels are within the WRA. The FEMA maps were updated and made effective June 7, 2019, delineating the final flood hazard boundaries within the Town, and providing the basis for the implementation of the regular program phase of the National Flood Insurance Program.

The flood hazard areas exist predominantly along the southern and eastern Niagara River shoreline of Grand Island, from Alt Boulevard to Woods Creek, but also include:

- ♦ Burnt Ship Creek,
- ♦ Woods Creek (Buckhorn Island State Park up to Bedell Road) and it's western tributary (from its confluence with Woods Creek west to Grand Island Boulevard),
- ♦ Gun Creek (Niagara River to just south of Ransom Road in Scenic Woods),
- ♦ Spicer Creek (Niagara River to a point east of the electric transmission corridor),
- ♦ Turtle Creek (Niagara River to a point just west of East River Road),
- ♦ Big Six Mile Creek to Whitehaven Road (including all the existing marina), and
- ♦ Several unnamed tributaries.

For property owners to take advantage of the National Flood Insurance Program (NFIP), the Town Board has adopted federally approved floodplain management regulations to manage land use and development within the designated flood hazard areas (Chapter 155 of the Town Code). Property owners within designated flood hazard areas are eligible to receive federal flood insurance. In addition, federally insured mortgage funds are available to qualified home buyers. The flood zones are established based upon the degree to which an area is susceptible to flood damage. The flood zones that exist in the Town include:

"A" and "AE" Zones – (also called the special flood hazard area) are that area of land that would primarily experience still water flooding, without significant wave activity, during a 100-year storm. In Zone A, no Base Flood Elevations (BFE) or depths are shown, while in Zone AE Base Flood Elevations have been derived and are shown on the maps.



“X500” Zone – areas of moderate flood hazard from the principal source of flooding in the area, within the limits of 1% and 0.2% annual chance floodplain (referred to as the 500-year floodplain).

“X” Zone – areas of minimal flood hazard and outside the 0.2% annual chance floodplain. Most of the Town is within this Zone.

Chapter 155 of the Town Code regulates development in the floodplains, which is designed to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Within the regulatory floodplains, Floodplain Development Permits are required for certain construction activities within the Regulated Floodway and Special Flood Hazard Area (Zones A and AE).

Pursuant to this Chapter, any development action proposed within the Special Flood Hazard Area requires review and possibly a permit from the Code Enforcement Officer, who is the designated Local Administrator of the Flood Damage Prevention Law. The Town’s Comprehensive Plan recognizes that creeks and other water corridors play an important role in drainage, flooding, and erosion control.

Within and beyond the WRA, drainage and localized flooding have been noted by the Town and local property owners for some time. A variety of factors have caused this including many that have an environmental origin (heavy clay soils for example) and man-made factors such as rapid surface runoff and artificial drainage infrastructure that is under designed or improperly maintained. The Town of Grand Island, County of Erie, NYS Thruway Authority and the NYS Department of Transportation, all play a part in surface drainage infrastructure.

Although not a severe problem, limited amounts of erosion, like that occurring at various locations along the east side of Grand Island, do occur along the shoreline, particularly between Whitehaven Road and the South Grand Island Bridge. During the early spring, increased ice flows and high water can contribute to erosion problems and damage of structures built on or adjacent to the water. Shoreline erosion damage from recreational boat traffic can also occur during the summer months.

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## 2.18 STORMWATER MANAGEMENT

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Another primary impact to water quality in the Grand Island WRA is non-point source pollution. Non-point source pollution is pollution that reaches local streams through unconfined or indiscrete means. Examples include stormwater sheet or overland flow (i.e. – unchanneled flow from paved surfaces, buildings, and construction sites) which carries soil and sediment, road oil, and other automotive by-products, pesticides and fertilizer, and animal wastes; and

groundwater infiltration that can carry contaminants from septic systems or tanks or toxins from other sources of pollution. The best way to control the rate of non-point source contaminant generation and transport in upland areas is by using best management practices (BMPs). Non- structural BMPs, such as reducing agricultural and lawn fertilizer and pesticide applications, and proper disposal of automobile waste oils, pet wastes, etc., are relatively inexpensive as compared to the costs of employing structural measures to mitigate the pollution they cause. Public Education is an important means of implementing best management practices.

The Town is a partner in the Western New York Stormwater Coalition, which developed a Stormwater Management Plan as a shared resource to help local municipalities, including the Town of Grand Island, comply with the NYS DEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4). This is a shared plan that provides policy and management guidance for Town of Grand Island and the other members of the coalition, and addresses public education and outreach, public participation, illicit discharge detection and elimination, control of runoff at construction sites, post-construction stormwater management and pollution prevention and best management practices. The Town ensures that this plan is updated on an annual basis to take into consideration the latest technologies and other information to comply with the requirements of the General Permit.

In the Town of Grand Island stormwater is conveyed in a separate system than sanitary sewers, through a combination of closed pipes and open ditches. As such, the Town requires the preparation of stormwater management plans for all new development in accordance with Article XXXV of the Town Code.

In recent years, drainage has been a major issue in the Town, with various ditches and creeks experiencing increased siltation, erosion, and subsequent flooding on to adjacent lands. Although the Town had previously cleared these creeks and ditches in the past, that maintenance effort has largely been discontinued due to budgetary and jurisdictional concerns. Various creek restoration projects have been undertaken through a partnership between NYS DEC, NYS OPRHP, BNWK<sup>39</sup> and private organizations to address the drainage concerns at the outlets of creeks, although continued upland and headwater remediation is still needed.

The Town will identify means to clear drainage channels within the WRA and beyond, in coordination with permitting agencies (i.e., NYS DEC, Erie County Soil and Water Conservation District) and request all development proposals to include a more holistic approach to drainage issues.

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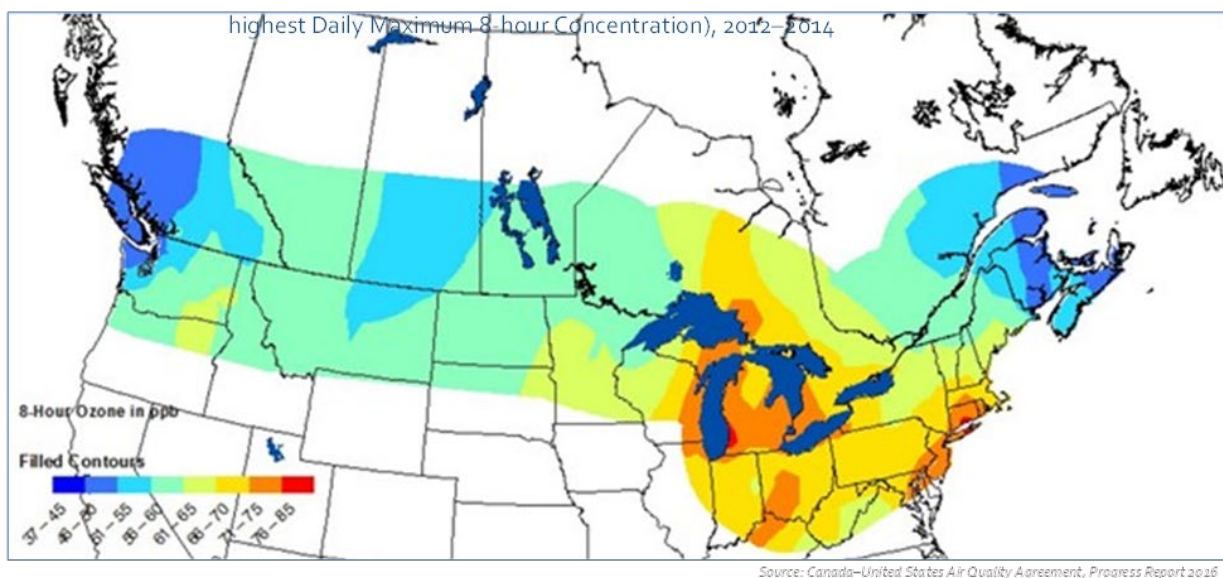
<sup>39</sup> <https://bnwaterkeeper.org/>

Like many other communities in Western New York, Grand Island experiences problems with inflow and infiltration into the public sanitary sewer system that is caused by excess stormwater runoff. Stormwater enters the sewer system through manhole covers and system inadequacies (leaks in lines, illegal hookups, and similar means) during extreme rainfall events. The excess stormwater flow can overtax the Grand Island wastewater treatment facility, causing sanitary sewer overflows (SSOs). The NYS DEC issued an order on consent that required the Town to evaluate and abate SSOs caused by inflow and infiltration (I&I) to improve water quality in the Niagara River, which is also its source of drinking water. The Town has been working diligently to implement a required workplan to reduce inflow and infiltration and mitigate identified SSOs; four of five locations have been remedied and the Town is seeking grant funding to address the remaining problem area.

## 2.19 AIR QUALITY

The Air Quality Index (AQI) is a scale used for reporting daily air quality. It tells you how clean or polluted your air is, and what associated health effects might be a concern for you. The AQI correlates levels of different pollutants to one scale. The higher the AQI value, the greater the health concern. An Air Quality Health Advisory is issued to alert sensitive groups to take necessary precautions when ozone and/or fine particle levels are expected to exceed an AQI value of 100. NYS DEC has a statewide continuous monitoring network.

Figure 2-54: Ozone Concentrations along the United States–Canada Border, 2012–2014



Air quality measurements are updated hourly, where available. Pollutants monitored include ozone, fine particulates, carbon monoxide, sulfur dioxide, nitrogen oxides, methane/non-

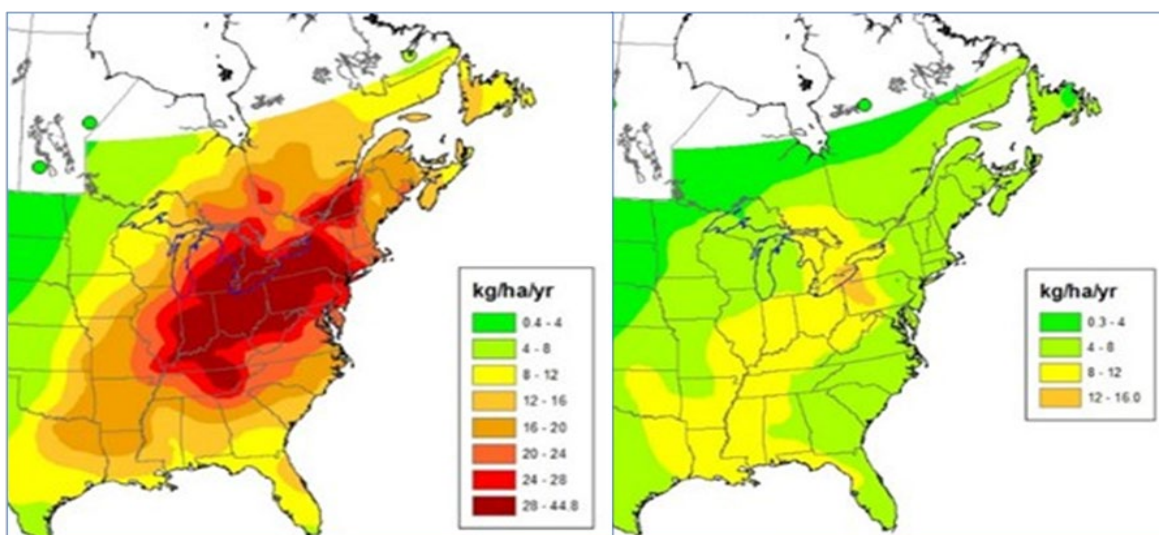
methane hydrocarbons, and meteorological data. Ozone is a gas composed of three atoms of oxygen. Ozone occurs both in the Earth's upper atmosphere and at ground level. Ozone can be good or bad, depending on where it's found. Ozone occurs naturally in the Earth's upper atmosphere 6 to 30 miles above the Earth's surface where it forms a protective layer that shields us from the sun's harmful ultraviolet rays. This beneficial ozone is gradually being destroyed by man-made chemicals. An area where the protective ozone layer has been significantly depleted over the North or South Poles is sometimes called the ozone hole. In the Earth's lower atmosphere, near ground level, ozone is formed when pollutants emitted by cars, power plants, industrial boilers, refineries, chemical plants, and other sources react chemically in the presence of sunlight. Ozone at ground level is a harmful air pollutant.

Fine Particle pollution in the air includes a mixture of solids and liquid droplets. Some particles are emitted directly; others are formed in the atmosphere when other pollutants react. Particles come in a wide range of sizes. Those less than 2.5 micrometers in diameter are so small that they can get into the lungs, potentially causing serious health problems. 2.5 micrometers is 1/7<sup>th</sup> the width of a single human hair.

## ACID RAIN

The Canada–United States Air Quality Agreement establishes commitments by both countries to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub>, the primary precursors to acid rain, from stationary and mobile sources.

Figure 2-55: 1990/2014 Annual Wet Sulfate Deposition



Source: National Atmospheric Chemistry Database and the National Atmospheric Deposition Program, 2014

Regulatory programs in the electric power sector, has significantly reduced emissions of SO<sub>2</sub> and NO<sub>x</sub> and ambient concentrations in the United States. Figure 2-55 illustrates the remarkable decrease in annual wet sulfate deposition. Acid deposition, more commonly known



as acid rain, occurs when emissions of SO<sub>2</sub> and NO<sub>x</sub>, from power plants, vehicles, and other sources, react in the atmosphere (with water, oxygen, and oxidants) to form various acidic compounds that exist in either a wet form (rain, snow, or fog) or a dry form (gases and particles). These acidic compounds can harm aquatic and terrestrial ecosystems (particularly forests); affect human health; impair visibility; and damage automotive finishes, buildings, bridges, and monuments.

## **SPRING BURN BAN**

Open burning of debris is the single-largest cause of spring wildfires in New York State. When temperatures warm and the past fall's debris and leaves dry out, wildfires can start and spread easily, further fueled by winds and a lack of green vegetation. Each year, NYS DEC Forest Rangers extinguish dozens of wildfires that burn hundreds of acres. In addition, local fire departments, many of which are staffed by volunteers, all too often must leave their jobs and families to respond to wildfires caused by illegal debris fires. NYS DEC will post the Fire Danger Map for each fire season on NYS DEC's website once there is a moderate risk anywhere in New York. In New York State the annual residential brush burning prohibition starts on March 16.<sup>40</sup> New York first enacted strict restrictions on open burning in 2009 to help prevent wildfires and reduce air pollution. The regulations allow residential brush fires in towns with fewer than 20,000 residents during most of the year but prohibit such burning in spring when most wildfires occur. Backyard fire pits and campfires less than three feet in height and four feet in length, width, or diameter are allowed. Small cooking fires are allowed. Only charcoal or dry, clean, untreated, or unpainted wood can be burned. People should never leave these fires unattended and must extinguish them. Burning garbage or leaves is prohibited year-round.<sup>41</sup>

## **FORESTRY**

Local government plays a critical role in forest management because of New York's home rule authority to plan and regulate land uses. Next to wetlands, forests foster more groundwater recharge than any other land use, including agriculture.<sup>42</sup> In addition to reducing stormwater runoff and flooding and being an essential habitat component for most species of wildlife, forests generate large quantities of oxygen, absorb CO<sub>2</sub> and other greenhouse gasses and filter air pollution. They also reduce noise pollution by absorbing sound, and create shade, benefitting streams, fish, wildlife, and people. The Town of Grand Island is conducting a comprehensive inventory of trees located within the right-of-way of all town-owned streets and lightly forested town parks, covering approximately 60 linear miles. The Western New York

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<sup>40</sup> <https://www.dec.ny.gov/press/124884.html>

<sup>41</sup> <https://www.dec.ny.gov/press/124884.html>

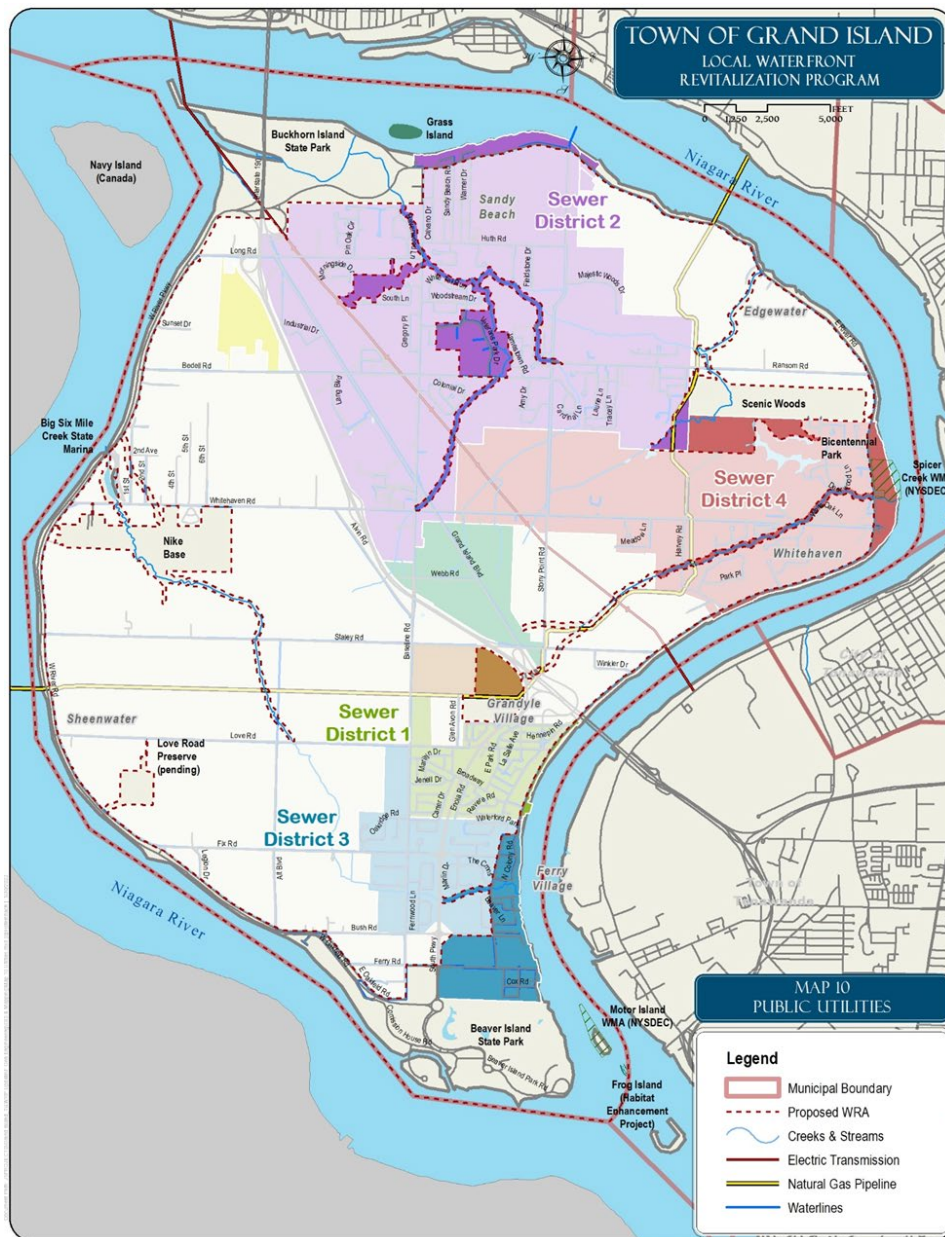
<sup>42</sup> [https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/guidetoforestry.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/guidetoforestry.pdf)

Land Conservancy started the Greenway/Grand Island Protection Program focused on purchasing forested land for preservation. This program acquired the Margery Gallogly Nature Sanctuary and 10.5 acres to be preserved, protect wildlife habitats, and implicitly improve air quality in the town of Grand Island.

## 2.20 DRINKING WATER

Within the WRA, public potable water is provided to all residents and businesses by the Town of Grand Island Water Department, as well as the Niagara County Water District.

Map 2.10 – Public Utilities



The source of the Town's water, much the same as other communities in the area, is the Niagara River. Public water for Grand Island is drawn through an intake pipe from the west branch of the Niagara River. The Water Department is responsible for operating and maintaining the potable water treatment and the pumping and distribution facilities in the Town's operated water districts.

In 2020, the Town of Grand Island completed construction of the new water line on Towerwood, Bronson and replacement of the South Parkway crossing at Red Jacket. Survey and design of the Baseline Road waterline replacement project was started in 2020. The Baseline Road waterline construction began in early 2023 and is expected to be completed in the next six months. The filter building design is complete and is being reviewed by NYS DOH. The filter building is expected to start in 2024.

Public water is supplied to Beaver Island and Big Six Mile Creek Marina State Parks, but there are no public connections allowed along the lines that extend into these parks.

## 2.21 ENVIRONMENTAL HAZARDS AND CONSTRAINTS

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Due to the narrow extent of the WRA in the Town, there are no identified active or inactive hazardous waste sites, remediation sites or brownfields. Outside of the Town, especially in the Town of Tonawanda, there are various NYS DEC remediation and Superfund-listed sites including, but not limited to, Tonawanda Coke, Enviroteck, Ashland, and Polymer Applications.

While they are not within the Town nor the WRA, their proximity to Grand Island and the shared Niagara River shoreline could potentially impact the WRA through sediment and air quality much the same as in other neighboring communities.

## 2.22 WASTEWATER AND SOLID WASTE MANAGEMENT

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Sanitary sewage is processed at the Town of Grand Island wastewater treatment facility, which is located on the outskirts of Buckhorn Island State Park, and it is designed to have a capacity of 3.5 million gallons of sewage per day. After undergoing advanced secondary treatment and disinfection, effluent is discharged in the Niagara River, through an outfall located offshore and east of the mouth of Woods Creek. The Wastewater Department is responsible for operating and maintaining the sanitary sewer collection and pumping systems in the Town's operated sewer districts. Unlike the public water system, public sewers are only found in select areas of the WRA, namely stretching on the east side island, from just south of Ransom Road down to Harvey Road (District 4) and at Grandyle and Ferry Village (Districts 1 and 3), as well as the

northern tip of the Island (District 2). While private systems (i.e. septic systems) are effective at containing wastewater from residents and small businesses, they are typically not well regulated or maintained at the same level as public systems and therefore can have higher potential for failure that in turn allows nutrient loading of the Niagara River and the degradation of water quality. Regular pumping and good septic system management practices, as well as replacement of dated tanks and fields can prevent any potential water quality concerns. There are no plans to extend municipal sewer systems to areas that have individual septic systems.

Garbage and recycling collection in the Town of Grand Island is provided by a private company with the Town Engineering Department overseeing the service contract. Brush and tree branch pickup is handled by the Town Highway Department. Collected material is chipped and generally used by homeowners for soil cover and mulch.

## 2.23 OTHER UTILITIES

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Other utilities available in the Town include electric and solar power, telephone, cable/broadband internet, and natural gas. National Grid maintains a high-voltage transmission corridor that cuts through the Town connecting with the New York Power Authority hydroelectric facility in Lewiston. This electric transmission corridor is roughly parallel with Grand Island Boulevard and includes overhead cables on towers built on islands in the Niagara River; additional details on electricity resources are found below. In addition, a natural gas pipeline also runs through the Town coming in from Canada on the west shore (south of Staley Road) and exiting to the northeast (west of Gun Creek) where it crosses the Tonawanda Channel of the Niagara River. Parallel to the west to east segment of the pipeline corridor is an old oil pipeline. The gas line is embedded in the bedrock under the Niagara River while the oil pipeline is buried in the river sediment (See Map 2.10).

Two pipelines transporting natural gas cross the town and the western and northeastern portions of the WRA. A high voltage electric transmission line crossing the northern half of the town, from northwest to southeast, also crosses the western edge of Buckhorn Island Park and the eastern portion of the WRA.

## 2.24 TRANSPORTATION NETWORK

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Prior to 1935, transportation options to and from the island were limited, with access to the mainland from Grand Island via ferry boat departing from the Ferry Village area or the eastern end of Whitehaven Road. Construction of the north and south bridges started in 1933; with a



dedication of the bridges in 1935 and once the bridges were completed ferry service gradually diminished eventually ending a short time later.

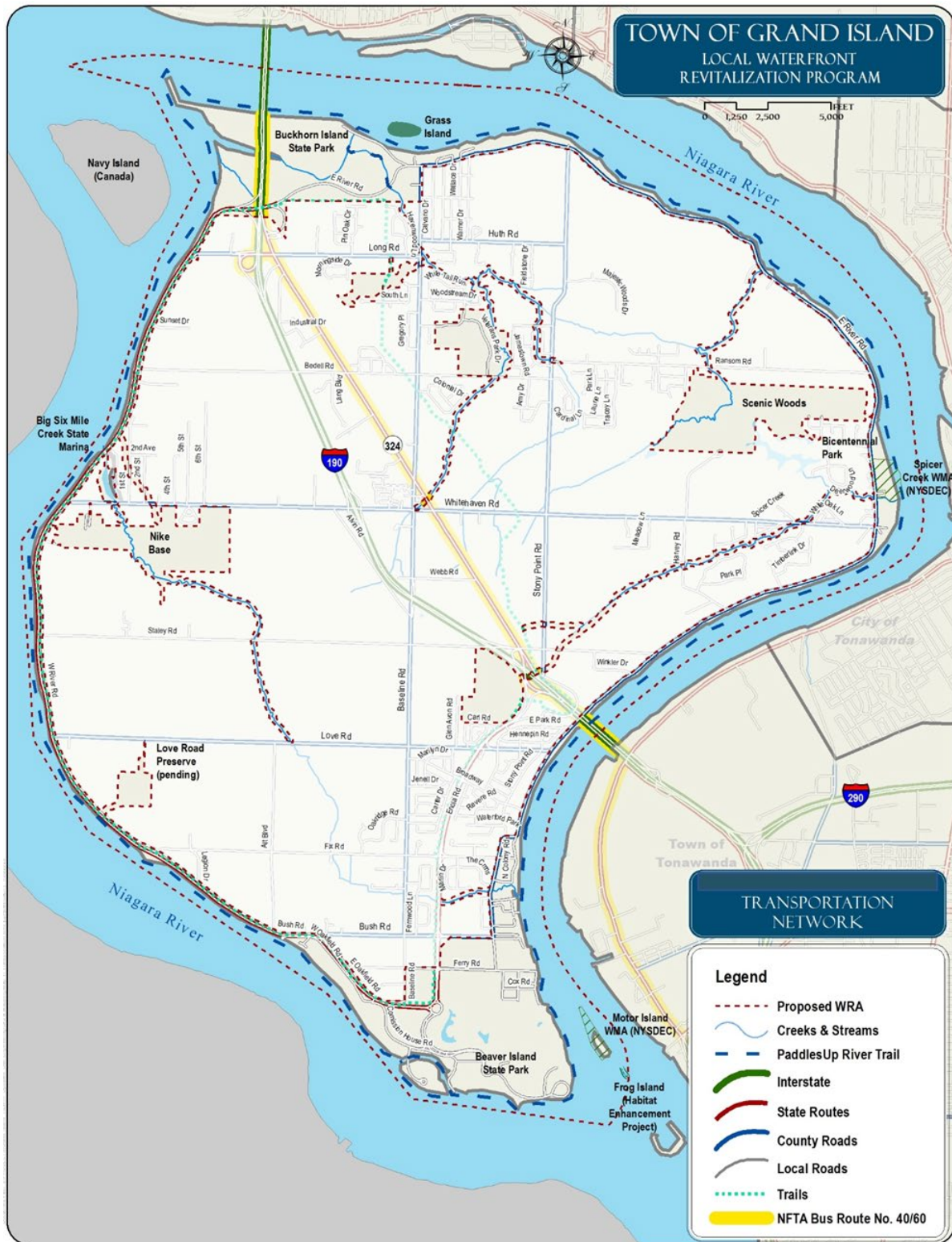
The island population steadily increased and the arrival of the NYS Thruway in 1957 necessitated the addition of a second set of bridges right alongside the existing bridges. The second south bridge was completed in 1962 and the second north bridge opened in 1965. Interstate 190 has become a primary thoroughfare for residents and commuters between Niagara and Erie County and international travelers arriving from or departing for destinations in Canada. The Thruway has three exits that provide access into the interior of the town at Grand Island via Grand Island Boulevard, Whitehaven Road, and Long Road.

As illustrated on Map 2.11, in addition to Interstate 190, within the WRA there is a mix of local, State and County roads, as well as two perimeter roads that follow the east and west sides of the island and provide access to the entire WRA.

East River is a two-lane road that is primarily a County Road (#11), running from Baseline Road south to Bush Road in Ferry Village, while West River Road is a two-lane local roadway that connects Beaver Island State Park (in the vicinity of Bush Road and West Oakfield Road) with the south end of Buckhorn Island State Park at Long Road. These perimeter roads provide a scenic view of the unique waterfront homes and the Niagara River shoreline. Local roads under the jurisdiction of the Town are primarily located in Ferry Village at the south end of Grand Island; most of the roadways within the WRA are under the jurisdiction of the County or State, by way of the NYS Department of Transportation, NYS Thruway Authority, or NYS OPRHP.

The Niagara Frontier Transit Authority (NFTA) offers two bus lines that service Grand Island. One line is a local route that has numerous stops along Grand Island Blvd. (Route No. 40). The other line is an express that has one stop at Grand Island Plaza (Route No. 60E) for commuters traveling between Niagara Falls and downtown Buffalo. There are no bus stops or destinations within the WRA or beyond the right of way of Grand Island Boulevard.

Map 2.11 – Transportation Network



## HIKING AND BIKING TRAILS

Public trails are found throughout the island. On the west side of Grand Island, the West River Shoreline Trail offers more than eight miles of off-road multiuse trail. This trail begins at the Eagle Overlook, just north of Long Road, and follows the western perimeter of Grand Island, connecting to the trail in Beaver Island State Park that provides access to the south Grand Island Bridge crossing and the regional and Statewide off-road trails on the mainland.

The trails at various locations within the island need to be connected and provide an efficient alternative travel route that links to the island interior. The former West River Parkway (formerly State Route 957C) was converted into an off-road multi-use trail open to pedestrians and bicycles as well as cross country skiing and snowshoeing during the winter. Vehicles do not share the West River Connector Trail. However, during the waterfowl hunting season a limited number of vehicles are given permits allowing hunters to bring vehicles to their designated duck blinds.

A snow mobile trail managed by New York State Parks follows the median between the West River Shoreline Trail and the adjacent West River Road. The Paddles Up Blueway Trail is wholly within the WRA following the nearshore perimeter of Grand Island and allows paddlesport enthusiasts the opportunity to paddle kayaks, canoes, and stand-up paddleboards as little as a mile or two or as far as 25 miles through the nearshore waters of the Niagara River. The trail has seven public launch sites of which two are improved for handicap accessibility. The trail was established by the Niagara River Greenway Commission in 2006 and is named in recognition of the Native Americans who paddled their canoes through the historic waters of the Niagara River. Each year the Commission invites the public to experience the scenery and ecology of the upper Niagara River around Grand Island at an event by the same name. Since 2006 thousands of people from the region and various places in the United States and Canada have come to Paddles Up Niagara to experience the river, its scenery, history, and ecology.

In 2021, officials from the Niagara River Greenway Commission met with Town of Grand Island committee members who are planning the town trails and bike routes. They took a bicycle ride down Grand Island Boulevard to finalize a direct route through town to officially connect the extensive Niagara River Shoreline Trail from Buffalo's Outer Harbor north to Youngstown. A direct route from bridge to bridge for cyclists riding the Shoreline Trail is planned to be completed with funding from the Niagara River Greenway Commission.



Figure 2-56: Local Biking Enthusiasts



*Image source: Niagara Frontier Publications*

Directional signs will be added to the West River Shoreline Trail. Also, the town hopes to add an East River Road bicycle trail to the existing network. After the ride, the group held an informal poll during discussions and came up with these recommendations:

- ◆ Make continuous trails all around Grand Island and advertise them.
- ◆ Connect gaps in the current trail network.
- ◆ Make big connections like Grand Island Boulevard to Baseline Road to Bedell Road to the linear trail to the West River Shoreline Trail.
- ◆ There is not enough public land to build trail systems, so look for corridor opportunities.
- ◆ Over the long-term, develop long trails on easement corridors. Take small steps toward this as pilot projects like Bedell Road to Baseline Road on the National Grid corridor.
- ◆ Create a new walking/mountain bike trail at South Point and Baseline Road to Staley Road and Glen Avon.
- ◆ Current Nike Base trails need to be better connected to West River Shoreline Trail, to provide rest rooms and integrate the recreational options.
- ◆ Make a connection from Six Mile Creek Marina to West River Shoreline Trail.
- ◆ Aim to complete a safe ride all around Grand Island, including East River Road, for a 26-mile loop, which would promote events as running and cycling marathons and races.
- ◆ Make East River Road safer.



## 2.25 ENERGY RESOURCES AND RENEWABLE ENERGY INITIATIVES

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The Town of Grand Island is supplied by electricity from the New York Power Authority which is generated by the 3,100 MW Niagara Power Project. Hydroelectric power is considered renewable energy and therefore has an extremely low carbon footprint; the proximity of Grand Island to Niagara Falls is a significant benefit to residents and businesses in the community. Several utility-scale solar projects are also under construction in the Town including two separate 6 MW and 3.45 MW facilities on Whitehaven Road and another facility proposed for Whitehaven Road as well. The Town's code currently encourages the development of these types of larger facilities in specific locations and subject to site constraints. Overall Grand Island aligns with the State's overall goal of supporting renewable energy and further solar development. There are no powerplants within the Grand Island WRA.

## 2.26 EMERGENCY SERVICES

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No emergency service facilities exist within the WRA, although firefighting, EMS and river rescue services are provided to residents and businesses by the Grand Island Fire Company. Additional emergency assistance is provided via mutual aid services from adjacent waterfront communities (e.g., City of Tonawanda), as well as other law enforcement units including the U.S. Coast Guard, U.S. Border Patrol, New York State Police, New York State Park Police, NYS DEC, and the Erie County Sheriff's Marine Unit. The New York State Park Police officers are highly trained specialists, dedicated to preserving the peace associated with a park environment. Nearby hospitals include Kenmore Mercy Hospital in Kenmore, Niagara Falls Memorial Medical Center in Niagara Falls, and DeGraff Memorial Hospital in Tonawanda.

## SECTION 3 – WATERFRONT REVITALIZATION AREA POLICIES

This section presents the waterfront revitalization policies and their associated standards that are to be used in guiding appropriate development and actions for the Town. These policies consider the physical, economic, environmental, and cultural characteristics of the community. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and preservation that will permit the beneficial use of waterfront resources in the Town without undo impacts to Lake Erie or adjacent upland areas.

This section of the LWRP includes the State Coastal Policies, and an indication of which policies are applicable within the Town of Grand Island Waterfront Revitalization Area described in Section I. They are comprehensive and reflect existing laws and authorities regarding development and environmental protection. Following each policy statement is a policy explanation, including local refinement necessary to relate to the Grand Island WRA. Each policy either promotes the beneficial use of natural and cultural resources, prevents their impairment, or deals with major activities that substantially affect numerous resources within the WRA. The policies are the basis for local, State, and federal consistency determinations for activities affecting the waterfront revitalization area. Actions within the WRA must not be inconsistent with any of the coastal policies below.

The policies are presented below and organized under eleven categories:

- Development
- Fish And Wildlife
- Flooding and Erosion Hazards
- General
- Public Access
- Recreation, Historic and Scenic Resources
- Agricultural Lands
- Energy and Ice Management
- Water And Air Resources
- Wetlands

## DEVELOPMENT POLICIES

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### POLICY 1

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

#### POLICY 1A

**Revitalize Ferry Village and Whitehaven areas for commercial, recreational, and residential uses.**

#### Explanation of Policies

State and federal agencies must ensure that their actions further the revitalization of urban waterfront areas. The transfer and purchase of property; the construction of a new office building, highway, or park; the provision of tax incentives to businesses; and establishment of enterprise zones, are all examples of governmental means for spurring economic growth. When any such action or similar action is proposed, it must be analyzed to determine if the action would contribute to or adversely affect a waterfront revitalization effort.

It must be recognized that revitalization of once dynamic waterfront areas is one of the most effective means of encouraging economic growth in the State, without consuming valuable open space outside of these waterfront areas. Waterfront redevelopment is also one of the most effective means of rejuvenating or at least stabilizing residential and commercial districts adjacent to the redevelopment area.

In responding to this policy, several other policies must be considered: (1) Uses requiring a location abutting the waterfront must be given priority in any redevelopment effort. (Refer to Policy 2 for the means to effectuate this priority); (2) As explained in Policy 5, one reason for revitalizing previously dynamic waterfront areas is that the costs for providing basic services to such areas is frequently less than providing new services to areas not previously developed; (3) The likelihood for successfully simplifying permit procedures and easing certain requirements (Policy 6) will be increased if a discrete area and not the entire urban waterfront is the focus for this effort. In turn, ease in obtaining permits should increase developers' interest to invest in these areas. Further, once this concentrated effort has succeeded, stabilization and revitalization of surrounding areas is more likely to occur.

Local governments through waterfront revitalization programs have the primary responsibility for implementing this policy. Though local waterfront revitalization programs need not be

limited to redevelopment, local governments are urged to identify areas as suitable for redevelopment and establish and enforce redevelopment programs.

Commercial revitalization and residential stabilization within the Grand Island WRA are focused on such areas as Whitehaven and Ferry Village noted in Section 2, referencing any current or future community-supported revitalization plans or studies pertaining to these areas. It is within these areas that potential opportunities for expanding the mix of uses exist as noted in Section 2. The State Parks and Wildlife Management Areas are significant elements of the WRA in terms of land mass, local economic contribution, and traffic. The community has identified these areas as underutilized with potential to expand recreational/cultural activities; active coordination should be undertaken between the NYS DEC, NYS OPRHP, and the Town on redevelopment/revitalization efforts to utilize these assets and improve economic benefits associated with them more fully.

1. When a Federal or State action is proposed to take place in an urban waterfront area regarded as suitable for redevelopment, the following guidelines will be used:

- a. Priority should be given to uses which are dependent on a location adjacent to the water (see Policy 2).

Within the Grand Island WRA, priority areas dependent on a location adjacent to the water include the former ferry landing sites, former landing pier by Fix Road, Gun Creek woods/easement area, Scenic Woods, Bicentennial Park, and public rights-of-way that terminate at the shoreline.

- b. The action should enhance existing and anticipated uses. For example, a new highway should be designed and constructed so as to serve the potential access needs for desirable industrial development.
- c. The action should serve as a catalyst to private investment in the area.
- d. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline.
- e. The action must lead to development, which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use
- f. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where



- no increased consumer demands were expected, and existing development was already meeting demand.
- g. The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner.
  - h. The action should have the potential to improve the potential for multiple uses of the site, especially within the existing State Parks and Wildlife Management Areas.
2. If a State or Federal action is proposed to take place outside of a given deteriorated, underutilized urban waterfront area suitable for redevelopment, and is either within the relevant community or adjacent coastal communities, the agency proposing the action must first determine if it is feasible to take the action within the deteriorated, underutilized urban waterfront area in question. If such an action is feasible, the agency should give strong consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause further deterioration of that area.

## **POLICY 2**

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

#### Explanation of Policy

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a statewide basis, the only reasonable expectation is that long-term demand for waterfront space will intensify.

The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that uses which require waterfront sites will, in fact, have access to the State's coastal waters. To ensure that such "water-dependent" uses can continue to be accommodated within the State, State agencies will avoid undertaking, funding, or approving non water dependent uses when such uses would preempt the reasonably foreseeable development of water dependent uses; furthermore, agencies will utilize appropriate existing programs to encourage water dependent activities.

Water dependent activities shall not be considered a private nuisance, provided such activities were commenced prior to the surrounding activities and have not been determined to be the cause of conditions dangerous to life or health and any disturbance to enjoyment of land and water has not materially increased.

A water dependent use is an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

The following uses and facilities are considered as water-dependent:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities)
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing)
3. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short-term storage facilities)
4. Structures needed for navigational purposes (for example: dams, locks, lighthouses)
5. Flood and erosion protection structures (for example: breakwaters, bulkheads)
6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards)
7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants, fish processing plants, pumped storage power plants)
8. Uses that rely heavily on the waterborne transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (for example: coal export facilities, cement plants, quarries)
9. Uses which operate under such severe time constraints that proximity to shipping facilities become critical (for example: firms processing perishable foods)
10. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities)
11. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water dependent use they should, as much as possible, be sited inland from the water dependent use rather than on the shore.

In addition to water dependent uses, those uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent

uses. A water enhanced use is defined as a use or activity which does not require a location adjacent to or over coastal waters, but whose location on land adjacent to the shore adds to the public use and enjoyment of the water's edge. Water enhanced uses are primarily recreational, cultural, retail, or entertainment uses. A restaurant which uses good site design to take advantage of a waterfront view is an example of a water enhanced use.

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 or enhanced use which involves an irreversible or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which would likely be considered as "temporary" non-water dependent uses.

In the actual choice of sites where water-dependent uses will be encouraged and facilitated, the following guidelines should be used:

1. Competition for space - competition for space, or the potential for it, should be indicated before any given site is promoted for water dependent uses. The intent is to match water dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water dependent activities or else the encouragement of water dependent development.
2. In-place facilities and services - most water dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water-dependent uses, consideration should be given to the following factors:
  - a) The availability of public sewers, public water lines and adequate power supply;
  - b) Access to the area for trucks and rail, if heavy industry is to be accommodated; and
  - c) Access to public transportation, if a high number of person trips are to be generated.
3. Access to navigational channels - if commercial shipping, commercial fishing, or recreational boating are planned, the locality should consider setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels would be assured.
4. Compatibility with adjacent uses and the protection of other coastal resources – water dependent uses should be located so that they enhance, or at least do not detract from,

the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise, and traffic. Affirmative approaches should also be employed so that water dependent uses and adjacent uses can serve to complement one another. For example, a recreation-oriented water dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, fishing pier or swimming area would enhance, and in turn be enhanced by, nearby restaurants, motels, and other non-water-oriented tourist activities. Water dependent uses must also be sited so as to avoid adverse impacts on the significant coastal resources.

5. Preference to underutilized sites: The promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting and other State and local actions that will be used to promote the site. Nowhere is such a stimulus needed more than in those portions of the State's waterfront areas which are currently underutilized.
6. Providing for expansion - a primary objective of the policy is to create a process by which water dependent uses can be accommodated well into the future. State agencies and localities should therefore give consideration to long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed in the near future.

In promoting water dependent uses, the following kinds of actions will be considered:

1. Favored treatment to water dependent use areas with respect to capital programming. Particular priority should be given to the construction and maintenance of port facilities, roads, railroad facilities, and public transportation within areas suitable for water dependent uses.
2. When areas suitable for water dependent uses are publicly owned, favored leasing arrangements should be given to water dependent uses.
3. Where possible, consideration should be given to providing water dependent uses with property tax abatements, loan guarantees, or loans at below market rates.
4. State and local planning and economic development agencies should actively promote water dependent uses. In addition, a list of sites available for non-water dependent uses should be maintained in order to assist developers seeking alternative sites for their proposed projects.

5. Local, State and Federal agencies should work together to streamline permitting procedures that may be burdensome to water dependent uses. This effort should begin for specific uses in a particular area.
6. Local land use controls, especially the use of zoning districts exclusively for waterfront uses, can be an effective tool of local government in assuring adequate space for the development of water dependent uses.

### **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.**

#### Explanation of Policy

The aim of this policy is to support port development in New York, Buffalo, Ogdensburg, and Oswego. Therefore, this policy does not apply in the Grand Island WRA.

### **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.**

#### Explanation of Policy

This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the State's coastal area contribute much to the economic strength and attractiveness of these harbor communities. Thus, efforts of state agencies shall center on promoting such desirable activities as recreational and commercial fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors which, in turn, can make significant contributions to the State's tourism industry.

Although formal small harbor areas are not currently found in the Grand Island WRA, several areas exhibit uses and activities that contribute to a maritime identity subject to this policy. Therefore, the following areas where unique maritime identity and characteristics can be



further redeveloped and revitalized, as noted in Section 2, would be the most impacted by this policy:

1. Ferry Village
2. Whitehaven
3. Big Six Mile Creek State Marina
4. Sandy Beach

The following guidelines shall be used in determining consistency:

1. The action shall give priority to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.
2. The action will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.
3. The action shall not be out of character with, nor lead to development which would be out of the character with, existing development in terms of the area's scale, intensity of use, and architectural style.
4. The action must not cause a site to deteriorate, e.g., a structure shall not be abandoned without protecting it against vandalism and/or structural decline.
5. The action will not adversely affect the existing economic base of the community e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.
6. The action will not detract from views of the water and smaller harbor area, particularly where the visual quality of the area is an important component of the area's appeal and identity.
7. In applying the above guidelines, the information in harbor management plans being developed by local governments pursuant to Article 42 of the Executive Law and local laws that would implement them shall be considered.

## **POLICY 5**

**Encourage the location of development in areas where public services and facilities essential to such development are adequate.**

### Explanation of Policy

By its construction, taxing, funding and regulatory powers, government has become a dominant force in shaping the course of development. Through these government actions, development,

particularly large-scale development, in the coastal area will be encouraged to locate within, contiguous to, or near, existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development.

The above policy is intended to accomplish the following:

- strengthen existing residential, industrial and commercial centers;
- foster an orderly pattern of growth where outward expansion is occurring;
- increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
- preserve open space in sufficient amounts and where desirable
- foster energy conservation by encouraging proximity between home, work, and leisure activities.

Within the Grand Island WRA the focus areas where this policy will be the most impactful would be the hamlet of Ferry Village and the Whitehaven neighborhood.

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

1. Cities, built-up suburban towns and villages, and rural villages in the coastal area are generally areas of concentrated development where infrastructure and public services are adequate.
2. Other locations in the coastal area may also be suitable for development, if three or more of the following conditions prevail:
  - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile;
  - b. Fewer than 50% of the buildable sites (i.e., sites meeting lot area requirements under existing local zoning regulations) within one mile radius of the proposed site are vacant;
  - c. Proposed site is served by or is near to public or private sewer and water lines;
  - d. Public transportation service is available within one mile of the proposed site; and
  - e. A significant concentration of commercial and/or industrial activity is within one-half mile of the proposed site.

3. The following points shall be considered in assessing the adequacy of an area's infrastructure and public services:
  - a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
  - b. Development's water needs (consumptive and firefighting) can be met by the existing water supply system;
  - c. Sewage disposal system can accommodate the wastes generated by the development;
  - d. Energy needs of the proposed land development can be accommodated by existing utility systems;
  - e. Storm water runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
  - f. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

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

1. Economic activities which depend upon sites at or near locations where natural resources are present, e.g., lumber industry, quarries.
2. Development which, by its nature, is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, second home developments.
3. Development which is designed to be a self-contained activity, e.g., a small college, an academic or religious retreat.
4. Water dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development which because of its isolated location and small scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which because of public safety consideration should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.

8. Development projects which are essential to the construction and/or operation of the above uses and activities.

In certain urban areas where development is encouraged by this policy, the condition of existing public water and sewage infrastructure may necessitate improvements. Within the Grand Island WRA, sewage infrastructure has been identified as in need of improvements to address inflow and infiltration (I&I). Those State and federal agencies charged with allocating funds for investments in water and sewer facilities should give high priority to the needs of such urban areas so that full advantage may be taken of the rich array of their other infrastructure components in promoting waterfront revitalization.

## **POLICY 6**

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

### Explanation of Policy

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

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

## **FISH AND WILDLIFE POLICIES**

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### **POLICY 7**

**Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.**

#### **POLICY 7A**

**Restore and protect the Grand Island Tributaries significant coastal fish and wildlife habitat.**

#### **POLICY 7B**

**Restore and protect the Buckhorn Island-Goat Island Rapids significant coastal fish and wildlife habitat.**

#### **POLICY 7C**

**Restore and protect the Buckhorn Island Wetlands significant coastal fish and wildlife habitat.**

#### **POLICY 7D**

**Restore and protect the Buckhorn Island-Tern Colony significant coastal fish and wildlife habitat.**

#### **POLICY 7E**

**Restore and protect the Strawberry Island-Motor Island Shallows significant coastal fish and wildlife habitat.**

#### **Explanation of Policy**

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are particularly critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics:

- (a) are essential to the survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas);
- (b) support populations of rare and endangered species;
- (c) are found at a very low frequency within a coastal region;
- (d) support fish and wildlife populations having significant commercial and/or recreational value; and
- (e) would be difficult or impossible to replace.

Within the Town of Grand Island WRA five (5) significant coastal fish and wildlife habitats have been identified, evaluated as significant, designated, mapped, and incorporated into the NYS Coastal Management Program under the authority provided by the Federal Coastal Zone Management Act. These significant coastal fish and wildlife habitats within the Grand Island WRA are:

- Grand Island Tributaries
- Buckhorn Island-Goat Island Rapids
- Buckhorn Island Wetlands
- Buckhorn Island-Tern Colony



- Strawberry Island-Motor Island Shallows

The approved rating form, descriptions of the habitats and maps are included in Appendix C of the LWRP.

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 increased 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 include 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, toxic 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.

9. Barriers to fish migration, whether physical or chemical.
10. Removal of woodlands in areas adjacent to wetlands (notably in Buckhorn Island State Park).

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 (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, 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, 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.

In cooperation with the State's Coastal Management Program, the Department of Environmental Conservation has developed a rating system incorporating these five parameters (The Development and Evaluation of a System for Rating Fish and Wildlife Habitats in the Coastal Zone of New York State, Final Report, January 1981, 15 pp.).

To further aid Federal and State agencies in determining the consistency of a proposed action with this policy, a narrative will be prepared for each significant habitat which will: (1) identify the location of the habitat; (2) describe the community of organisms which utilize the habitat; (3) identify the biological, physical and chemical parameters which should be considered when assessing the potential impacts of a project on that habitat; (4) identify generic activities which would most likely create significant impacts on the habitat; and (5) provide the quantitative basis used to rate the habitat. Prior to formal designation of significant fish and wildlife habitats, copies of the individual habitat narratives plus copies of habitat maps and completed

rating forms will be provided to Federal and State agencies and the public for the review and comment.

## **POLICY 8**

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

### Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law [§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 when improperly treated, stored, transported, or otherwise managed." A list of hazardous wastes (NYCRR Part 366) will be adopted by NYS DEC within 6 months after EPA formally adopts its list.

The handling (storage, transport, treatment, and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land, and waters. Such controls should effectively minimize possible contamination of and bioaccumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders. Other pollutants are those conventional wastes generated from point and non-point sources and not identified as hazardous wastes but controlled through other State laws cited below.<sup>43</sup>

## **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.**

### 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.

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<sup>43</sup> [http://www.dos.ny.gov/opd/programs/pdfs/NY\\_CMP.pdf](http://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf), Part II Section 6, page 28

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 existing State law and in keeping with sound 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 by State and federal agencies as they determine the consistency of their proposed action with the above policy:

1. Consideration should be made by federal and State agencies as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7) and/or conferring with a trained fish and wildlife biologist.
4. 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.

## **POLICY 10**

**Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing onshore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.**

### Explanation of Policy

Commercial fishery development activities must occur within the context of sound fishery management principals developed and enforced within the State's waters by the New York State Department of Environmental Conservation and the management plans developed by the Regional Fisheries Management Councils (Mid-Atlantic and New England) and enforced by the U.S. National Marine Fisheries Service within the Fishery Conservation Zone. (The Fishery Conservation Zone is the area of coastal waters extending from the three-mile State waters

boundary to the 200-mile offshore boundary of the U.S. waters. The Conservation Zone is authorized by the U.S. Fishery Conservation and Management Act of 1976.) Sound resource management considerations include optimum sustained yield levels developed for specific commercial fish species, harvest restrictions imposed by State and federal governments, and the economic, political (uses conflicts), and technological constraints to utilizing these resources.

The following additional guidelines should be considered by State and federal agencies as they determine the consistency of their proposed action with the above policy:

1. A public agency's commercial fishing development initiative should not preempt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new onshore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing State or regional commercial fishing development plans.
3. Consideration should be made by State and Federal agencies whether an action will impede existing utilization or future development of the state's commercial fishing resources.
4. Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

There are several commercial charter fishing companies that exist or operate out of private marinas on Grand Island, and these are recreational operations only. There are no onshore facilities for processing or marketing commercial finfish, shellfish, and crustacean resources fisheries in the Grand Island WRA nor are the current conditions adequate to sustain the development of such activities.



## FLOODING AND EROSION HAZARDS POLICIES

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### 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.**

#### Explanation of Policy

On coastal lands identified as coastal erosion hazard areas, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion unless no reasonable prudent alternative site is available as in the case of piers, docks, and other structures necessary to gain access to coastal waters to be able to function. The extent of the setback will be calculated, considering the rate at which land is receding due to erosion and the protection provided by existing erosion protection structures, as well as by natural protective features such as beaches, sandbars, spits, shoals, barrier islands, bay barriers, nearshore areas, bluffs, and wetlands. The only new structure allowed in coastal erosion hazard areas is a moveable structure as defined in 6 NYCRR Part 505.2(x). Prior to its construction, an erosion hazard areas permit must be approved for the structure. Existing non-conforming structures located in coastal erosion hazard areas may be only minimally enlarged.

In coastal lands identified as being subject to high velocity waters caused by hurricane or other storm wave wash - a coastal high hazard area - walled and roofed buildings or fuel storage tanks shall be sited landward of mean high tide, and no mobile home shall be sited in such area. In coastal lands identified as floodways, no mobile homes shall be sited other than in existing mobile home parks.

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

Chapter 155 Flood Damage Prevention of the Town Code, included in Appendix B, will be utilized in conjunction with Policy 11.

### POLICY 12

**Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.**

#### Explanation of Policy

Beaches, dunes, barrier islands, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting

from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse actions are minimized. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.

### **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 State's 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 our actions, humans 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 runoff 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 to otherwise hazard-free areas.

## **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 nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction 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.

Dredging is periodically conducted within the navigational channel of the Niagara River. Any dredging that may occur within the Grand Island WRA for Niagara River and its tributaries or in areas where marinas exist should be done in a manner to not cause deterioration of natural habitats. Any future dredging at mouths of creeks shall comply with Policy 35 as well as State and federal requirements.

## **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

Public funds are used for a variety of purposes on the State's shorelines. 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 coastal 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**

**Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.**

### Explanation of Policy

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

"Non-structural measures" shall include, but not be limited to: (1) within coastal erosion hazard areas identified under Section 0104 of Coastal Erosion Hazard Areas law (Environmental Conservation Law Article 34), and subject to the permit requirements on all regulated activities and development established under that law, (a) the use of minimum setbacks as provided for in Section 0108 of Environmental Conservation Law Article 34; and (b) the strengthening of coastal landforms by the planting of appropriate vegetation on dunes and bluffs, the installation of sand fencing on dunes, the reshaping of bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilization vegetation, and the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms; and (2) within identified flood hazard areas, (a) the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, 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 anyone, 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. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

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

## GENERAL POLICY

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### 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 coastal area if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the State has established to protect those waters and resources. Proposed actions must consider the social, cultural, 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.

## PUBLIC ACCESS POLICIES

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### POLICY 19

**Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.**

#### Explanation of Policy

This policy calls for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources. The imbalance among these factors is the most significant in the State's urban areas. Because this is often due to access-related problems, priority will be given to improving physical access to existing and potential coastal recreation sites within the heavily populated urban coastal areas of the State and to increasing the ability of urban residents to get to coastal recreation areas by improved public transportation. The particular water related recreation resources and facilities which will receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. In addition, because of the greater competition for waterfront locations within urban areas, the Coastal Management Program will encourage mixed use areas and multiple use of facilities to improve access. Specific sites requiring access improvements and the relative priority the program will accord to each will be identified in the Public Access Planning Process.



Within the Grand Island WRA, access to water related recreation resources and facilities which will receive priority for improved access are recreational trails, public parks, dedicated wildlife areas, public beaches, boating facilities, fishing areas and waterfront parks. In conjunction with the Town of Grand Island Comprehensive Plan and other local planning efforts, the Grand Island LWRP will encourage mixed use areas and multiple use of facilities to improve access in and around key areas of the Grand Island WRA, focused primarily on Whitehaven and Ferry Village.

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

1. The existing access from adjacent or proximate public lands or facilities to public water related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access, or unless such actions are found to be necessary by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet system-wide objectives.

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

- a) Access - the ability and right of the public to reach and use public coastal lands and waters.
- b) Public water related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c) Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.
- d) A reduction in the existing level of public access - includes, but is not limited to, the following:
  - (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
  - (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such

reduction cannot be reasonably justified in terms of meeting system-wide objectives.

- (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (4) There are substantial increases in the following: already existing special fares (not to include regular fares in any instance) of public transportation to a public water-related recreation resource or facility; and/or admission fees to such a resource or facility except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary and an analysis shows that such increases will significantly reduce usage by individuals or families and incomes below the State government established poverty level.
- e) An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
- (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities
  - (2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility
  - (3) Construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
- a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource 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) Access shall connect, to the greatest extent feasible, to existing trails, recreational areas, or waterfront facilities through physical or informational (i.e., kiosks, signage, etc.) means.
- 3. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
- 4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation, within the boundaries of the Federal-Aid Metropolitan urban area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

## **POLICY 20**

**Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.**

### 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, bird watching, photography, nature study, beachcombing, fishing, and hunting.

For those activities, there are several methods of providing access which will receive priority attention of the Coastal Management Program. These include: the development of a coastal trails system; the provision of access across transportation facilities to the coast; the improvement of access to waterfronts in urban areas; and the promotion of mixed and multi-use development.

While such publicly-owned lands referenced in the policy shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be

discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

The regulation of projects and structures, proposed to be constructed in or over lands underwater, is necessary to responsibly manage such lands, to protect vital assets held in the name of the people of the State, to guarantee common law and sovereign rights, and to ensure that waterfront owners' reasonable exercise of riparian rights and access to navigable waters shall be consistent with the public interest in reasonable use and responsible management of waterways and such public lands for the purposes of navigation, commerce, fishing, bathing, recreation, environmental and aesthetic protection, and access to the navigable waters and lands underwater of the State.

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

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or Statewide public benefit or, in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

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

- a) (See definitions under first policy of "access", and "public lands or facilities").
- b) A reduction in the existing or anticipated level of public access - includes, but is not limited, to the following:
  - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (2) Pedestrian access is diminished or blocked completely by public or private development.
- c) An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:
  - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public coastal lands and /or waters

- (2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters
  - (3) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities
- 2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
  - a) A reduction or elimination in the existing level of public access - includes, but is not limited to, the following:
    - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities
    - (2) Access is reduced or blocked completely by any public developments
- 3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.
- 4. The State will not undertake or directly fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
- 5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.
- 6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
  - a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.



- b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the coastal lands or waters. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
- 7. In making any grant, lease, permit, or other conveyance of land now or formerly underwater, there shall be reserved such interests or attached such conditions to preserve the public interest in the use of state-owned lands underwater and waterways for navigation, commerce, fishing, bathing, recreation, environmental protection, and access to the navigable waters of the state. In particular, the granting of publicly owned underwater or formerly underwater lands to private entities will be limited to exceptional circumstances only.

## RECREATION POLICIES

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### 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.**

#### Explanation of Policy

Water-related recreation and ecotourism includes such obviously water dependent activities as boating, swimming, and fishing as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water dependent recreation uses shall have a higher priority over water-enhanced recreation use. Determining a priority among coastal dependent uses will require a case-by-case analysis.

Among priority areas for increasing water-related recreation opportunities are those areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and those areas where the use of the shore is severely restricted

by highways, railroads, industry, or other forms of existing intensive land use or development. The Department of State, working with the Office of Parks, Recreation, and Historic Preservation and with local governments, will identify communities whose use of the shore has been so restricted and those sites shoreward of such developments which are suitable for recreation and can be made accessible. Priority shall be given to recreational development of such lands.

The siting or design of new public development in a manner which would result in a barrier to the recreational use of a major portion of a community's shore should be avoided as much as practicable.

Among the types of water dependent recreation, provision of adequate boating services to meet future demand is to be encouraged by this Program. The siting of boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competition with private boating development. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities. Harbors of Refuge are particularly needed along Lake Erie and Lake Ontario. There is a need for a better positional pattern of boating facilities to correct problems of overused, insufficient, or improperly sited facilities.

Water-related off-road recreational vehicle use is an acceptable activity; provided no adverse environmental impacts occur. Where adverse environmental impacts will occur, mitigating measures will be implemented, where practicable to minimize such adverse impacts. If acceptable mitigation is not practicable, prohibition of the use by off-road recreational vehicles will be posted and enforced.

## **POLICY 22**

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

### 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 provide water-related recreation as a multiple use include, but are not limited to:

- parks
- highways
- power plants
- utility transmission rights of way
- sewage treatment facilities
- mental health facilities\*
- hospitals\*
- prisons\*
- schools, universities\*
- military facilities\*
- nature preserves\*
- large residential subdivisions (50 units)
- shopping centers
- office buildings

*\* The types of recreation uses likely to be compatible with these facilities are limited to the more passive forms, such as trails or fishing access. In some cases, land areas not directly or immediately needed by the facility could be used for recreation.*

Prior to taking action relative to any development, State agencies should consult with the State Office of Parks, Recreation, and Historic Preservation, and if there is an approved local waterfront program, with the municipality in which the development is to locate, to determine appropriate recreation uses. The agency should provide OPRHP and the municipality with the opportunity to participate in project planning.

Appropriate recreational 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% 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 recreation facilities.

Whenever a proposed development would be consistent with CMP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore (this situation would generally only apply within the more developed portions of urban areas).

## HISTORIC AND SCENIC RESOURCES POLICIES

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### POLICY 23

**Protect, enhance, and restore structures, districts, areas, or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.**

#### Explanation of Policy

Among the most valuable of the State's man-made resources are those structures or areas which are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. The policy is not to be construed as a passive mandate but must include active efforts, when appropriate, to restore or revitalize through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

The structures, districts, areas, or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation comprise the following resources:

- (a) A resource, which is in a federal or State park established, among other reasons, to protect and preserve the resource
- (b) A resource on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places
- (c) A resource on or nominated to be on the State Nature and Historic Preserve Trust
- (d) An archaeological resource which is on the State Department of Education's inventory of archaeological sites
- (e) A local landmark, park, or locally designated historic district which is located within the boundary of an approved local waterfront revitalization program
- (f) A resource that is a significant component of an Urban Cultural Park

All practicable means to protect structures, districts, areas, or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities or the Nation shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to such significant structures, districts, areas, or sites. A significant adverse change includes but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials, entry ways and doors, fenestration, lighting fixtures, roofing, sculpture and carving, steps, rails, fencing, windows, vents and other openings, grillwork, signs, canopies, and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixtures associated with a building, structure, or earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgment about compatibility should focus on the visual and location relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. With historic districts, this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthworks, or component thereof of a recognized historic, cultural or archaeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural, or archaeological resource which does not involve a significant adverse change to the resource, as defined above.



## POLICY 24

### Prevent impairment of scenic resources of statewide significance.

#### Explanation of Policy

Within the Grand Island WRA, there are no mapped scenic resources of statewide significance.

The Coastal Management Program will identify on the coastal area map scenic resources of statewide significance. The following general criteria will be combined to determine significance:

Quality	<p>The basic elements of design (i.e., two-dimensional line, three-dimensional form, texture and color) combine to create all high-quality landscapes. The water, landforms, and human-made components of scenic coastal landscapes exhibit variety of line, form, texture, and color. This variety is not, however, so great as to be chaotic. Scenic coastal landscapes also exhibit unity of components. This unity is not, however, so complete as to be monotonous. Example: the Thousand Islands where the mix of water, land, vegetative and human-made components creates interesting variety, while the organization of these same components creates satisfying unity.</p> <p>Often, high quality landscapes contain striking contrasts between lines, forms, textures, and colors. Example: A waterfall where horizontal and vertical lines and smooth and turbulent textures meet in dramatic juxtaposition.</p> <p>Finally, high quality landscapes are generally free of discordant features, such as structures or other elements which are inappropriate in terms of siting, form, scale, and/or materials.</p>
Uniqueness	The uniqueness of high-quality landscapes is determined by the frequency of occurrence of similar resources in a region of the State or beyond.
Public Accessibility	A scenic resource of significance must be visually and, where appropriate, physically accessible to the public.
Public Recognition	Widespread recognition of a scenic resource is not a characteristic intrinsic to the resource. It does, however, demonstrate people's appreciation of the resource for its visual, as well as evocative, qualities. Public recognition serves to reinforce analytic conclusions about the significance of a resource.

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. This determination would involve: 1) a review of the coastal area map to ascertain if it shows an identified scenic resource which could be affected by the proposed action, and 2) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource. Impairment will include: (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

1. siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
2. clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
4. removing deteriorated and/or degrading elements;
5. maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
6. maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
7. using appropriate materials, in addition to vegetation, to screen unattractive elements;
8. using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

## **POLICY 25**

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

### **POLICY 25A**

**Protect and restore natural resources of the Niagara River Corridor that contribute to the overall scenic quality of the Grand Island WRA.**

#### Explanation of Policy

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 are the same as those cited under the previous policy, i.e., 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.

The Grand Island WRA contains numerous natural resources (State Parks, Wildlife Management Areas, Parkway, and wildlife habitats) that are significant contributors to the scenic qualities of the WRA. The western branch of the Niagara River corridor, including the western half of the Grand Island WRA, was designated an Important Bird Area by Canada and the United States. The entire Niagara River Corridor was designated in 2019 as a Wetland of International Importance under the Ramsar Convention signed by the United States and other countries. The Niagara River Corridor became the 40<sup>th</sup> Ramsar site and one of the 2,300 wetlands worldwide recognized for their rare and unique habitat, wildlife, and biological diversity.<sup>44</sup> Efforts should be taken to protect and, to the greatest extent feasible, improve the visual quality and visual accessibility of the waterfront areas, recognizing these important resources and designations during siting and design.

The siting and design guidelines noted below should be considered for proposed actions in the general coastal area. More emphasis may need to be placed on removal of existing elements, especially those which degrade, and on addition of new elements or other changes which enhance. Removal of vegetation at key points to improve visual access to coastal waters is one such change which might be expected to enhance scenic quality.

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<sup>44</sup> <https://ourniagarariver.ca/ramsar/>

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

1. siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
2. clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
4. removing deteriorated and/or degrading elements;
5. maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
6. maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
7. using appropriate materials, in addition to vegetation, to screen unattractive elements;
8. using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

## AGRICULTURAL LANDS POLICY

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### **POLICY 26**

**Conserve and protect agricultural lands in the State's coastal area.**

#### Explanation of Policy

The first step in conserving agricultural lands is the identification of such lands. The Department of State is mapping all important agricultural lands within the State's coastal area. The following criteria have been used to prepare the maps, and the mapped information will be incorporated in the New York State Coastal Resources Inventory and on the Coastal Area Map.

Land meeting any of the following criteria is being mapped.<sup>45</sup>

1. Land which meets the definition of the U.S. Department of Agriculture as being prime farmland, unique farmland, or farmland of statewide importance.
  - a. Prime farmland is defined by USDA Soil Conservation Service in CRF #7 Agriculture Part 651.5(a), January, 1979. A list of the soil associations that meet this definition has been prepared for each coastal county.<sup>46</sup>
  - b. Unique farmland is defined by USDASCS in CRF #7 Agriculture Part 657.5(b). In the coastal area of New York all fruit and vegetable farming meets the terms of the definition.
  - c. Farmland of Statewide importance is defined by USDASCS in CRF #7 Agriculture Part 656.5(c). Lists of soil associations which constitute farmland of statewide importance have been prepared for each coastal county.
2. Active farmland within Agricultural Districts. The maps of each Agricultural District show land committed by farmers. This is the land that will be mapped as active farmland. The district boundary will also be shown.
3. Areas identified as having high economic viability for farming. Any farm not identified in 1 and/or 2 above and which is located in an area identified as having “high viability” on the map entitled “Economic Viability of Farm Areas” prepared by the Office of Planning Coordination in May, 1969. This would be the basis for initial identification of areas having high economic viability for farming. Areas will be added and/or deleted based on comments from the agricultural community.
4. Areas adjacent to land identified in 1 above if these areas are being farmed and are part of a farm with identified important agricultural lands.
5. Prime farmland, unique farmland, and farmland of statewide significance will not be identified as important agricultural land whenever it occurs as parcels of land less than 25 acres in size and these small parcels are not within a mile of areas of active farming.

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<sup>45</sup> N.Y.S. Public Authority Law, Article 3, Title 3.

<sup>46</sup> After mapping according to this definition was substantially completed, the NYS Department of Agriculture and Markets completed development of a new agricultural land classification system. As soon as is practical, the following definition will be the basis for revising the maps of coastal agricultural land. Important agricultural land shall include all land within an agricultural district or subject to an eight-year commitment that has been farmed within at least two of the last five years, or any land farmed within at least two of the last five years in soil groups 1-4 as classified by the Land Classification System established by the NYS Department of Agriculture and Markets, or any land farmed within at least two of the last five years that is influenced by climate conditions and that support the growth of high value crops. Additionally, agricultural land not meeting the above criteria but located adjacent to any such land and forming part of an on-going agricultural enterprise shall be considered important agricultural land.



Given the Program's application to a narrow strip of land, implementing a policy of promoting agricultural use of land must, to be practical, concentrate on controlling the replacement of agricultural land uses with non-agricultural land use as the result of some public action. The many other factors such as markets, taxes, and regulations, which influence the viability of agriculture in a given area, can only be addressed on a Statewide or national basis.

The Program policy requires a concern for the loss of any important agricultural land. However, the primary concern must be with the loss of agricultural land when that loss would have a significant effect on an agricultural area's ability to continue to exist, to prosper, and even to expand. A series of determinations are necessary to establish whether a public action is consistent with the conservation and protection of agricultural lands, or whether it is likely to be harmful to the health of an agricultural area. In brief, these determinations are as follows: First, it must be determined whether a proposed public action would result in the loss of important agricultural lands as mapped in on the Coastal Inventory. If it would not result, either directly or indirectly, in the loss of identified important agricultural lands, then the action is consistent with the policy on agriculture. If it is determined that the action would result in a loss of identified important agricultural lands, but that loss would not have an adverse effect of the viability of agriculture in the surrounding area, then the action may also be consistent with this policy. However, in that case, the action must be undertaken in a manner that would minimize the loss of important farmland. If the action is determined to result in a significant loss of important agricultural land, that is if the loss is to a degree sufficient to adversely affect surrounding agriculture's viability -- its ability to continue to exist, to prosper, and even to expand -- then the action is not consistent with this agriculture policy.

The following guidelines define more fully what must be considered in making the above determinations:

- 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<sup>47</sup> containing such identified important agricultural lands
    - (b) Consume a total of 100 acres or more of identified important agricultural land,
  - or

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<sup>47</sup> A farm is defined as an area of at least 10 acres devoted to agricultural production as defined in the Agricultural District Law and from which agricultural products have yielded gross receipts of \$10,000 in the past year.

- (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) Transportation improvements, except for maintenance of, and safety improvements to, existing facilities that serve non-farm or non-farm related development
  - (c) Major non-agribusiness commercial development adjacent to identified agricultural lands
  - (d) Major public institutions
  - (e) Residential uses other than farm dwellings
  - (f) 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 agriculture to the region or State, consideration must be

given to its social and cultural value, its economic viability, 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 interdependent. 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 area 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 experienced 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 likelihood 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 a 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 the policy according to NYS DOS regulations, Part 600, or as a result of the findings of an EIS, 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 farm land in active farming
    - (d) other unique farmland
    - (e) farmland of Statewide importance in active farming.
    - (f) active farmland identified as having high economic viability
    - (g) prime farmland not being farmed
    - (h) 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.

## ENERGY AND ICE MANAGEMENT POLICIES

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### 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.**

#### Explanation of Policy

New York's overall annual energy demand has begun to flatten over time, in part due to the success of State and utility energy efficiency programs. However, peak load (the highest amount of energy consumption in a given year) has continued to increase at a more rapid pace<sup>48</sup>. Renewable power sources—hydro, solar, wind, and other carbon-free solutions—also continue to grow as a share of the total energy produced in the State.<sup>49</sup> Significant investments in the billions of dollars are needed to replace New York's aging electric transmission and distribution infrastructure just to meet currently projected energy demand.<sup>50</sup> To respond to these significant shifts in the State's energy infrastructure, State energy policies are being designed to maintain energy system reliability during peak load in ways that improve the grid's overall system efficiency, from both energy transmission and capital investment perspectives.<sup>51</sup>

The New York State energy planning process provides a comprehensive framework for improving the State's energy system, addressing issues such as environmental impacts, resiliency, and affordability.<sup>52</sup> Key areas of focus for New York's energy planning and implementation policies include integration of renewable energy generation; local energy generation that can foster both economic prosperity and environmental stewardship; seeking innovative energy solutions across the State's public facilities and operations; increasing energy efficiency; and decreasing greenhouse gas emissions.<sup>53</sup> New York's energy policy is also central to how the State responds to the challenges presented by a changing climate. New York State's energy planning recognizes that extreme weather events demand more resilient energy

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<sup>48</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>49</sup> 2015 New York State Energy Plan, Vol. 1, p. 10.

<sup>50</sup> 2015 New York State Energy Plan, Vol. 1, pp. 25-26.

<sup>51</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>52</sup> 2015 New York State Energy Plan, Vol. 1, p. 9.

<sup>53</sup> 2015 New York State Energy Plan, Vol. 1, p. 7; 2015 New York State Energy Plan, Vol. 1, p. 11.



infrastructure, and that climate change presents both challenges and opportunities to lead and innovate.<sup>54</sup>

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are contained primarily in Article 6 of the New York State Energy Law. That Article requires the preparation of a State Energy Plan. With respect to transmission lines and the siting of major electric generating facilities, Articles 7 and 10 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 providing additional electric capacity. The policies derived from the siting regulations under these Articles are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Law. That law is used for the purposes of ensuring consistency with the Coastal Management Program.

The Department of State will present testimony for the record during relevant certification proceedings under Articles 7 and 10 of the Public Service Law when appropriate; and use the State SEQR and NYS DOS regulations to ensure that decisions regarding other proposed energy facilities (not subject to Articles 7 and 10 of the Public Service Law) that would affect the coastal area are consistent with coastal policies.

The Grand Island WRA is limited in its upland area land mass by State Lands and contains clusters and stretches of homes, businesses, and mixed-use neighborhoods along the Niagara River shoreline; the waterside is constrained in use by the International Border on the western channel and the navigational channel on the eastern side. Significant public benefit in quality of life and economic robustness is derived from the Niagara River shoreline and the Grand Island community desires to protect it from incompatible uses that may compromise the aesthetic quality of the area, increase the potential for flooding and erosion, or damage the natural environment in a way that restricts its use and enjoyment by both residents and visitors. The land and water area comprising the Grand Island WRA constitutes not only a world-class viewshed of the Niagara River, but also a well-documented national resource of for migratory bird flyways and habitats, including wildlife management areas and International Bird Area designations.

Decisions siting energy facilities within view of/from the Grand Island WRA must take into consideration potential impacts on scenic, cultural, historical and archeological resources, avian and bat populations, the use of the Niagara River shoreline, human health, local property

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<sup>54</sup> 2015 New York State Energy Plan, Vol. 1, p. 17.

values, noise, and ecological habitats. Any substantial degradation to these resources should be avoided.

Major energy generating facilities along the shoreline can affect avian flyways and habitats. The United States Fish and Wildlife Service (USFWS) states that, "[T]he risk to wildlife from operating wind turbines could rise to severe levels. Previously, the Service has recommended that wind energy projects be constructed at least three miles from the shoreline of the Great Lakes to reduce this risk." Development of onshore uses and resources, including renewable energy resources, must take into consideration potential impacts on wildlife, wildlife habitat, as well as impacts on human health and quality of life. Any substantial degradation to these populations should be avoided.

#### **POLICY 28**

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

##### Explanation of Policy

The Town of Grand Island is uniquely impacted by the flow and accumulation of ice in the Niagara River, especially with the placement and removal of the ice boom on Lake Erie; ice buildup on the Niagara River is not formally managed along the Town of Grand Island waterfront.

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

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

#### **POLICY 29**

**The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.**

### Explanation of Policy

The science of ecosystem connections between the coastal zone and offshore areas is increasingly better understood. The offshore environment is an ongoing focus of policy development at national, regional, and state levels. Within this context, New York seeks to accommodate longstanding offshore industries, such as commercial and recreational fishing and maritime commerce, while at the same time ensuring the ecological functioning of habitats important to New York, as the State considers the need for new offshore resource development and uses to occur.

While New York State has jurisdiction in its offshore waters, matters pertaining to the OCS are under the jurisdiction of the federal government. However, offshore resource development and other uses on the OCS may affect coastal resources and uses important to New York. Consequently, the Department of State actively participates in OCS planning and decision-making processes pursuant to the federal Outer Continental Shelf Lands Act and the Deepwater Port Act, among other federal statutes, and reviews and voices the State's concerns about federal OCS activities, licenses, permits, lease sales, plans, and other uses and activities. The federal government increasingly has invited State participation in offshore planning and decision-making processes. New York will continue to review and analyze federal licensing and permitting activities for federal consistency, including activities in offshore areas outside New York's coastal zone. Proponents of offshore activities should use available offshore data to identify and reduce the potential effects on New York's coastal resources, activities and uses. Project proponents should consider the compatibility with, and seek to accommodate, the existing presence of resources, activities and uses that are important to the coastal area of New York State.

In addition to the development of energy resources and the siting of energy facilities, offshore uses of particular concern to New York State because of their potential effects on State coastal uses and resources include, but are not limited to: fisheries management; aquaculture; sand and gravel mining; military readiness training and related exercises; changes or upgrades to established navigation patterns and infrastructure, including the re-routing of existing navigation lanes and the location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation (ATON) program; permits for deepwater ports; the identification of interim or permanent open-water dredged material disposal sites; the intentional submergence of vessels and other structures, including for the purpose of creating artificial reefs; the creation of human-made islands, tidal barriers, or the installation of other fixed structures; scientific research activities; and exploration and identification of potential resources for extraction, such as biopharmaceutical products.

In its review of proposed activities, licenses, permits, lease sales and plans in the Atlantic OCS and New York State coastal waters, the Department of State works with state and federal agencies to consider a number of factors, including but not limited to: the potential effects upon maritime traffic, including navigational safety leading into and from New York's ports; the potential for increased port development and economic activity; aspects of national security; the effects on important finfish, crustaceans, shellfish, seabirds, marine mammals, and other wildlife populations and their spawning, wintering, and foraging habitats and migrating corridors; impacts on biological communities and biodiversity; ecological functioning of ecosystems; economic and other effects upon commercial and recreational fishing activities; impacts upon tourism and public recreational resources and opportunities along the coasts and offshore; the potential for geo-hazards; water quality; and overall effects on the resilience of New York's coastal uses and resources.

Of special significance, New York State recognizes the need to develop energy resources, particularly those that contribute to achieving the State's energy goals, including greenhouse gas reduction. It also recognizes that any energy development may have reasonably foreseeable effects on existing coastal uses and resources. Among the various energy resources under consideration for development are those which may be found in offshore waters within the state's territorial limit or the Atlantic Outer Continental Shelf (OCS). There are currently no active licenses, permits, lease sales or plans for oil and gas exploration or production in the waters offshore New York State.

The State encourages the responsible development of renewable energy resources. Wind, wave, tidal, and water current resources located offshore New York are an increasing focus of development interest, which may continue to grow as projects become more technologically feasible. Offshore renewable wind energy development is a use which depends on the utilization of resources found in coastal waters. The State recognizes offshore projects directly interconnected to the New York electrical grid as qualifying for eligibility as a dependent use at the same level as though the facility were located within the State.

The open waters of Lake Erie and portions of the Niagara River offer some of the finest freshwater fishing in the world for king salmon (chinook), coho salmon, brown trout, lake trout, steelhead/rainbow trout and bass. Sport fishing is one of the most popular recreational activities in the area. Many different fishing charters and derbies run throughout the year and generate significant tourism dollars to the region, utilizing marinas and docking facilities in various communities including Grand Island. Recreational boating is very popular during the spring, summer and fall seasons. These activities can extend into portions of the Niagara River and include motorboats, waterskiing, sailing and other related water sports.

The Niagara River is also a very important corridor for migratory birds. In the spring and fall, migrating birds from as far south as South America and as far north as northern Canada result in concentrated flocks of birds flying over and around Lake Erie and the Niagara River. Bird watching is one of the fastest growing outdoor recreational activities that can be enjoyed by all ages and experiences. Bird watching associated with migratory birds occurs upland and along the shoreline, but also extends into the Niagara River.

The upper Niagara River is an artery to the greater Great Lakes-St. Lawrence Seaway, which serves mariners, farmers, factory workers, and commercial interests from the western prairies to the eastern seaboard. Virtually every commodity imaginable moves on the Great Lakes Seaway System. Annual commerce on the system exceeds 200 million net tons. The Niagara River navigational channel is located on the east side of Grand Island. The Niagara River is also a source for drinking water, commercial processes, and lake level control with several water intakes within the Grand Island WRA.

Development of offshore uses and resources, including renewable energy resources, must take into consideration potential impacts on fish populations, fish and wildlife habitat, water-dependent recreation including fishing and boating, commercial shipping, navigation and drinking water intakes. Any substantial degradation to these resources should be avoided.

## WATER AND AIR RESOURCES POLICIES

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### 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 groundwater but also plant site runoff, leaching, spillages, 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 the municipal treatment systems before reaching the State's waterways.



### **POLICY 31**

**State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened 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 State has identified certain stream segments as being either "water quality limiting" or "effluent limiting." Waters not meeting State standards and which would not be expected to meet these standards even after applying "best practicable treatment" to effluent discharges are classified as "water quality limiting". Those segments meeting standards or those expected to meet them after application of "best practicable treatment" are classified as "effluent limiting," and all new waste discharges must receive "best practicable treatment." However, along stream segments classified as "water quality limiting", waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.

Local monitoring of waterbodies from regional entities such as, but not limited to, the County Soil and Water Conservation Service and the Buffalo Niagara Waterkeeper, should be factored into the review process for coastal waters classifications.

### **POLICY 32**

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

#### Explanation of Policy

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or

vacuum sewers. These types of systems are often more cost effective in smaller, less densely populated communities and for which conventional facilities are too expensive.

Most lands located within the Town of Grand Island WRA are serviced by public water and sewer systems; unsewered areas of the waterfront where septic systems are still in use shall promote proper maintenance practices to protect water quality and ensure that these systems are functioning effectively.

### **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 stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, non-structural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged.

There are no combined sewer overflows in the Town of Grand Island; the Town is subject to a Municipal Separate Storm Sewer System (MS4) Program to control stormwater pollution.

### **POLICY 34**

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

#### Explanation of Policy

All untreated sanitary waste from vessels is prohibited from being discharged into the State's coastal waters. Where coastal resources or activities require greater protection than afforded by this requirement the State has designated vessel waste no discharge zones (NDZ), which includes Lake Erie and the Niagara River. Within these no discharge zones the discharge of all vessel waste whether treated or not is prohibited. As part of the NDZ designation, a determination from EPA that an adequate number of vessel waste pumpout stations exists is

necessary before the State can designate a no discharge zone. There are several stations noted in the Federal Register that exist in the Town of Grand Island WRA. The State prepared a Clean Vessel Act Plan which identifies the coastal waters for which no discharge zones are needed and the number of vessel waste pump outs required to obtain the determination from EPA. The discharge of other wastes from vessels is limited by State law.

### **POLICY 35**

**Dredging and filling in coastal waters and disposal of dredged material 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.**

#### Explanation of Policy

Dredging, filling, and dredge material disposal are activities that are needed for waterfront revitalization and development, such as maintaining navigation channels at sufficient depths, pollutant removal, and other coastal management needs – within the Grand Island WRA, the Tonawanda Channel is dredged by the US Army Corps of Engineers. Such projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging or filling activities, proper siting of dredged material disposal sites, and the beneficial use of dredged material. Such projects shall only be permitted if they satisfactorily demonstrate that these anticipated adverse effects have been reduced to levels which satisfy State permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25, and 34), and are consistent with policies pertaining to the protection and use of coastal resources (State Coastal Management policies 7, 15, 19, 20, 24, 26, and 44)

### **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

See Policy 39 for definition of hazardous materials.

### **POLICY 37**

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

#### Explanation of Policy

Best management practices for public and private development projects used to reduce these sources of pollution could include, but are not limited to, encouraging organic farming and pest management principles, soil erosion control practices, and surface drainage control techniques. In addition, the WNY Stormwater Coalition and the Town of Grand Island's existing MS4 program should be used to the extent practicable.

### **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 principal sources of drinking water in the State, and therefore must be protected. All areas within the Grand Island WRA have access to and are connected to a public water supply system.

### **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 land, and scenic resources.**

#### Explanation of Policy

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

Hazardous wastes are unwanted byproducts of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Article 27, Title 9, Section 0901, Subdivision 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 when improperly treated, stored, disposed, transported or otherwise managed.” A list of hazardous wastes (NYCRR Part 366) will be adopted by DEC within 6 months after EPA formally adopts its list.

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.**

##### Explanation of Policy

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

#### **POLICY 41**

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

##### Explanation of Policy

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

To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with



regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

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

#### **POLICY 42**

**Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.**

##### Explanation of Policy

The policies of the State and local coastal management programs concerning proposed land and water uses and the protection and preservation of special management areas will be considered prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

#### **POLICY 43**

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

##### Explanation of Policy

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

## WETLANDS POLICY

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### POLICY 44

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

#### Explanation of Policy

The Town of Grand Island is a coastal community located along Niagara River and it does not contain any tidal wetlands.

Tidal wetlands include the following ecological zones: coastal fresh marsh, intertidal marsh, coastal shoals, bars and flats, littoral zone, high marsh or salt meadow, and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semiaquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act (Water Resources Law, Environmental Conservation Law Article 15).

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
- aesthetic open space in many otherwise densely developed areas

There are a number of areas within the Grand Island WRA that contain State and Federal freshwater wetlands. Any proposed activities, including development proposals, that may affect these wetlands (within, contain, or adjacent to) are subject to the provisions of Article 24 of the Environmental Conservation Law as well as local regulations pertaining to environmentally sensitive areas to protect these natural features and identify mitigation measures where necessary or applicable.

The following measures can further protect and restore wetlands, in conjunction with active partnership habitat restoration plans and initiatives between the Town of Grand Island and regional agencies including, but not limited to, Buffalo Niagara Waterkeeper, NYS DEC, and Erie County Soil and Water Conservation Service:

1. Compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
2. Prevention of the net loss of wetlands by:
  - a. avoiding placement of fill or excavation of wetlands;
  - b. minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
  - c. providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished;
  - d. providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area; and
  - e. providing and maintaining buffers along creek corridors to provide protections from the impacts of upland uses and activities.
3. Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging alternative. Mitigation includes:
  - a. avoidance of potential adverse impacts, such as avoiding ecologically sensitive areas, scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and preventing fragmentation of intact habitat areas;
  - b. minimization of unavoidable potential adverse impacts, including reducing the scale or intensity of the use or development, designing projects to result in the least amount of potential adverse impacts, and choosing alternative actions or methods that would lessen potential impacts; and
  - c. specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

## SECTION 4 – PROPOSED LAND AND WATER USES, AND PROPOSED PROJECTS

Section 4 of the LWRP describes the land and water uses proposed within the Town of Grand Island WRA. Proposed projects are also listed and described in this section. Capitalizing on waterfront assets requires a balance between environmental conservation and economic development to protect and enhance the Grand Island WRA.

### 4.1 PROPOSED LAND USE

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As noted, the majority of the Grand Island WRA consists of State lands (public parkland, wildlife management areas), other conservation or parklands (local or non-State), and private residential lands with smaller pockets of mixed use. No significant changes are anticipated and, in the case of the mixed-use areas around Ferry Village and Whitehaven, these types of land uses are encouraged to continue. The proposed land use changes illustrated on Map 4.1 reflect existing conditions and desired trends within the Town of Grand Island WRA and generally support the goals of the LWRP. The only regulatory changes that will be undertaken by the Town involve district boundary modifications, rezoning certain areas as described below to other existing districts that more accurately reflect the desired development (see Section 5); outside of physical district boundary changes that will be reflected in changes to the Zoning Map no other regulatory changes are anticipated.

#### **WESTERN GRAND ISLAND - STATE PARKS AND WEST RIVER SHORELINE TRAIL**

To recognize the creation of the West River Shoreline Trail on the western side of Grand Island, the portion of the Grand Island WRA that extends between Long Road, just south of Buckhorn Island State Park, and Bush Road, just north of Beaver Island State Park, should be categorized as open space/conservation lands rather than the current classification as vacant land. This will also include the Town lands constituting Nike Base Park and those bounding tributaries of Woods Creek and the nearby Western New York Land Conservancy properties (Margery Gallogly Nature Sanctuary and pending Love Road Preserve) all of which are classified as different land uses. The former Buffalo Ornithological Society property, now owned by the Western New York Land Conservancy and slated to be renamed as the Love Road Preserve, will also be designated under this land use classification. The zoning for these areas, as well as Big

Six Mile Creek State Marina, are currently identified as either R1A (Low Density Single-Family Residential) or R1E (High Density Single Family Residential), which does not reflect the current or intended use of these areas.

Additionally, the large parcel in the northwest corner of Beaver Island State Park should be revised from vacant to conservation and parkland. These changes will delineate the full extent of parks, greenway and open space that exists on the west side of Grand Island for public enjoyment. The exception will be the West Oakfield area, which will remain residential as classified by land use as well as current zoning.

#### **FERRY VILLAGE TO WHITEHAVEN**

This portion of land referenced the general land uses of the areas described in Section 2.5, including Ferry Village, Grandyle Village and Whitehaven. It is anticipated that much of the lands in this area will remain as they are with most revitalization or redevelopment opportunities focused on the hamlet of Ferry Village and a portion of Whitehaven. There is a large parcel of vacant land at the northeast corner of East River Road and Ferry Road in the Ferry Village hamlet that should be changed to residential to reflect the potential for future residential use of this property. The commercial portion of Ferry Village, which contains a few marinas and other water-dependent and marine-related uses should be changed to waterfront commercial to reflect the existing character and nature of this area.

The Fisherman's Landing dock near the south Grand Island Bridge and the portion of the Turtle Creek corridor that lies within the WRA is shown on the future land use map as conservation and parkland, rather than the current classification as public services; this land is currently not zoned and is not intended to be as it is within the right-of-way.

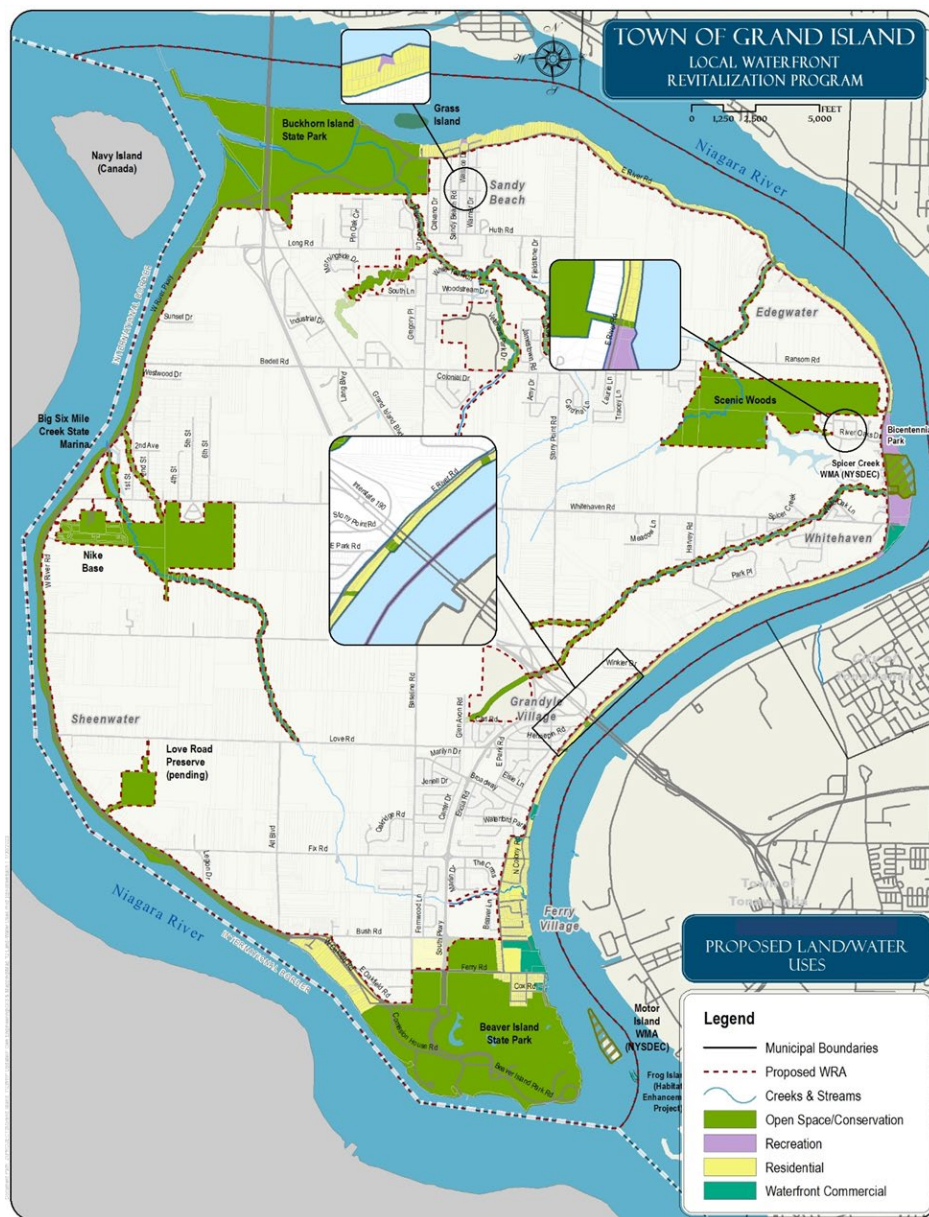
All other lands in the portion of the WRA that extends between Ferry Village and Whitehaven will remain residential. In the Whitehaven hamlet area, the entire area that encompasses the Radisson Hotel and former ferry dock and the River Oaks Marina located immediately to the north will be changed to waterfront commercial. The Spicer Creek Wildlife Management Area, Bicentennial Park, the scenic Woods complex, and the Spicer Creek corridor will all be revised to conservation and parkland. These changes recognize the current use and status of these lands and the importance of the area as a location for open space preservation, improved public access, and revitalization of existing commercial properties for enhanced waterfront development and marine-related activity.



## WHITEHAVEN TO BUCKHORN ISLAND STATE PARK

Encompassing the remaining eastern areas of the Town noted in Section 2.5, including Whitehaven and Sandy Beach, the land use designation for the portions of the Gunn Creek and Woods Creek corridors that fall within the WRA will be changed to conservation and open space. The Niagara Sailing Club, located just north of Ransom Road, should be changed to waterfront commercial. This land use designation should also be applied to the Sandy Beach Yacht Club, which is located east of Buckhorn Island State Park. All other lands in this portion of the WRA should remain as residential.

Map 4.1. – Proposed Land and Water Uses



## 4.2 PROPOSED WATER USES AND HARBOR MANAGEMENT

The NYS Executive Law, Article 42-Waterfront Revitalization of Coastal Areas and Inland Waterways was amended in 1992 to provide local governments with the clear authority to comprehensively manage activities in nearshore waterside areas or the Harbor Management Area within their WRA boundary. Pursuant to the 19 NYCRR Part 603, an LWRP must address existing or potential conflicts, congestion, and competition of water-dependent uses, and develop any necessary local controls.

The Harbor Management Area (HMA) covers the waters of the Niagara River and the navigable portions of streams within the Grand Island WRA used by motorized boats and/or non-motorized vessels.

Figure 4-1: Navigable portion of Gun Creek up to a natural “turning basin” or pond (left), Woods Creek up to Baseline Road (right)



*Image source: Google Maps*



Figure 4-2: Navigable portion of Spicer Creek at the eastern end of River Oaks Golf Club

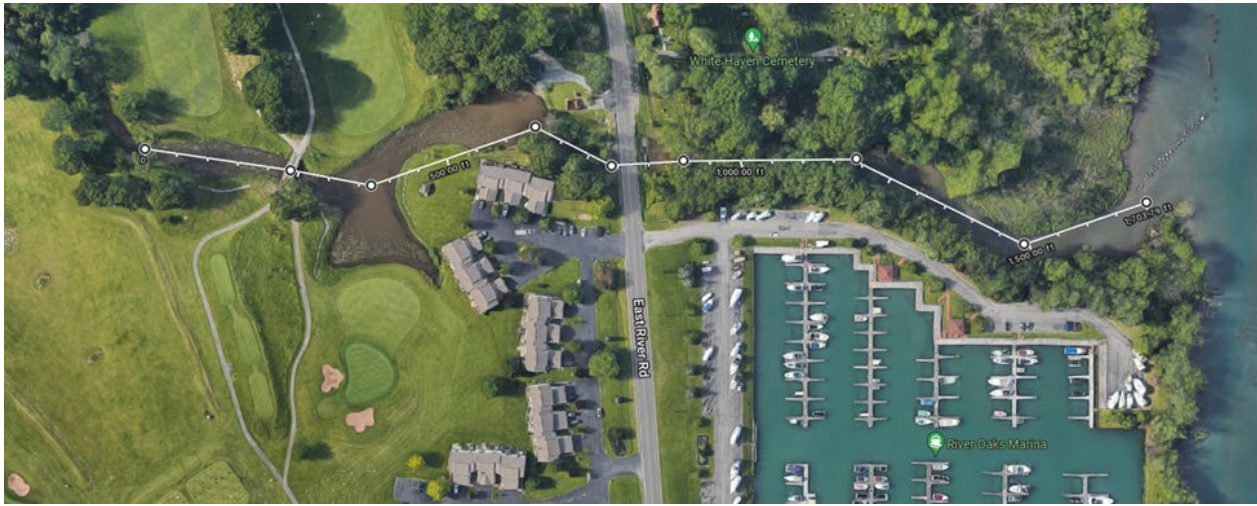


Image source: Google Maps

Based on average seasonal water levels, the following are the portions of the Niagara River tributaries that are navigable by paddlecraft and located within the WRA:

- Woods Creek between Niagara River and the bridge carrying Baseline Road (minor tributaries of the creek may be partially navigable subject to seasonal fluctuations)
- Gun Creek - approximately a ½ mile stretch from the Niagara River
- Spicer Creek between the Niagara River and approximately 800 feet west of the bridge carrying East River Road (total of approximately 1,700 LF).
- Turtle Creek – less than 1,000 LF from the confluence with the Niagara River is navigable due to private driveways that cross the creek
- A small portion of Big Six Mile Creek past the bridge carrying Whitehaven Road may be navigable, but likely not due to vegetation overgrowth
- Burnt Ship Creek is navigable between the Niagara River and the 190 bridge, though interior portions of the creek in Buckhorn Island State Park may not be navigable due to vegetation growth and seasonal water levels

The existing water-dependent uses, including public and private marinas, fishing access, private docks, public overlooks, hunting blinds, and paddlecraft launches, among others noted in Section 2, are anticipated to continue within the waters that are under the jurisdiction of the Town of Grand Island. Water-dependent activities will also likely continue to occur on the Niagara River and the limited inland creeks noted above; these activities include, but are not limited to, recreational boating (powered and paddlecraft), sailing, fishing, limited swimming, scuba diving, and hunting with winter activities consisting mainly of ice fishing. Currently, there are no designated harbors and anchorage or mooring areas. Aside from private recreational

fishing charters that may operate out of local marinas, there are no working waterfront industries, ports, or commercial fishing activities within the HMA.

Within the eastern channel of the Niagara River, the designated Federal navigation channel will continue to be maintained to support the operation of deep draft commercial vessels for any industries on the eastern shores of the River (e.g., Town and City of Tonawanda), in addition to use of the channel by recreation boats. This channel extends north from the City of Buffalo to Niagara Falls and is maintained by the Federal Government (US Army Corps of Engineers) at a minimum depth of 21 feet throughout its entire length. The Corps conducts surveys periodically to determine where the channel may need maintenance dredging.

The Town of Grand Island controls the construction of boathouses and docking facilities under Chapter 407 of the Town Code (Zoning) and limits their use to residential use only. Marinas, boat yards/launches, yacht clubs, boat/marine sales, docks, wharves, and piers are permitted as principal or accessory uses within the B-2 Water Business District under Chapter 407 of the Zoning Code. Beyond these local regulations, various State agencies have authority over construction or disturbance in waterways including NYS Dept. of State, NYS Dept. of Environmental Conservation, and NYS Office of General Services with Federal involvement by the US Army Corps of Engineers, as detailed in Section 2 and listed in Section 6 of the LWRP.

### 4.3 PROPOSED PROJECTS

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The projects proposed within the Town of Grand Island WRA will improve opportunities for public access and recreation and address water quality, habitat protection, and other local concerns. Prior to implementing any project or actions proposed within the Grand Island WRA the town government and agencies must:

- I. Confirm that the project or action proposed within the WRA is supported by the Town's effective land use controls and follows the resilience principles included in Appendix E.
- II. Review proposed town project or action for consistency with the LWRP policies, pursuant to the local LWRP Consistency Review Law adopted by the town concurrent with the adoption of the LWRP.
- III. Assess the environmental impact of the proposed town project or action, pursuant to the New York State Environmental Quality Review Act.

The town has created a management structure that will coordinate the implementation of the LWRP policies and be responsible for the efficient implementation of the projects proposed in this section, including the necessary coordination with permitting by federal and State agencies.

Most projects located on the shorefront and in-water will need construction permits issued by NYS OGS, NYS DEC, NYS OPRHP/SHPO, USACE and NYS DOS.

Map 4.2 – Proposed Projects



Projects proposed to be implemented by the town within the Grand Island WRA are outlined below and illustrated on Map 4.2 and Map 4.3.

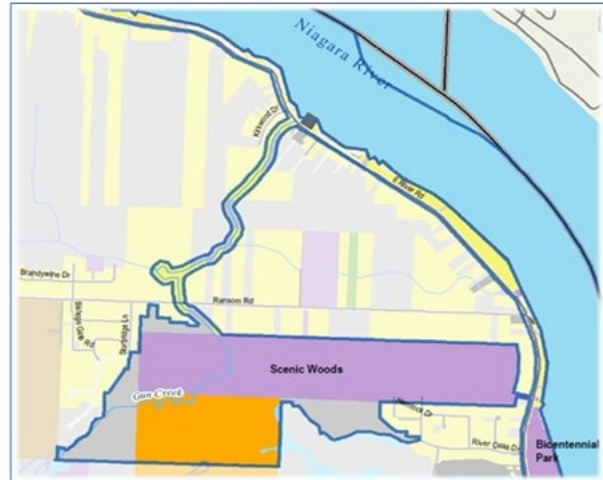


Other potential public and private actions implementing the LWRP are listed in Section 5.

### PROJECT #G-1: GUN CREEK HIKING TRAIL

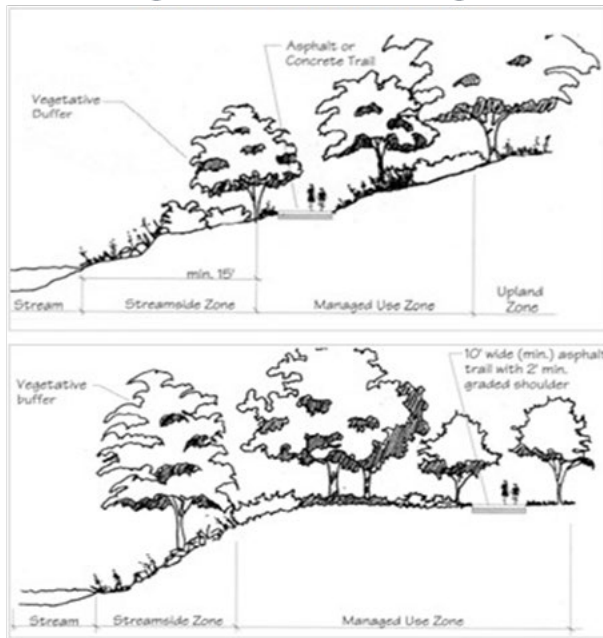
The town will develop a hiking trail that will follow Gun Creek and connect East River Road and Scenic Woods. A feasibility study will be developed to assess local conditions and identify potential alignments of the trail, identify potential trail materials and amenities, estimate construction costs for each proposed alignment, propose trail development phases and potential timeframes for implementation, and include public outreach to present the potential trail alignments and features.

Figure 4-3: Gun Creek



Source: Excerpt from LWRP Map 2.3

Figure 4-4: Potential trail designs



Source: American Trails

Conversations with property owners, to identify their interest in granting easements to the town for the public use of portions of their properties for the trail, could be carried out as part of the feasibility study or independently.

Various trail designs and materials could be utilized depending on proximity to the creek, shoreline conditions, available space, etc. Trail amenities could include resting areas, overlooks, and interpretive signage. Based on the granted easements and estimated construction costs the town will select the preferred trail alignment and seek professional design services and funding to develop trail construction plans.

The town's engineering department will determine if there is local capacity to complete this phase, or the town will need to procure the services of a consultant to develop this study. For the construction phase the town will seek professional services.

The town will seek funding for the development of a feasibility study, and for the trail design, engineering, and construction. The town will use the work of qualified town staff as in-kind services/local match for potential grants awarded for each project phase.

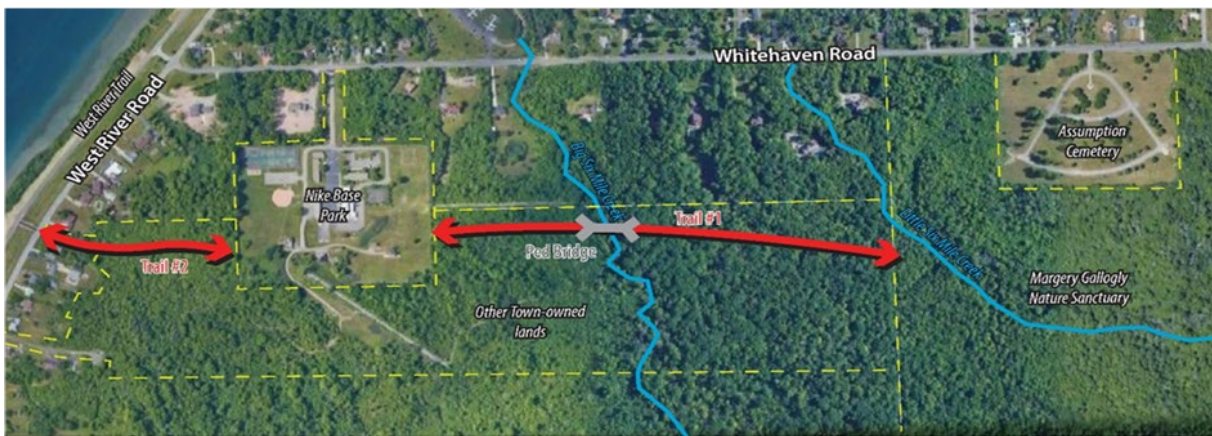
Listed below is just the estimated cost of the planning and design phase of this project, together with the potential funding sources and partners.

Estimated Project Cost:	\$120,000 (feasibility study, only)
Potential Funding Sources:	NYS OPRHP <sup>55</sup> , NYS DOS <sup>56</sup> , NRG <sup>57</sup>
Potential Project Partners:	NYS DEC, NYS OPRHP, Erie County, BNW <sup>58</sup> , Western New York Law Center (WNYLC), homeowners
Potential Approvals/Permits:	USACE, NYS DEC, NYSHPO
Estimated Timeframe:	Up to 5 years (short-term)

## PROJECT #G-2: NIKE BASE PARK TRAIL SYSTEM IMPROVEMENTS

The trail system at the Nike Base Park will be enhanced to establish connections between the West River Trail (LEFT), Nike Base Park (MIDDLE), and the Margery Gallogly Nature Sanctuary (RIGHT) illustrated in Figure 4-5. The trails design will be developed after the site analysis that will identify possible alignments.

Figure 4-5: Aerial view of Nike Base Park



Source: Town plan

The first trail connects Nike Base Park and the Margery Gallogly Nature Sanctuary Trail owned by the Western New York Land Conservancy. Trail #2 from the West River Shoreline Trail to Nike Base is already under development. This trail segment is only accessible to hikers, bicycles

<sup>55</sup> New York State Office of Parks, Recreation and Historic Preservation (<https://parks.ny.gov/grants/>)

<sup>56</sup> New York State Department of State (<https://dos.ny.gov/funding-bid-opportunities>)

<sup>57</sup> Niagara River Greenway Commission (<https://www.niagararivergreenway.com/>)

<sup>58</sup> Buffalo Niagara Waterkeeper

and leashed dogs are not permitted, and would be open year-round. Trail amenities are available at Nike Base for users. A pedestrian bridge traversing Big Six Mile Creek in Nike Base Park has already been constructed within this trail segment. Volunteer efforts have started construction of the second nature trail that extends between the southern portion of Nike Base Park and the Whitehaven overlook on the West River Shoreline Trail. About 1,100 linear feet has been cleared; about 300 feet has yet to be completed.

Figure 4-6: Bridge over Six Miles Creek



Source: Town of Grand Island

Figure 4-7: Trail surface materials



Source: Town of Grand Island

NYS OPRHP recognized the importance of this trail connection by clearing and paving an access point from the new West River Shoreline Trail. This trail, which would be completed for hiking and biking, needs some grading for safe trail access, drainage work (culverts), a small bridge (previous designs have been prepared and could be incorporated as part of this project), barriers to limit access by all-terrain vehicles, and wayfinding signage. The trail surface consists of a mixture of hard earth and compressed wood chips. At some point the trail segment would be resurfaced with an environmentally friendly layer of sintered limestone dust, providing a more stable surface for bicycling and pedestrian use. Trails at Nike Base consist of various surfaces as shown in Figure 4-7. Continued enhancements to these trails and various connections with the waterfront will allow more users to experience the areas.

The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.



Estimated Project Cost:	\$180,000
Potential Funding Sources:	NYS DOS, NYS Legislature
Potential Project Partners:	Town of Grand Island
Potential Approvals/Permits:	None
Estimated Timeframe:	up to 3 years (immediate)

### PROJECT #G-3: TRAILHEADS FOR GREENWAY TRAIL CONNECTIONS

The town will enhance greenway trail connections and corridors and connect significant natural areas and other shoreline/waterfront features in the Grand Island WRA.

Figure 4-8: Existing and proposed trails and trailheads designs



The premise is to establish the Town as a coastal community and promote eco-tourism. This project would include the establishment of trail heads and wayfinding signage at key locations within the WRA that would guide residents and visitors and inform them about the connections with other trails located outside of the WRA, such as at Long Road and by Interstate 190

(connect with bus stop), Woods Creek kayak launch, and the proposed kayak launch to be located on the East River.

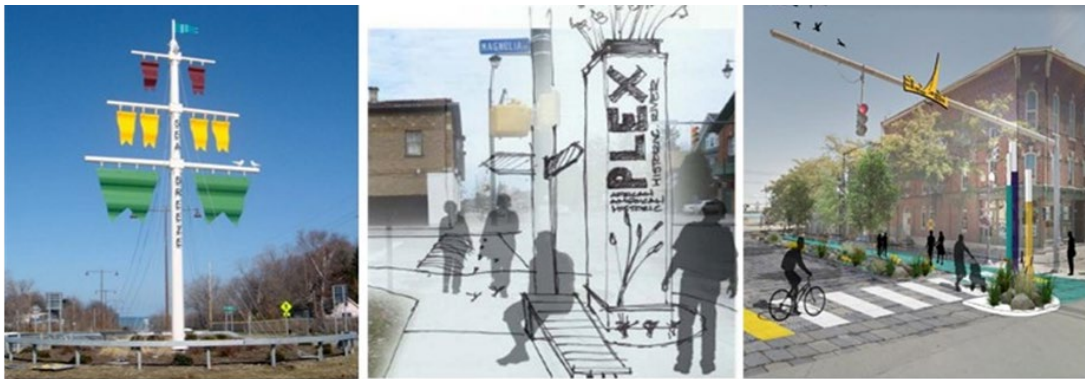
The town will seek funding to design, construct, and install the adequate trailheads and wayfinding signage. In addition, the town will examine the need and appropriate design of parking areas at each trailhead, and the potential installation of EV stations for charging of the trail users' cars and solar panels to produce the electricity necessary for the potential lighting of the trailhead. The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.

Estimated Project Cost:	\$250,000
Potential Funding Sources:	NYS DOS, NYS ORPHP, NRG
Potential Project Partners:	NYS DOS, NYS OPRHP, Erie County, local community groups
Potential Approvals/Permits:	None
Estimated Timeframe:	Up to 3 years (short-term)

#### PROJECT #G-4: GATEWAYS FOR NEIGHBORHOOD AND DESTINATIONS

Plan, design, and construct gateway features in prominent neighborhoods and other significant waterfront areas, including Ferry Village, Whitehaven/Radisson (historic ferry landing site), Scenic Woods, western end of Whitehaven/Nike Base/Little and Big Six Mile Creek.

Figure 4-9: Examples of gateway features



Source: Other municipal plans

Gateway features would “announce” and identify these key areas in the WRA and could be designed in various forms such as, but not limited to using public art, freestanding or monument signs, roadway arches, etc. Area gateways can range from prominent focal points (left) to streetside public art (center) to smaller elements incorporated into existing or rehabilitated streetscape assets (right).

During the first phase of this project the town will identify the areas that will benefit from being marked by an inviting and germane gateway design and conduct a public outreach to identify



design gateway features the residents find to be the more representative for each area. The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.

Estimated Project Cost:	\$100,000 (development of conceptual designs)
Potential Funding Sources:	NYS DOS, NYS ORPHP, NYS Legislature, NYSCA <sup>59</sup>
Potential Project Partners:	NYS OPRHP, Erie County, NRG, local community groups
Potential Approvals/Permits:	NYS DOT <sup>60</sup> , Erie County
Estimated Timeframe:	Up to 3 years (immediate to short term)

### PROJECT #G-5: WATERFRONT HISTORY RECOGNITION

The Grand Island Historic Preservation Advisory Board (HPAB) has joined the Preservation Buffalo Niagara<sup>61</sup> to work towards developing a comprehensive list of all historic properties and sites within the Town of Grand Island, including its WRA. This effort will identify high ranking sites and discuss them with NYS OPRHP for potential designation. The Town will also consider adopting a Certified Local Government (CLG) designation through NYS Office of Historic Preservation to

Figure 4-10: Spaulding-Sidway boathouse



Source: Town of Grand Island

“support and strengthen local preservation activities by assisting communities to achieve their preservation goals through the development of an action plan [among other benefits].” Map 2.9 included in Section 2 of this LWRP identifies historic resources within the WRA.

The Spaulding-Sidway boathouse is the only State/Federally designated historic resource within the Grand Island WRA. Other means for local identification of historic resources along the waterfront may include wayfinding, interpretive signage, QR codes and augmented reality, which must be coordinated with NYS OPRHP. Also, a tourism website and guiding app may be developed. To improve accessibility to its historic, cultural, and recreational resources the town will also consider developing marketing materials.

<sup>59</sup> NYS Council for Arts (<https://arts.ny.gov/>)

<sup>60</sup> NYS Department of Transportation (<https://www.dot.ny.gov/index>)

<sup>61</sup> <https://preservationbuffaloniagara.org/>

The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.

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Estimated Project Cost:	\$120,000
Potential Funding Sources:	NYS DOS, NYS ORPHP, Landmark Society of Western New York
Potential Project Partners:	NYS OPRHP, Erie County, Landmark Society of Western New York, local homeowners/associations, Historical society
Potential Approvals/Permits:	TBD
Estimated Timeframe:	up to 3 years (immediate)

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### **PROJECT #G-6: EAST RIVER ROAD AND WEST RIVER TRAIL ENHANCEMENTS**

Additional pedestrian amenities at strategic locations along East River Road and the West River Shoreline Trail are necessary to enhance the usability and enjoyment of these corridors and provide for greater public access. Enhancements would be coordinated with NYS OPRHP, as well as Erie County for East River Road, to ensure that their existing landscaping standards and plans are integrated into these efforts.

Publicly owned areas are limited but exist at strategic spots, including termini of public roads (Ransom Road, Cox Road/former ferry landing site, West River Road/old concrete pier, Fix Road, etc.), as well as Town-owned waterfront properties. Pedestrian amenities and other improvements to consider include:

- Resting points (benches, picnic tables, covered pavilions, etc.)
- Overlooks
- Shoreline fishing access points
- Historical/cultural interpretation
- Wayfinding signage (see #16)
- Bike amenities - racks/lockups and repair stands
- Relocation of historic markers to proper locations that were previously constrained by lack of public access

The public right-of-way that extends out to the waterfront from Ransom Road and Fix Road provides views of the river and opportunity for the development of public outlook areas.

The following two examples (Amherst, MA & Lynchburg, TN) highlight simple overlooks that could be built in these types of situations for a low-impact connection to the waterfront.

The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.

Figure 4-11: Ransom Road Potential Outlook Area



Figure 4-12: Fix Road Potential Outlook Area



Source: Google maps

Figure 4-13: Outlook areas in Amherst, MA, and Lynchburg, TN



Source: Google search

Estimated Project Cost:	\$140,000 (feasibility study)
Potential Funding Sources:	NYS DOS, NYS ORPHP, NRG
Potential Project Partners:	NYS OPRHP, Erie County, Town of Grand Island
Potential Approvals/Permits:	NYS DEC, NYS DOS, USACE
Estimated Timeframe:	Up to 5 years (short-term)

### PROJECT #G-7: EASTERN PADDLECRAFT LAUNCH

Paddlecraft usage has substantially increased on Grand Island with the establishment of the annual Paddles Up event organized by the Niagara River Greenway Commission, which brings hundreds of paddlers to Grand Island.

Figure 4-14: Annual Paddle Up event



Source: Paddles Up Niagara website

New paddlecraft public launch sites along East River Road, at Scenic Woods (at Ransom Road), Bicentennial Park, or at the NYS DEC Spicer Creek Wildlife Management Area, may become new destinations and stop areas along the Grand Island blueway trail. An area for off-street parking also needs to be included in the design of the launch site. The sites could integrate fishing and scenic overlook areas.

The estimated cost of the planning and design phase of this project is listed below, together with the potential funding sources and partners.

Estimated Project Cost:	\$64,000
Potential Funding Sources:	NYS DOS, NYS DEC, NRG, NYS OPRHP
Potential Project Partners:	NYS DOS, USACE, NYS DEC, NYS OPRHP, Erie County
Potential Approvals/Permits:	NYS DOS, USACE, NYS DEC, NYS DOT, Erie County
Estimated Timeframe:	Up to 5 years (short-term)

## PROJECT #G-8: FERRY VILLAGE PROMENADE

As one of the historic and more extensive waterfront hamlets within the Grand Island WRA, the development of a pedestrian boardwalk or promenade in this area would increase access to the waterfront and provide opportunities for economic revitalization/redevelopment, as well as an enhancement for economic development. The development of a promenade or boardwalk would need to be balanced with the amount of available public land (there is more extensive private ownership in this area), recognizing that the waterfront area in Ferry Village is quite underutilized. Compliance with design standards and recognition of the need for this amenity as a part of site plan approval for any redevelopment in this area will also help bring about desired change. Providing scenic viewing areas and shoreline fishing access would further the accessibility for residents and visitors.



Figure 4-15: Promenades in Ulster County and Fairport



Promenades can take on many designs and forms, from the simple narrow pathway with seating areas (Ulster County, LEFT) to wider walkways with potential docking slips (Village of Fairport, RIGHT).

Estimated Project Cost:	\$300,000 (planning and design development)
Potential Funding Sources:	NYS DOS, NYS ORPHP, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, USACE
Potential Approvals/Permits:	NYS DOS, USACE, NYS DEC, NYS OGS <sup>62</sup>
Estimated Timeframe:	Up to 5 years (long-term)

### PROJECT #G-9: IDENTIFY AND ENHANCE WEST RIVER TRAIL RESTROOM FACILITIES

Restroom facilities exist in proximity to the West River Shoreline Trail at Nike Base Park. The town will examine improvements to the existing facilities and need of additional facilities. The Town will design and install signage along the West River Shoreline Trail to indicate the direction and distance to the existing restrooms, and hours of operation.

Estimated Project Cost:	\$120,000 (feasibility study)
Potential Funding Sources:	NYS DOS, NYS OPRHP, NRG
Potential Project Partners:	NYS DOS, NYS OPRHP, NYS DOT, Erie County
Potential Approvals/Permits:	Erie County DOH, NYS DOT, NYS OPRHP
Estimated Timeframe:	Up to 3 years (immediate)

<sup>62</sup> NYS Office of General Services, Office of Land Management (<https://ogs.ny.gov/real-estate/lands-now-or-formerly-underwater>)



### PROJECT #G-10: WATERFRONT WAYFINDING

The town will develop a wayfinding system of signage throughout the WRA to guide and direct visitors to trails, paths, historical areas, parks and other amenities, neighborhoods, marinas, etc. This system will also incorporate educational/cultural interpretation and highlight the various habitat areas throughout the WRA, capitalizing on the educational opportunities available. The design of the system may complement and/or utilize the design standards developed for the Erie County Shoreline Trail and Niagara River Greenway. Signage standards already exist along the Niagara River Greenway for vehicular and pedestrian scale uses. Utilizing these standards for future wayfinding would provide consistency along the waterfront and to users.

Figure 4-16: West River Trail Sign



Source: NYS Parks

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Estimated Project Cost:	\$75,000 (planning/design), \$100,000 (construction)
Potential Funding Sources:	NYS DOS, NYS ORPHP, NRG
Potential Project Partners:	NYS DOS, NYS OPRHP, Erie County, Town of Grand Island, Chamber of Commerce
Potential Approvals/Permits:	NYS DOT, Erie County
Estimated Timeframe:	Up to 5 years (short-term)

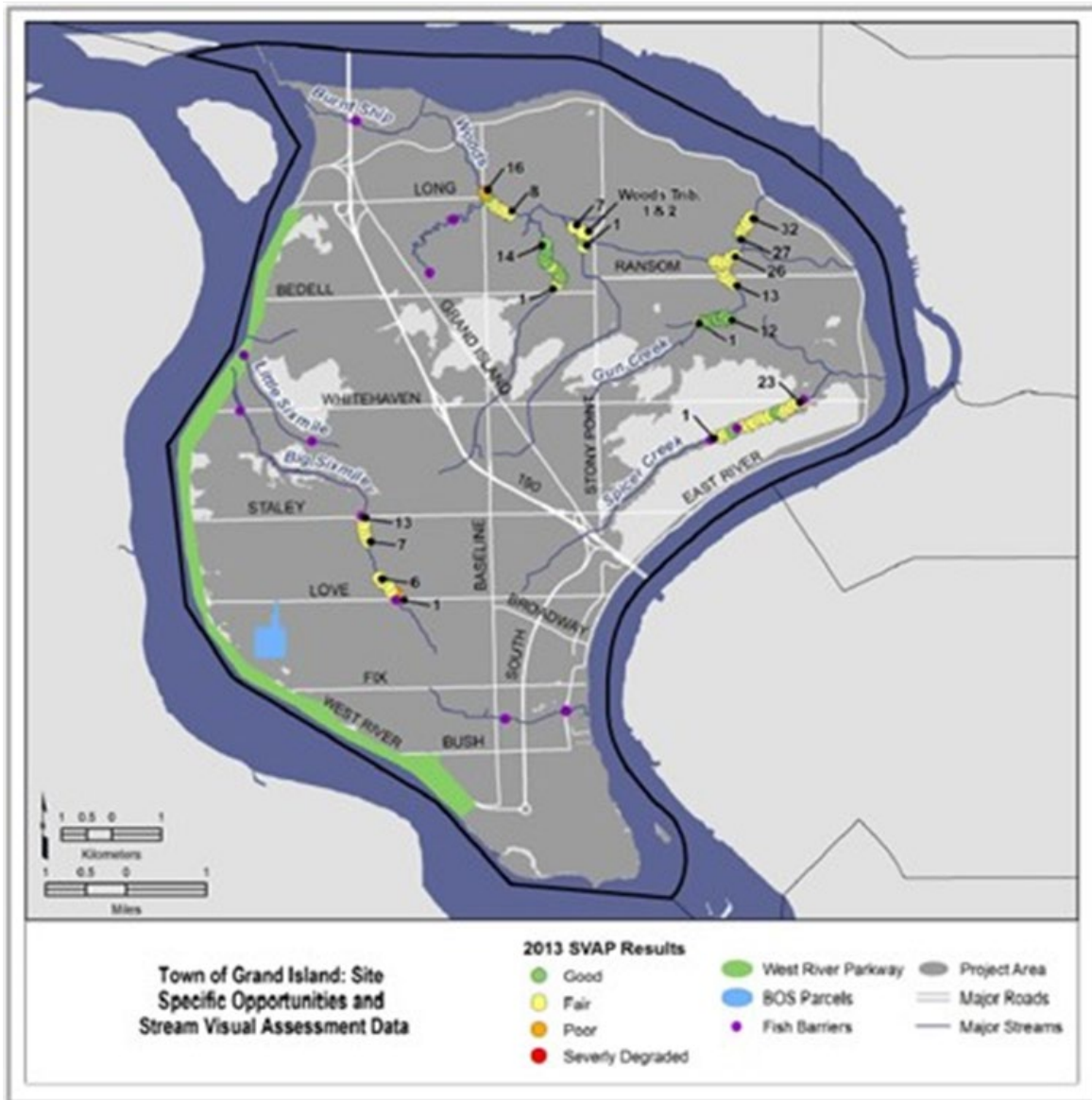
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### PROJECT #G-11: FISH SPAWNING HABITAT IMPROVEMENTS

Buffalo Niagara Waterkeeper (BNWK) has undertaken a preliminary analysis of ecological conditions in Grand Island, including an assessment of fish barrier locations (purple dots in Figure 4-17) and physical characteristics of key locations.

The Town will build upon the work of the Buffalo Niagara Waterkeeper (BNWK) to identify and mitigate areas in creeks and streams that are tributary to the Niagara River where spawning migration and access by native and sport fish species is restricted or prohibited. This should include creeks (named and unnamed) and lengthy culverts at road crossings or elevated culverts that may act as dams to migratory fish species (e.g., Whitehaven Road where it crosses Big Six Mile Creek). As part of this project, develop recommendations and action items such as the installation of mitigating elements (e.g., baffles or rock riffles), strategic vegetation removal (emphasis on invasive species), increasing stream buffers to address runoff and erosion, and other efforts to protect headwater woodlands and forests from development through ecology-based planning and zoning.

Figure 4-17: 2013 SVAP Results



Source: Buffalo Niagara Waterkeeper

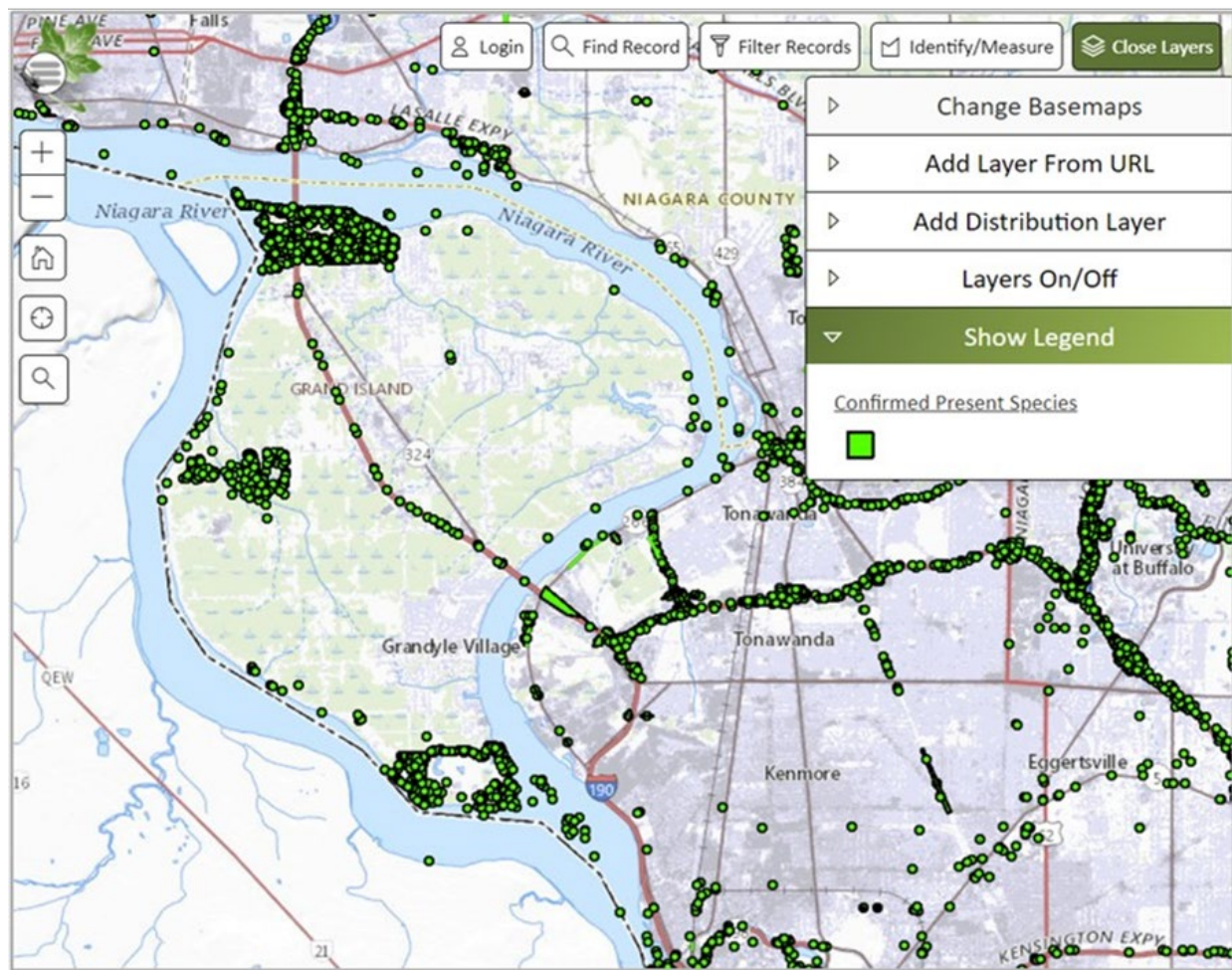
Estimated Project Cost:	\$200,000
Potential Funding Sources:	NYS DOS, NYS DEC, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County, BNW <sup>63</sup> , and the town's Conservation Advisory Board
Potential Approvals/Permits:	NYS DOS, NYS DEC, NYS OGS, USACE, Erie County
Estimated Timeframe:	Up to 5 years (short-term)

<sup>63</sup> Buffalo Niagara Waterkeeper

## PROJECT #G-12: INVASIVE SPECIES MANAGEMENT

The Town will investigate which local waterbodies and parkland within the WRA contain invasive species and identify means to remove and control invasive species that threaten the ecological health of waterbodies within the WRA. NY iMapInvasives is the official online database for public mapping of known/reported invasive species statewide. In this snapshot of Grand Island, larger clusters of invasives are found at the State Parks, but also along the 190 corridor and in select locations along the shoreline. This database should be one of the first “go-to” resources for this information.

Figure 4-18: NY iMapInvasives Mapper



Source: <https://www.nyimainvasives.org/>

Estimated Project Cost:	\$80,000 (program development) \$50,000 (annual management)
Potential Funding Sources:	NYS DOS, NYS DEC, Erie County
Potential Project Partners:	NYS DOS, NYS DEC, Erie County, BNW
Potential Approvals/Permits:	NYS DEC, NYS DOS, NYS OGS, USACE, Erie County



Estimated Timeframe: Up to 5 years (short-term)/Ongoing

### PROJECT #G-13: IMPROVE WATER QUALITY MANAGEMENT

Identify additional actions, procedures, and local controls that could reduce point source pollution from residential, commercial, agricultural, and other land uses,

- ♦ adopt local controls and incentives and educate landowners to reduce pesticide and fertilizer use and dumping of grass clippings into local streams; draft and adopt local controls that prohibit construction near streams and the clearing of the riparian buffer zone

Figure 4-19: Riparian buffer zone reduces erosion and filters runoff

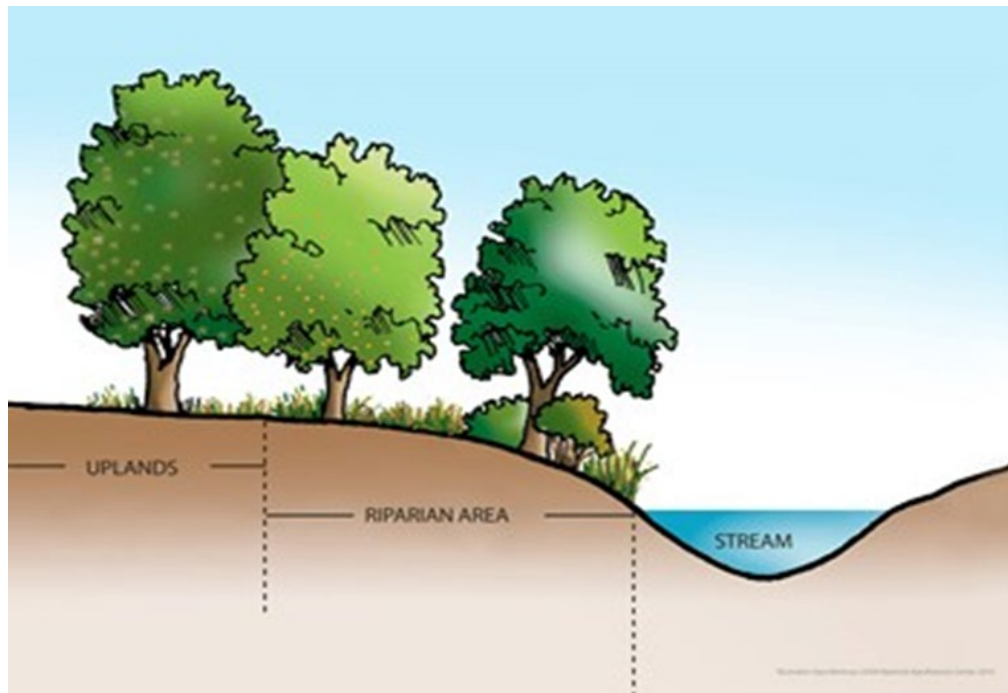


Illustration source: Gary Bentrup, USDA National Agroforestry Center, 2015

- ♦ draft and adopt local controls for proper pet waste management and provide proper associated trail/park amenities
- ♦ identify means to keep road pollutants that could be carried by runoff from directly discharging into the nearest streams (for example, use street sweeping equipment on roads close to the shoreline to reduce the potential for road oils, litter, and sediments to reach local waterways)
- ♦ draft and adopt local controls, identify incentives, and educate landowners to properly maintain private septic fields

- ◆ prohibit use of private port-a-potties directly on the shoreline or on docks (in conjunction with any Erie Co DOH/NYS DEC guidance)

Figure 4-20: Neglected private port-a-potty



Source: Town of Grand Island

- ◆ educate landowners about the impact of vegetation clearing for “better views” on shoreline erosion and reduction in lot impervious surfaces
- ◆ adopt and enforce local controls that prohibit the disposal of yard waste or any other type of waste into local waters; integrate riparian best management practices in the maintenance of town parks and trails
- ◆ enforce proper garbage storage, collection, and disposal

The goal of this effort(s) is to build upon the programs and controls that already exist at local and regional levels and further the efforts and results of protecting stream water quality and the collaboration and coordination with entities that are involved with and/or responsible for water quality protection (e.g., NYS DEC, Buffalo Niagara Waterkeeper, Western New York Stormwater Coalition, etc.).

Estimated Project Cost:	\$50,000 (program)/\$20,000 (management/annual)
Potential Funding Sources:	NYS DOS, NYS DEC, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County
Potential Approvals/Permits:	Town of Grand Island Town Board, Erie County
Estimated Timeframe:	Up to 3 years (immediate)/Ongoing



## PROJECT #G-14: HYDROLOGIC STUDY

The Town will prepare a comprehensive hydrologic study to evaluate town-wide historic drainage patterns, modifications that have occurred to the natural systems and localized drainage (stormwater runoff) problems and identify viable solutions to address flooding on properties adjacent to waterbodies in the WRA. Solutions may include drainage easements and/or streamlined permitting to facilitate clearing of waterbodies to promote efficient waterflow, consistent with the reasonable protection of the natural environment.

Estimated Project Cost:	\$200,000
Potential Funding Sources:	NYS DOS, NYS DEC, NYS ESD, NRG
Potential Project Partners:	NYS DOS, NYS DEC, USACE, Erie County
Potential Approvals/Permits:	None
Estimated Timeframe:	Up to 5 years (short-term)

## PROJECT #G-15: STORMWATER AND SANITARY OVERFLOW

Sanitary sewer overflows can occur during periods of excessive wet weather as well as infiltration and inflow (I&I) – water from other sources, undersized pipes, pipe failures, illegal connections, and blockages, among other causes. As shown in the example image at left, this can result in overflows of bacteria-laden water into public spaces and create health hazards.

To address water quality issues, the Town will evaluate inflow and infiltration (I&I) and sanitary sewer overflows (SSO) caused by stormwater runoff in the existing public sewer system, improve system capacity, and reduce impacts to stream waters. This study will identify areas where SSOs still exist, as well as where I&I issues are known to exacerbate these problems (i.e., illegal downspout connections, older sewer collection main, sump pump connections, etc.), and provide recommendations for mitigation and remediation, including the examination of existing lines, disconnection of illegal hookups, installation of new sewer pipe or retrofitting of existing lines, or equipment/treatment upgrades at the Town’s wastewater treatment facility.

Figure 4-21: Sanitary sewer overflows



Source: Town of Grand Island

Estimated Project Cost:	Ranges upon severity, \$120,000
Potential Funding Sources:	NYS DOS, NYS DEC, NYS EFC
Potential Project Partners:	NYS DOS, NYS DEC, NYS Environmental Facilities Corporation (EFC), Erie County
Potential Approvals/Permits:	NYS DEC, USACE, NYS DOS
Estimated Timeframe:	Ongoing (long-term)

### PROJECT #G-16: WATERFRONT MARKETING STRATEGY

Identify and market existing areas within the waterfront for public access and enjoyment. As part of an economic development strategy, work with the local Chamber of Commerce and other entities to “market the loop” that consists of the West River Shoreline Trail, internal trails, and East River Road (along with any connection improvements made) that traverses the Town of Grand Island waterfront. Ecotourism is an untapped economic development opportunity that exists on Grand Island given the extensive natural areas, wildlife management areas, sensitive habitats, parks, and trails that exist. The marketing strategy could include a combination of print brochures/flyers, a dedicated website, enhanced social media presence, and increased coordination with regional tourism agencies, among others and emphasize education and awareness of local history, features, and amenities. Waterfront elements to capitalize on and promote may include:

- ◆ Public swimming/wading
- ◆ Boat mooring/anchoring
- ◆ Town and State parks
- ◆ Trails (land and water-based)
- ◆ Golf courses and other active recreation
- ◆ Passive recreation areas
- ◆ Fishing sites
- ◆ Overlooks
- ◆ Launches (motorized, sailing and paddlecraft)
- ◆ Waterfront commercial areas
- ◆ Ecological and cultural sites

Estimated Project Cost:	\$230,000
Potential Funding Sources:	NYS DOS, NYS DEC, NYS ORPHP, NYS Empire State Development (ESD), NRG, other
Potential Project Partners:	NYS DOS, NYS OPRHP, Erie County, Historical society, NYS Welcome Center, Erie County Chamber of Commerce
Potential Approvals/Permits:	None

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Estimated Timeframe: Up to 5 years (short-term)/Ongoing

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### PROJECT #G-17: CONSERVATION EASEMENT PROTECTION

Conservation easements, including both current and future ones, should have signage posted along property boundary lines indicating they are protected through conservation easements and, in some cases, with restrictions as to their use. Entry points where there has been damage to the property (e.g., ATV activity) would need to be blocked off to limit access as needed. Where appropriate, walking/hiking trails should be considered for easements, ranging from simple mowed paths to mulch or stone dust. Gun Creek Preserve, which contains Gun Creek, is one such area in which a trail could be considered along with a gravel parking area where feasible. Other conservation easement enhancements may include invasive species removal, native plant restoration, or other interpretive measures. Any additional enhancements beyond identification of the easement area and access restrictions would need to be coordinated with easement holders and property owners and subject to the details of the easement.

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Estimated Project Cost:	\$60,000 (planning)
Potential Funding Sources:	NYS DOS, NYS DEC
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County
Potential Approvals/Permits:	None
Estimated Timeframe:	Ongoing

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### PROJECT #G-18: REESTABLISHMENT OF HISTORIC FERRY LANDING SITE

Located at the former Radisson Hotel property, the site of the Tonawanda-Grand Island ferry landing used to provide access to the Island for nearly a century until the construction of the Grand Island bridges.

The project would entail the reestablishment of the landing site, mirroring the historical character of the former ferry landing, for public use and potentially a docking site for the existing pedestrian and bike ferry between the City of Tonawanda and Grand Island – the site would not be used as a motorized boat launch. Historical markers (in addition to the one that currently exists), cultural

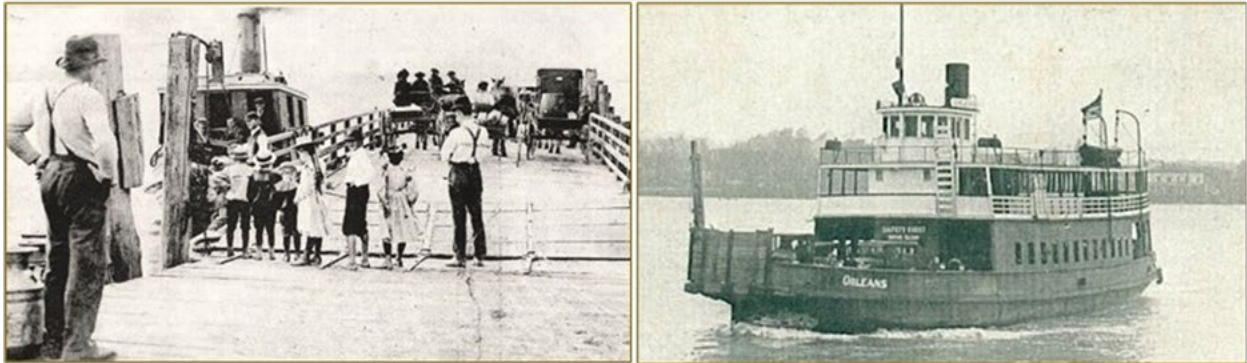
Figure 4-22: former ferry landing in the City of Tonawanda



Image source: Anton Schwarzmüller, October 8, 2016

exhibits, a fishing platform, sitting/viewing areas, and trailheads/trail kiosks would be additional amenities to be considered at the site, as well as small parking area or a shared parking opportunity with the hotel property to the north.

Figure 4-23: Pictures of people ferried across the Niagara River



Source: Town of Grand Island

Before the construction of the Island bridges, ferries shuttled goods and people across the river. Though the bridges handle this aspect of transportation now, transforming the former ferry landing sites into more prominent waterfront assets would not only highlight the history of these locations, but also establish greater connection to the waterfront – in an active or passive manner.

Estimated Project Cost:	\$1.5 million
Potential Funding Sources:	NYS DOS, NYS DEC, NYS ORPHP, NYS ESD, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County
Potential Approvals/Permits:	USACE, NYS DEC, NYS OGS, NYS DOS
Estimated Timeframe:	5+ years (long-term)

## PROJECT #G-19: HABITAT RESTORATION PROJECT MAINTENANCE

The work completed by Buffalo Niagara Waterkeeper (BNWK) on Spicer Creek improves habitat conditions along a section of this waterbody. Beyond the immediate impact of improving the ecological quality, the long-term maintenance of these waterbodies is critically important to ensuring that conditions do not deteriorate to pre-restoration levels.

The Town of Grand Island, in cooperation with other agencies involved in such restoration projects, will develop a program for maintenance that may include invasive species control, pest management/control, supplemental watering (for starting vegetation), erosion control, vandalism/unauthorized access, trash/debris removal, biological monitoring, etc. Best management practices and examples may be available from resources such as the US

Geological Survey, US Fish and Wildlife Service, USDA Forest Service, Erie County or other Soil and Water Conservation Agencies, NYS DEC, or Cornell Co-Operatives.

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Estimated Project Cost:	\$50,000/year
Potential Funding Sources:	NYS DOS, NYS DEC, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County, BNW
Potential Approvals/Permits:	USACE, NYS DEC, NYS OGS, NYS DOS
Estimated Timeframe:	Ongoing

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### **PROJECT #G-20: EAST RIVER ROAD BIKEWAY**

Develop a safe bike path along East River Road from the existing multi-use path that extends between the south Grand Island Bridge and Buckhorn Island State Park. This roadway is heavily used by bicyclists and pedestrians and has a high incidence of accidents. The bikeway lane would likely consist of a mix of on-street (shared street) and off-street sections depending on the amount of roadway right-of-way available and may also include other means to achieve a continuous pathway. This path would build upon the conceptual alignment provided in the Town's updated Comprehensive Plan and complete a non-vehicular loop around the island. This project should be coordinated with all agencies involved to ensure planning and design takes this project into account for any road reconstruction.

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Estimated Project Cost:	\$1.5 million
Potential Funding Sources:	NYS DOS, NRG, NYS DOT, US Federal Highway Administration (FHWA)
Potential Project Partners:	NYS DOS, NYS DOT, Erie County, BNWK
Potential Approvals/Permits:	Erie County, NYS DOT
Estimated Timeframe:	2 to 5 years (short-term)

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### **PROJECT #G-21: HAMLET DESIGN GUIDELINES**

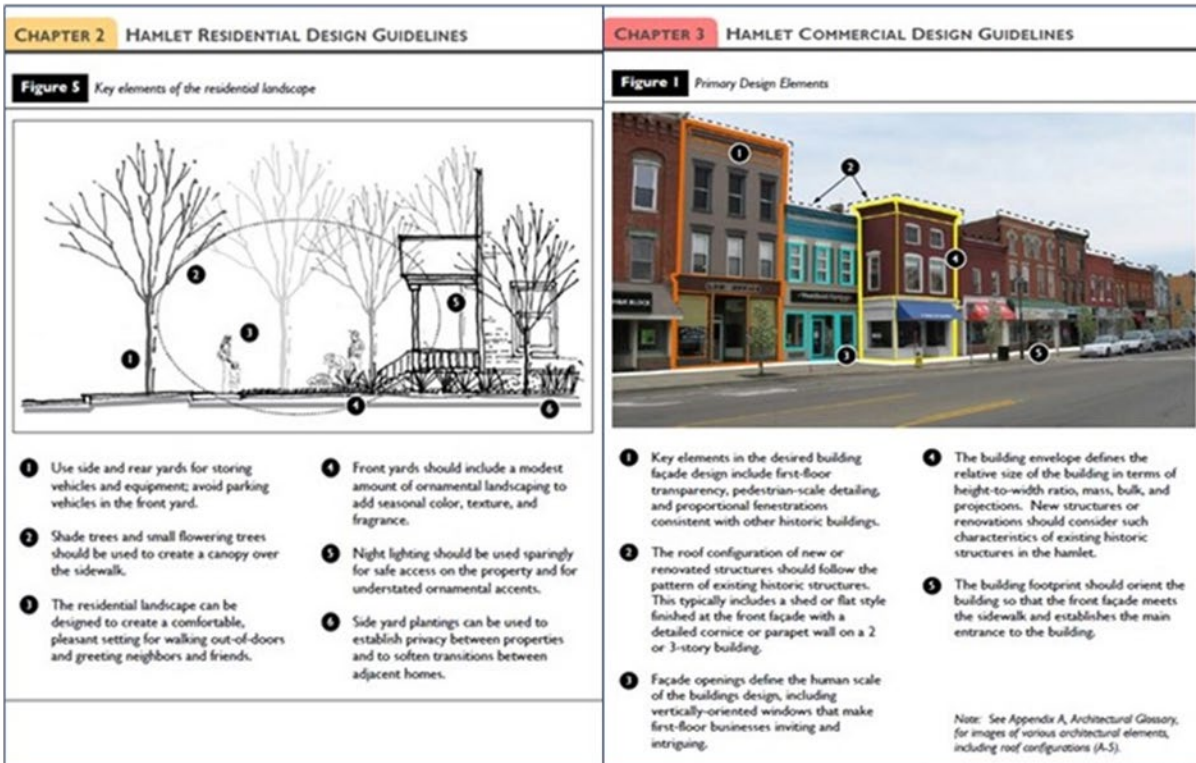
The Town of Grand Island has several hamlets that have long histories in the formation of and character of the Town including Ferry Village, East River/Whitehaven, and Grandyle Village. Each of these areas have varying levels and styles of development within them, ranging from residential to a full mix of uses (e.g., residential, commercial, community service, recreational, etc.).

To balance their rich history with orderly growth and development, as a means to sustain the livelihood of these neighborhoods and capitalize on their waterfront proximity, the development of design guidelines/standards would provide the means to balance these sometimes-competing interests. The intent of these guidelines/standards would be to provide



flexibility in redevelopment/revitalization efforts in the context, aesthetics, and scale that already exists in each of these areas and include elements such as, but not limited to, façade design, street frontage, windows & awnings, building massing, landscaping, parking, signage, lighting, access (pedestrian & vehicular), and overall streetscape architecture. Where appropriate, the guidelines can reference and/or incorporate LEED-ND (Leadership in Energy and Environmental Design for Neighborhood Development) or other such standards to promote environmentally sensitive practices.

Figure 4-24: Example of Design Guidelines



Source: Town of Gorham, Ontario County, NY

Estimated Project Cost:	\$80,000/area (depending on intensity of uses)
Potential Funding Sources:	NYS DOS, NYS OPRHP
Potential Project Partners:	NYS DOS, NYS OPRHP, Erie County
Potential Approvals/Permits:	Town of Grand Island Town Board, Erie County
Estimated Timeframe:	Up to 5 years (short-term)

## PROJECT #G-22: BUCKHORN ISLAND OFFSHORE MOORING

The popularity of Grass Island as an offshore mooring area for public gathering exposed a community desire for shallow water gathering space on the Niagara River as well as the critical need to protect sensitive aquatic habitats close to shore. However, to enhance and protect the

viability of the aquatic and terrestrial habitats on and around the island and reduce the erosion of the island's shore the NYS OPRHP planned and implemented protective measures, which also require the identification of other mooring areas where the wakes of the boats will not accelerate shoreline erosion and the number of moored boats will not overwhelm the area's natural resources.

Figure 4-25: Potential mooring area northwest of Buckhorn Island State Park



A study should be conducted to identify adequate seasonal mooring areas that could temporarily accommodate a considerable number of boats with minimal impact on the underwater habitats, including the offshore area northwest of Buckhorn Island State Park, east of the breakwall. The study will also need to identify a set of mooring regulations that the town will need to adopt, including limits on speed/wake, time of use, enforcement measures, level of activity, and other elements. Shallow waters exist northwest of Buckhorn Island State Park that may be suitable for informal, offshore mooring with reduced environmental impact to underwater areas as shown in nautical charts for the area.

Estimated Project Cost:	\$85,000 (study)
Potential Funding Sources:	NYS DOS, NYS DEC, NRG
Potential Project Partners:	NYS DOS, NYS DEC, NYS OPRHP, Erie County, BNWK
Potential Approvals/Permits:	USACE, NYS DEC, NYS OGS, NYS DOS
Estimated Timeframe:	Up to 5 years (short-term)

## **PROJECTS S#1-8 – TOWN COLLABORATION WITH COUNTY AND STATE AGENCIES**

The Town is committed to maintain and strengthen its dialogue and collaboration with Erie County and State agencies to achieve and coordinate waterfront projects, boost tourism throughout the WRA, and protect natural resources. During the development of the LWRP the public and the Town's Long Range Planning Committee identified local needs that could be addressed only through actions undertaken by County and State agencies, which have the necessary jurisdiction. The actions identified by the Town during the preparation of the LWRP and discussed with County and State agencies that should conduct these actions, are described below and labeled S#1-8 on Map 4.3 – County and State Agencies Actions Supported by the Town.

### **Erie County Department of Environment and Planning**

- Identify the best location for the design and construction of a kayak launch area off East River Road in the Whitehaven hamlet area. (Project S-1)

### **Erie County Department of Public Works**

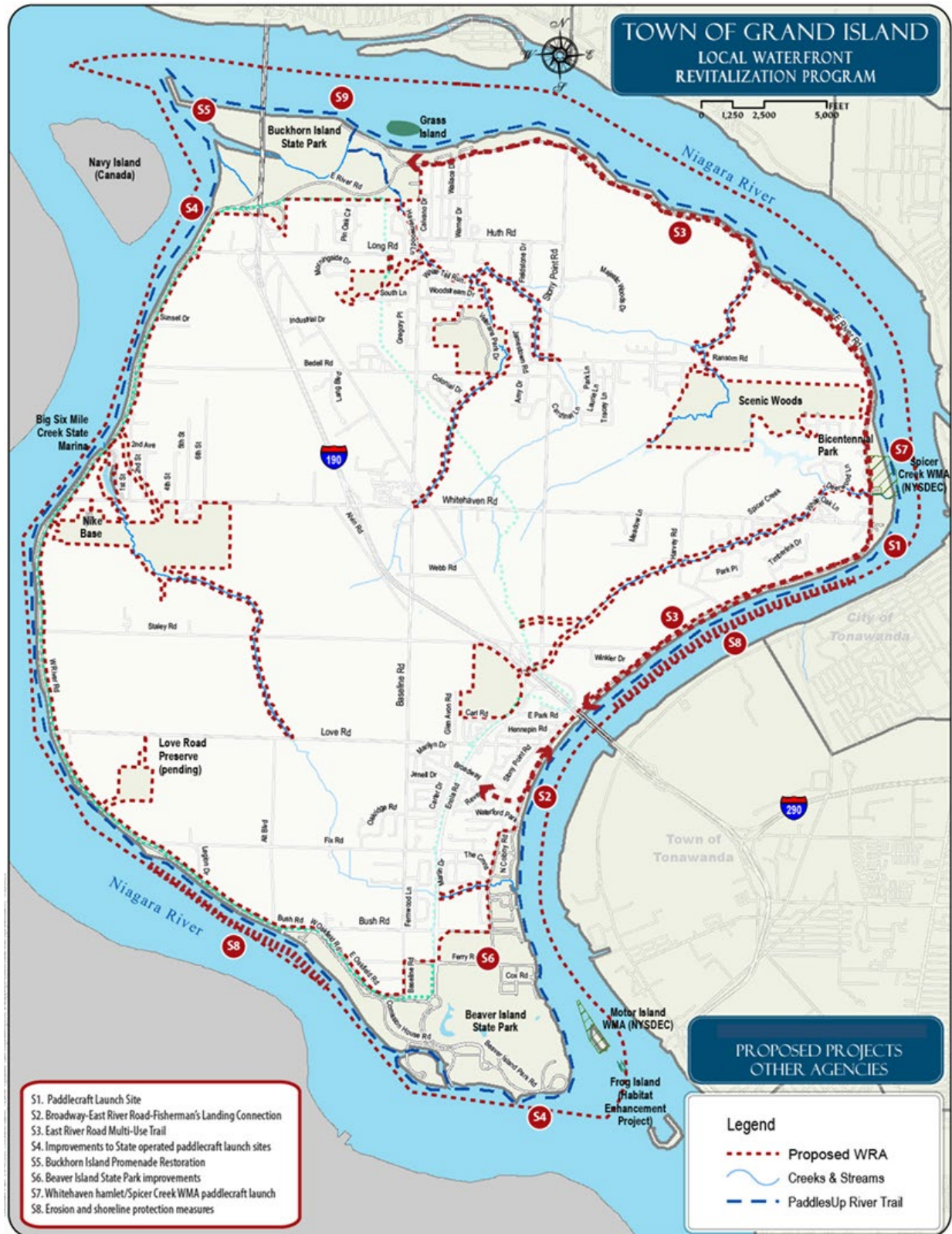
- Identify the best alignment, design, and construction of a multi-use trail connection along East River Road, between Broadway and Fisherman's Landing. (Project S-2)
- Identify the best alignment, design, and construction of a multi-use trail segment along East River Road, from the South Grand Island Bridge to Buckhorn Island State Park. (Project S#3)

### **Office of Parks, Recreation, and Historic Preservation**

- Identify, design, and implement improvements to State operated kayak launches at Eagle Overlook and Woods Creek. (Project S#4)
- Identify the best alignment and improvements to the hiking trails at Beaver Island State Park, improve connection with Ferry Village hamlet, and improve seasonal programming. (Project S-6)
- Identify and map areas where grass cutting may be reduced to create and restore habitat and reduce nutrient loadings to local waters.
- Develop a shared program to coordinate Town, County, and State efforts for managing invasive species and improving water quality.
- Identify, design, and construct improvements to the historic Buckhorn Island State Park Promenade for scenic viewing and other passive activities. (Project S#5)
- Identify the best location for a kayak launch area in the Whitehaven hamlet area (Spicer Creek Wildlife Management Area). (Project S#7)



Map 4.3 – County and State Agencies Projects Supported by the Town



## SECTION 5 – TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE LWRP

Section 5 of the LWRP sets forth the implementation strategies for the Town of Grand Island LWRP. This section identifies existing laws and sections of Grand Island Town Code that support implementation of the LWRP Policies. It also outlines existing and proposed laws that support policy implementation, and the town management structure that will implement the LWRP goals and policies, review town actions for consistency with the LWRP policies and, provide local review of and feedback on proposed state and federal actions, as indicated in the included guidelines. This section also lists and describes specific ongoing or proposed actions that will be coordinated or undertaken by other public and private entities, without the town's participation. An overview of financial resources that may be necessary to implement the LWRP concludes this section.

### 5.1. LOCAL LAWS NECESSARY TO IMPLEMENT THE LWRP

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A table indicating how existing local laws support the implementation of the LWRP policies is included in Appendix B of the LWRP.

#### **CHAPTER 21, ARCHITECTURAL REVIEW ADVISORY BOARD**

Chapter 21 of the Town Code establishes the Architectural Review Advisory Board, which is a five-member body appointed by the Town Board. This board consults with and advises the Code Enforcement Officer, and as requested, the Planning Board with respect to the issuance of building permits and the review of proposed development actions. This Board considers such things as excessive similarity or dissimilarity of any existing or proposed structure, poor quality of design or materials, and inappropriateness of proposed structures or structural changes in relation to the character of the surrounding community.

#### **CHAPTER 39, CONSERVATION ADVISORY BOARD**

This chapter provides for the establishment of the Conservation Advisory Board. This Board is comprised of nine members who are appointed by the Town Board. This Board is responsible for advising the Town Board, Planning Board, and Zoning Board of Appeals on matters affecting the preservation of environmental resources; conducting public education and outreach on



environmental protection; conducting surveys, studies, and inventories of the natural features within the Town; maintaining and updating an inventory index of all public and private open spaces in the Town; and reviewing applications for use and develop of any open space listed on the index; among other things.

#### **CHAPTER 121, CONSERVATION EASEMENTS**

The purpose of Chapter 121, included in Appendix B, is to provide for the acquisition of permanent interests or rights in real property in the Town for open space preservation. Open space may be acquired by purchase, gift, grants, bequest, devise, lease, or other means. This Chapter outlines the procedures for such acquisitions and enforcement of conservation easements.

#### **CHAPTER 145, FARMING**

The general purpose and intent of Chapter 145 is to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices of all sizes, to protect the existence and operation of farming activities, and to promote a means of dispute resolution with respect to agricultural practices and farm operations. Chapter 145 supports limiting the circumstances under which farming may be deemed a nuisance and allowing agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

Chapter 145 also establishes the Agricultural Advisory Board. This Board is comprised of seven members who are appointed by the Town Board. This Board is responsible for advising the Town Board and other boards and committees on issues related to the protection and promotion of agricultural practices; assist the Town Board with the implementation of the Grand Island Resource Guide for the Protection and Promotion of Agriculture and Farming; advise and coordinate with the Erie County Agricultural and Farmland Protection Board for their annual agricultural district review process; maintenance of the webpage for the Advisory Board on the Town's website; assist with the review of proposed zoning, policy change or development actions, as requested; review legislation affecting agriculture and farming; facilitate communication between the agricultural community and the Town and County, as needed; and assist with the resolution of conflicts involving agricultural operations in the Town, as needed.

#### **CHAPTER 155, FLOOD DAMAGE PREVENTION**

The purpose of Chapter 155 is to protect public health, safety, and welfare and minimize public and private losses due to flood conditions in specific areas and was last updated in June 2021

(included in Appendix B). In conformance with the requirements of the National Flood Insurance Program, and to qualify for participation in this program, this law regulates uses that are dangerous to health, safety, and property due to water and erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities. It requires that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damages at the time of initial construction. It controls the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters. It also regulates filling, grading, dredging and other development that may increase flooding and erosion damages, as well as the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

#### **CHAPTER 180, HISTORIC PRESERVATION**

The intent of Chapter 180 is to protect, enhance, and perpetuate landmarks and historic districts necessary to promote the economic, cultural, educational, and general welfare of the public. This law is intended to protect and enhance historic resources that represent elements of the Town's historic architectural and cultural heritage; foster civic pride in the accomplishment of the past; protect and enhance the Town's attractiveness to visitors and support and stimulate the Town's economy; and insure the harmonious, orderly, and efficient growth and development of Grand Island.

#### **CHAPTER 239, PARKS**

This law sets forth regulations for uses and activities in parks, playgrounds and recreation facilities owned and operated by the Town of Grand Island. This includes requirements or prohibitions for vehicular use, pets, alcoholic beverages, fires, hunting and trapping, discharge of firearms or fireworks, bathing and swimming, public gathering, gambling, flying airplanes, golfing, and personal conduct.

#### **CHAPTER 253, REGRADING AND FILLING OF LAND**

Chapter 253 requires the issuance of a grading permit for the regrading or filling, excavation, or mining of land in the Town. This law excludes the construction or reconstruction of a septic system, the construction of nondrainage infrastructure (water, sewer, electric or telecommunications, roads, and streetlights). The law outlines the procedures for acquiring a permit.

## **CHAPTER 267, SEWERS**

This chapter of the Town Code requires use of the public sanitary sewer system, where available, regulates use and connections to this system, prohibits deposits of unsanitary waste or the discharge of untreated waste into the system, and regulates the use of private sewage disposal systems. Article IX of Chapter 267 regulates storm sewers and storm sewer discharges and prohibits illicit discharges of waste into the system.

## **CHAPTER 295, SIGNS**

Chapter 295 includes provisions to control the type, design, size, location, motion, illumination, and maintenance of signs in the Town to protect property values, create a more attractive economic and business climate, and protect the physical appearance of the community from the effects of inharmonious and out-of-scale signage; preserve the scenic and natural beauty of designated areas; reduce advertising distractions or obstructions that may contribute to traffic accidents; provide reasonable and appropriate conditions for advertising goods sold or services rendered in business districts; control signs so that their appearance will be aesthetically harmonious with the character of the surrounding area; reduce hazards that may be caused by signs overhanging or projecting into the public right-of-way; and curb the deterioration of natural beauty in the community environment.

## **CHAPTER 309, SOLID WASTE**

Chapter 309 requires the Town to establish a program for the of collection, reduction, and separation of municipal solid waste to encourage the effective reuse of such wastes. This law identifies the materials that are to be recycled, including newspaper and cardboard, and plastic, metal and glass containers, the means for the collections of these materials. The Law also regulates the collection of yard and white good/bulk wastes and establishes procedures for recycling by multi-tenant residential complexes and private commercial, industrial, and institutional establishments.

## **CHAPTER 323, STREETS AND SIDEWALKS**

Chapter 323 regulates the use of public streets and sidewalks and the construction, maintenance, repair, and replacement of these amenities. This law establishes procedures for laying out and periodic inspection of streets and sidewalks to provide secure transit for all persons and vehicles that use them.

## **CHAPTER 327, SUBDIVISION OF LAND**

Chapter 327 authorizes the Grand Island Planning Board to review and offer recommendations for approval, denial, or modification of plats for the subdivision of land to the Town Board, in conformance with the Town of Grand Island Zoning Code and Comprehensive Plan. The subdivision regulations set forth application/review procedures, plan specifications, design standards and required land improvements (road, drainage, and utilities) for the minor and major subdivision of land in the Town. In addition to outlining the process for subdivision, Chapter 327 sets forth design standards for public improvements preparation of lots for development.

## **CHAPTER 351, TOURIST HOMES, BED AND BREAKFASTS' AND MOTELS**

The purpose of Chapter 351 is to promote the health, safety, morals, and general welfare of the inhabitants of the Town of Grand Island by the efficient regulation of tourist homes, bed and breakfast establishments and motels. This law includes procedures for the licensing and operations of these facilities.

## **CHAPTER 400, WATER**

The purpose of Chapter 400 is to promote the general health, safety, and welfare of the inhabitants of the Town through the regulation, supervision and control of the water supply and the furnishing of services and facilities provided by the Town. Receipt of water from or connection to the water district requires approval from the Town Water Department. Chapter 400 regulates such things as fire hydrants, water meters, private service lines, tapping charges, and the installation and maintenance of water facilities, and backflow prevention.

## **CHAPTER 407, ZONING**

The purpose of Chapter 407 is to promote orderly growth in the Town. This law regulates and restricts (by district) the location, construction, and use of buildings and structures, and the use of land, in the Town of Grand Island. The Zoning Law establishes zoning districts, as well as dimensional requirements and permitted uses for each district, and includes provisions for required landscaping. It also regulates telecommunication facilities, solar energy facilities, adult uses, and cluster development. Chapter 407 outlines procedures for the Planning Board's review and recommendations to the Town Board for site plan approval and requests for special use permits and zoning amendments. It also outlines procedures for the Zoning Board of Appeals, and for the issuance of variances, which is the responsibility of that Board.

The current zoning districts found within the WRA are described in Section 2 and illustrated on Map 2.6. The Town has a wide variety of existing zoning districts that include both waterfront

business development (District B-2) as well as open space (OS District) that reflect the intended future land uses.

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

This Article of the Zoning Law establishes requirements for the development of single-family attached or detached dwellings that are on the waterfront or have direct access to the Niagara River by a navigable canal or stream.

#### **Article XV: B-2 Waterfront Business District**

This Article of the Zoning Law was established to create a district where small, water-related businesses can be developed. Such districts are intended to improve the economic base of the Town, offer residents an opportunity to gain access to the Niagara River, and help attract tourists to the Town. The southern portion of land on the eastern side of the hamlet of Whitehaven immediately adjacent to the Niagara River (site of the former Radisson Hotel), is anticipated to be rezoned to B-2.

#### **Article XVII: Commercial Recreational Facilities District**

This Article of the Zoning Law establishes requirements to allow for privately owned, large-scale recreational facilities, such as yacht clubs, golf courses, amusement parks, campgrounds, country clubs and indoor recreational facilities, along with accessory uses and other structures common to such facilities.

#### **Article XX: OS Open Space District**

Article XX of the Zoning Law identifies areas where substantial development of the land is not desirable due to: a) special or unique natural conditions are a public safety concern; b) the lack of proper facilities or improvements results in the land not being suitable for development at the present time; or c) that it's designation and continuation as a park, recreation area, scenic vista, and/or open space is necessary for its continuation as such. Areas of Scenic Woods currently not zoned as OS, the Love Road Preserve, other lands of Nike Base Park, and Margret Gallogy Nature Preserve are anticipated to be rezoned to OS to support their continued use as such.

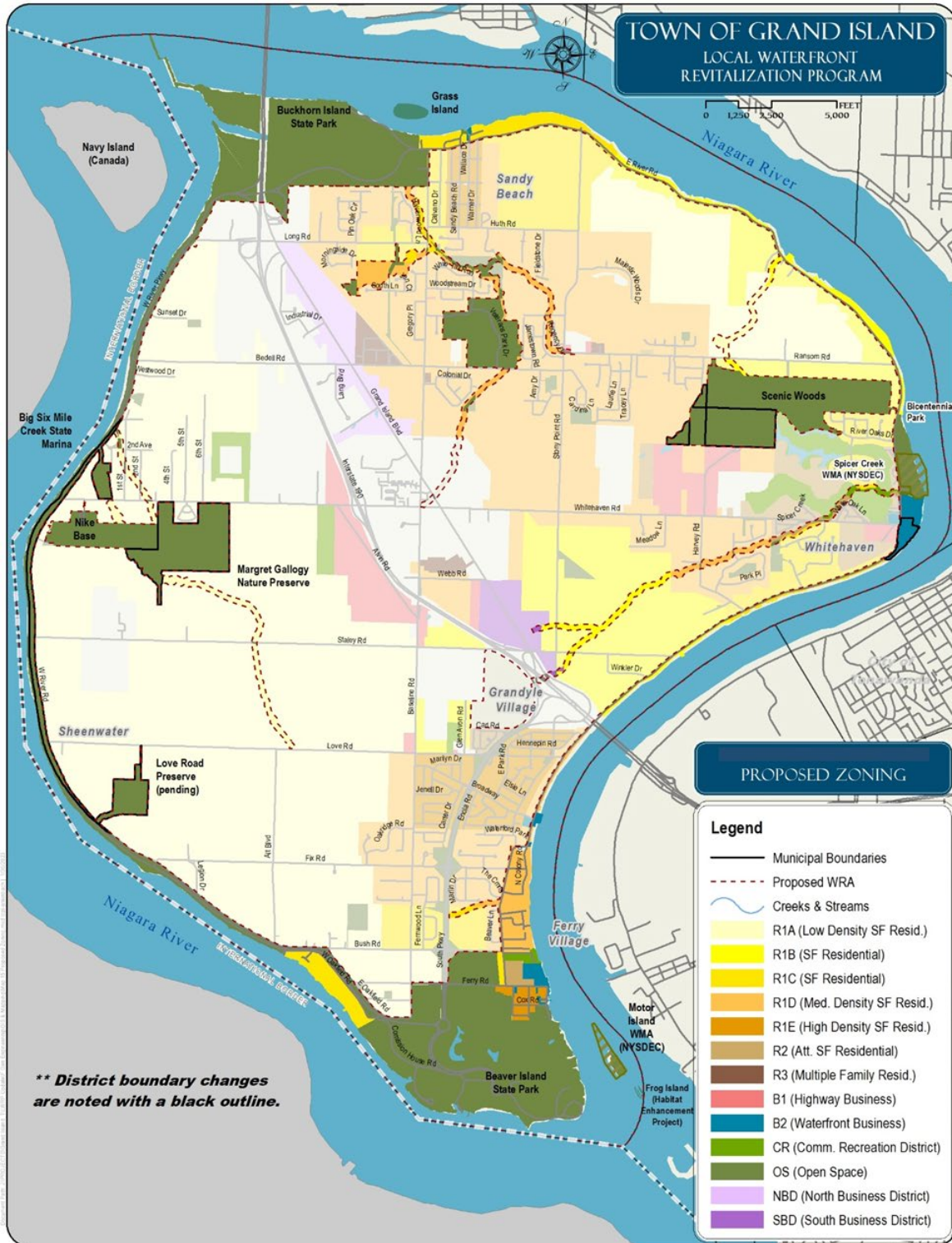
#### **Draft Zoning Map Amendment**

The land uses that are proposed within the Grand Island WRA are intended to support anticipated uses and in most cases reflect current use of the land. While the existing controls within each zoning district will continue to be used unchanged, the boundaries of some of the zoning districts will be revised to match the coverage of the future land uses presented in



Section 4.1 of the LWRP. Map 5.1: Zoning Map Amendment shows the proposed modified boundaries of the zoning districts.

Map 5.1: Zoning Map Amendment



## **Article XXXV: Stormwater Management**

Article XXXV of the Zoning Law establishes requirements and controls to protect and safeguard public health, safety, and welfare in the Town. This Article is intended to ensure that development activities are undertaken in accordance with the New York State Pollution Discharge and Elimination System (SPDES) regulations and requires submittal of a Stormwater Pollution Prevention Plan (SWPPP) subject to review and approval by the Town Engineer. Article XXXV also outlines performance and design criteria for stormwater management and erosion and sediment control, as well as the maintenance, inspection, and repair of stormwater facilities.

### **Section 407-112: Ferry Village architectural and urban design guidelines**

The Town considers the Ferry Village hamlet a special historical area worthy of extra protection. This Section of the Zoning Law establishes architectural and design guidelines for projects that require site plan review in this area.

### **Section 407-146: Boathouses and docking facilities**

This Section of the Zoning Law regulates and establishes requirements for any dock, pier, boat ramp or berth for vessels, boathouse, or a boat hoist that is located in or attached to a residentially zoned upland or shoreline area.

### **Section 407-157: Marinas; boat storage**

This Section of the Zoning Law prohibits the storage of boats within any required minimum front or side yard areas. It allows for the storage of boats in parking spaces outside marinas and boatyards during the off season (October 1 to May 1), as authorized by the Town Board as part of an approved site plan.

### **Section 407-163: Outdoor storage**

This Section of the Zoning Law requires that any storage area for boat sales or storage must be screened with landscaping, permanent berms, or fencing. No more than 50% of a marina or boatyard may be used for recreational equipment sales and maintenance and boat storage.

### **Section 407-165.1: Solar energy facilities**

This Section of the Zoning Law regulates and establishes requirements for solar energy facilities and battery energy storage systems.

## **DRAFT LWRP CONSISTENCY REVIEW LAW**

Actions to be directly undertaken, funded, or permitted by the town government within the Town of Grand Island Waterfront Revitalization Area must be consistent with the policies set forth in the approved Town of Grand Island LWRP. The intent of this law is to provide a framework for the government of the Town of Grand Island (town departments and Boards) to review direct and indirect town actions for consistency with the policies and purposes outlined in the LWRP. The LWRP Consistency Review Law and Waterfront Assessment Form that guide and control the town's consistency review process are included in Appendix A.

## **5.2. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP**

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Regional, State, and Federal agencies will be involved in the approval of proposed projects within the Grand Island WRA and propose and develop projects.

### **REGIONAL ACTIONS AND PROGRAMS**

#### **Erie County Department of Health**

- Inspections of on-site septic systems and enforcement of County requirements and regulations.
- Public education for proper septic system maintenance.
- Technical and permitting assistance for on-site septic system management.

#### **Erie County Department of Environment and Planning & Community Development Program Office**

- Technical and funding assistance for the Community Development Block Grant Program.

#### **Erie County Soil and Water Conservation Service**

- Assistance with the establishment of water quality monitoring and streambank erosion programs in the WRA, particularly for local creeks.
- Technical assistance with the development of long-term maintenance plans for areas where habitat restoration projects have been undertaken.
- Assistance with the identification and eradication of invasive species in the WRA, including public education.
- Technical assistance and public educational guidance for water quality and other conservation-related issues.

- Assistance with water quality and stormwater management improvement projects, including public education.
- Public education for proper septic system maintenance and use of fertilizers and pesticides in upland areas (including in areas outside the WRA that affect local creeks and streams).

### **Greater Buffalo Niagara Regional Transportation Council**

- Coordination and assistance for the development of bike lanes along public roadways in the WRA.

### **Buffalo Niagara Waterkeeper**

- Collaboration to expand the Riverwatch water quality monitoring program for local creeks and their tributaries that are not monitored by NYSDEC.
- Assistance with the identification and eradication of invasive species in the WRA.
- Technical assistance with the development of long-term maintenance plans for areas where habitat restoration projects have been undertaken.
- Technical assistance and education guidance for implementing a series of environmental protection workshops on various topics of local concern in the Town of Grand Island WRA.

## **STATE ACTIONS AND PROGRAMS**

### **Department of Agriculture and Markets**

- Technical assistance and funding for implementation of the Town of Grand Island Resource Guide for the Protection and Promotion of Agriculture and Farming.
- Technical assistance with the development of long-term maintenance plans for areas where habitat restoration projects have been undertaken.

### **Environmental Facilities Corporation**

- Funding assistance for the planning, design and construction of sewer extensions and other sanitary sewer improvement projects in the Town of Grand Island WRA.
- Assistance for water quality improvement projects that utilize green stormwater infrastructure.

### **New York State Energy Research and Development Authority**

- Funding and technical assistance for renewable energy and energy efficiency studies and projects.

### NYS Department of State

- Funding and technical assistance for LWRP implementation of various eligible planning, design, and construction projects outlined in the LWRP, including public access and waterfront recreation projects and trail improvements.
- Assistance and coordination on the expansion and/or inclusion of additional natural resources into the State Significant Coastal Fish and Wildlife Habitat (SCFWH) designation including, but not limited to Grass Island, Spicer Creek, Little Six Mile Creek wetlands, and Scenic Woods. Several of these resources are substantially contiguous to existing SCFWHs within Grand Island, making their inclusion pertinent and more easily supported. Work has been undertaken at several of these areas to protect habitats, improve ecological conditions, or otherwise preserve their importance for fish, wildlife, and vegetation (land and/or water).

### Department of Transportation

- Consultation with the Town before undertaking any improvements to bridges or State roads in the waterfront area to ensure identification and mitigation of local concerns in the WRA.
- Technical assistance and authorization to install wayfinding signage along State roadways to promote recreational and cultural tourists' attractions.

### Office of Parks, Recreation, and Historic Preservation

- Because two state parks are located within the Grand Island WRA, the projects planned to be undertaken by the NYS OPRHP play an important role in the implementation of the LWRP.

### Department of Economic Development / Empire State Development Corporation

- Assistance and funding for the preparation of economic feasibility studies and the reuse of various deteriorated and unutilized structures, and with the siting or improvement of public facilities.

## FEDERAL ACTIONS AND PROGRAMS

### U.S. Army Corps of Engineers, Buffalo District

- Permit decisions and assistance with funding for the construction or reconstruction of erosion protection structures along the shoreline. (Project S8 labeled on Map 4.3)
- Enforcement and permit approval pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act impacting Waters of the United States and their adjacent wetlands.



- Freshwater wetlands protection, delineation and permitting for allowable disturbances.

#### U.S. Federal Highway Administration

- Provision of funding for transportation improvements, including but not limited to improvements that increase pedestrian and bicycle access or improve safety.

#### Small Business Administration

- Funding and technical assistance for local businesses in the waterfront area to stimulate economic development.

#### Federal Emergency Management Agency

- Plan for updates to flood insurance rate mapping for the Town of Grand Island using the best available data.

#### US Department of Interior, Fish and Wildlife Service

- Protect and enhance fish and wildlife habitat and populations in accordance with LWRP Policy 7.
- Issuance of permits for legitimate wildlife and conservation related activities (e.g., protection of endangered species, migratory birds).

### 5.3. TOWN MANAGEMENT STRUCTURE FOR IMPLEMENTING THE LWRP

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Actions proposed within a waterfront revitalization area covered by an approved LWRP incorporated into the NYS CMP must be consistent with the approved LWRP policies. Accordingly, the actions directly undertaken, funded, or approved by State, federal, or municipal governments must be reviewed for consistency with the approved LWRP policies.

All State and Federal actions proposed within the Town of Grand Island WRA will be reviewed in accordance with the guidelines established by the New York State Department of State, which are outlined in the subsections below as the Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect, and the Procedural Guidelines for Coordinating NYSDOS and LWRP Consistency Review of Federal Agency Actions.

Actions proposed by federal agencies within an approved WRA are reviewed for consistency with the approved LWRP policies by the federal agency proposing to undertake the action and by the NYS DOS. State and local governments applying for federal funding or permits to develop projects within the WRA are requested to submit to NYS DOS copies of the applications

submitted for federal funding<sup>64</sup> or permits<sup>65</sup>. The municipal government is requested by the state and federal reviewers of state and federal action proposed within a WRA to provide feedback on the proposed actions. For this purpose, the impacted local government is notified about the proposed actions and asked to provide feedback that will help state and federal agencies decide if their proposed actions are consistent with the policies of the approved LWRP. The guidelines for notification and the process and timeframe for submitting local feedback are described in the following subsections. An action that is inconsistent with an LWRP may not be undertaken.

To secure the significant benefits of an approved LWRP, a municipality must make a similar commitment to ensure local/municipal consistency with the goal and policies of the approved LWRP. Town of Grand Island actions within the Grand Island WRA and subject to the LWRP Consistency Review Law must be reviewed by the town departments/boards for consistency with LWRP policies and purposes. These include directly undertaken actions, town permits or town funding. Local minor actions identified in the LWRP Consistency Review Law are not subject to the consistency review process described in the body of this law. Proposed town actions that are not minor actions are subject to the Town of Grand Island LWRP Consistency Review Law and shall be reviewed for consistency with the LWRP policies and purposes, as indicated in the body of this law.

The town's consistency review process starts with the identification of the type of local action proposed within the WRA and the completion and submission for review of a Waterfront Assessment Form (WAF). The town will ask private individuals requesting a town permit to complete the WAF form together with the rest of the permit application package. The WAF is included in the Town of Grand Island LWRP Consistency Review Law and consists of a series of questions about different aspects of the proposed project. The answers provided in the completed WAF help determine if the proposed action conflicts with any of the LWRP policies. The LWRP Consistency Review Law and WAF are included in Appendix A of the LWRP.

Various local officials and boards are responsible for management and coordination of the implementation of the LWRP and are directly involved in ensuring that the reviews of Town actions for consistency with the LWRP policies and purposes are completed for actions proposed within the WRA. These include:

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<sup>64</sup> <https://dos.ny.gov/coastal-consistency-review-projects-federal-funding>

<sup>65</sup> <https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorizations>

## **TOWN BOARD**

The Grand Island Town Board, or their designee, will prioritize and advance LWRP projects and direct the appropriate Town agency, or a grant writing consultant, to prepare applications for funding from State, Federal, and other sources to finance LWRP projects. The Town Board also has the authority to make zoning amendments necessary to implement the LWRP.

The Town Board will also be responsible for the overall management and coordination of the implementation of the LWRP and for the development of future LWRP amendments. This Board, in consultation with the Building Department as required, will focus on implementation priorities, work assignments, timetables, and budgetary requirements for the implementation of the LWRP. The Planning Board may also act in the capacity of liaison between the Town Board and other Town agencies to further the implementation of the LWRP.

Zoning and local law changes necessary to implement the LWRP will be the responsibility of the Grand Island Town Board, with the assistance of the Planning Board and other Town staff, as needed. Funding for these efforts would be included in the Town's annual budget.

## **CODE ENFORCEMENT OFFICER**

The Building Department will be the designated Town agency to receive and process consistency review requests and documentation. The Building and Zoning Clerk will distribute copies of the Waterfront Assessment Form (WAF), to applicants proposing to undertake certain actions within the WRA, and the Code Enforcement Officer or their designee will coordinate the consistency review process and issue final consistency review determinations for these actions. All documentation generated for consistency review decisions will be kept on file in the Building Department, along with other appropriate approval documentation.

As a part of the consistency review and approval process, in accordance with the LWRP Consistency Review Law, the Waterfront Assessment Forms submitted with development applications, including building permits, will be forwarded to the Code Enforcement Officer or their designee, who will be responsible for reviewing the documentation that requires a Town agency action within the WRA, and for making recommendations to the appropriate Town agencies for the consistency of actions with the LWRP policies and purposes.

The Code Enforcement Officer or their designee, at their discretion, will refer consistency review requests for actions other than site plan approval to the Long-Range Planning Committee (Strategic Planning commission), and if necessary, the Town Engineering Department, for consultation and the review for projects or permit applications proposed within the WRA that require more extensive review. The Code Enforcement Officer will also coordinate with the New York State Department of State and other State agencies and/or

federal agencies regarding their respective consistency review of actions proposed within the WRA.

### **PLANNING AND ARCHITECTURAL REVIEW BOARD**

The Town of Grand Island Planning Board has site plan and architectural review and approval authority for any projects located within the WRA that require such approval and will issue recommendations for the subdivision of four or more lots, rezoning requests, or actions involving changes to the comprehensive plan, and zoning districts and zoning map, as referred by the Town Board, that are located within the WRA. As part of the consistency review of any action that requires site plan approval or any other action proposed within the WRA that falls within the purview of the Planning Board, this board shall coordinate with the Building Department, as needed, to ensure consistency with LWRP policies and recommendations.

### **ZONING BOARD OF APPEALS**

The Zoning Board of Appeals is the approval entity for variance and Special Use Permit applications subject to Grand Island LWRP Consistency Review Law. The Code Enforcement Officer (or their designee) will be responsible for making recommendations to the ZBA after their review of the consistency review documentation for completeness. The Zoning Board of Appeals alone, however, will hear, and render final decisions on variance applications, special use permits, and appeals involving activities within the WRA.

### **LONG RANGE PLANNING COMMITTEE**

The Long-Range Planning Committee (Strategic Planning Commission) is charged with developing the long-term strategy for growth and development of Grand Island. This Committee acted in an advisory capacity for the preparation and adoption of the LWRP, and will assist the Building Department, as needed, to complete consistency review determinations. They will also be responsible for reviewing potential projects for LWRP implementation at the request of the Town Board.

### **HISTORIC PRESERVATION COMMISSION**

The function of the seven-member Historic Preservation Commission is to recommend properties and sites to the Town Board for historic designation and Town landmarking. The LWRP has policies that directly relate to historic preservation. The Commission will be required to coordinate their review of any properties that are proposed for preservation or landmarking within the WRA with the Code Enforcement Officer or their designee for compliance with consistency review requirements.

## TOWN CLERK

The Town Clerk will maintain, and make available to the public, a copy of the approved Town of Grand Island LWRP for use during normal business hours.

## 5.4. GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS PROPOSED WITHIN THE TOWN OF GRAND ISLAND WRA

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### I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the 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 the approved Town of Grand Island Local Waterfront Revitalization Program (LWRP). 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 Town of Grand Island whenever an identified action is proposed to occur within the area covered by the approved Town of Grand Island LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist the Town of Grand Island in carrying out their consistency review responsibilities in a timely manner.
- C. The New York State Secretary of State is required by the Act to confer with state agencies when notified by the Town of Grand Island Building Department that a proposed State agency action may conflict with the policies and purposes of the approved Grand Island LWRP. These guidelines also establish a procedure for resolving such conflicts.

### II. DEFINITIONS

- A. **Action** means:
  - 1. A "Type I" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  - 2. An action proposed to occur within the boundaries of the Waterfront Revitalization Area (WRA) within which the policies and purposes of the approved Town of Grand Island LWRP apply; 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 approved Town of Grand Island 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 the approved Grand Island 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 the approved Grand Island 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. **Code Enforcement Officer or Building Inspector** of the Town of Grand Island will be responsible for the review of State agencies actions and for providing State agencies with findings to the appropriate State agency contact.
- D. **Coastal Assessment Form (CAF)** is the form used by the State agency to assess the consistency of its actions proposed within the Town of Grand Island Waterfront Revitalization Area with the policies and purposes of the approved Grand Island LWRP.
- E. **Environmental Impact Statement (EIS)** means a form used by an agency to assist it in determining the environmental significance or non-significance of actions, pursuant to 6NYCRR617 (SEQR).
- F. **Local Waterfront Revitalization Program (LWRP)** means the program prepared and adopted by the Town of Grand Island Town Board 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.
- G. **Secretary of State (Secretary)** is the head of the New York State Department of State, which is the State agency responsible for administering and coordinating activities essential for the implementation of the Coastal Management Program, including approved LWRPs incorporated into the NYS Coastal Management Program.
- H. **Town** means the Town of Grand Island

- I. **Town Board** is the governmental or legislative body of the Town of Grand Island that adopted the Grand Island LWRP.
- J. **Waterfront Revitalization Area (WRA)** is the portion of the State's coastal management area described in Section 1 of the approved Grand Island LWRP.

### III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II. DEFINITIONS within the defined Waterfront Revitalization Area boundary for the Grand Island LWRP, the State agency shall notify the Code Enforcement Officer or their designee in the Town of Grand Island Building Department.
- 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 other existing state agency notification procedures, or through any alternative procedure agreed upon by the State agency and the Town of Grand Island Building Department; and
  - 3. Should be provided to the Code Enforcement Officer or its designee 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 proposed action. The timely filing of a copy of a completed Coastal Assessment Form (CAF) by the state agency with the Code Enforcement Officer or their designee should be considered adequate notification of a proposed action.
- C. If the proposed action will require the preparation of a draft environmental impact Statement (EIS), the filing of this draft document with the Town of Grand Island Building Department can serve as the State agency's notification to the Town.

### IV. TOWN GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the Town of Grand Island Code Enforcement Officer, or a clearly identified designee, will be responsible for evaluating the proposed state agency action against the policies and purposes of the approved Grand Island LWRP. Upon request of the Code Enforcement Officer, or a designee, the state agency should promptly provide whatever additional information is available that will assist with the evaluation of proposed action.
- B. If the Code Enforcement Officer or the designee cannot identify any conflicts between the proposed action and the applicable policies and purposes of the approved Grand

Island LWRP, they should notify the State agency, in writing, of their findings. Upon receipt of the written findings, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- C. If the Code Enforcement Officer or their designee does not notify the State agency in writing of their findings 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 approved Grand Island LWRP.
- D. If the Town of Grand Island notifies the State agency in writing that the proposed action conflicts with the policies and purposes of the approved Grand Island 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. Resolution of Conflicts, below, shall apply. The Town of Grand Island 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 Code Enforcement Officer or the designee 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 the Town of Grand Island 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 the Town of Grand Island that a proposed action conflicts with its approved LWRP, the State agency should contact the Town of Grand Island Code Enforcement Officer or their designee in the Building Department to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and Town of Grand Island 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 Town.
  - 2. If the discussion between the Town of Grand Island and the State agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the Town shall notify the State agency, in writing, with a copy forwarded to the Secretary of State, that all 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 Town of Grand Island 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 the identified conflicts. This request must be received by the Secretary of State within 15 days following the discussion between the Town of Grand Island 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 Town of Grand Island.
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.

## 5.5 PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE AND LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

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### I. DIRECT FEDERAL AGENCY ACTIVITIES

- A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, NYS DOS will forward copies of the determination and other descriptive information on the proposed federal activities to the Town of Grand Island Code Enforcement Officer and other interested parties.
- B. This notification will indicate the date by which all comments and recommendations must be submitted to NYS DOS by the Town of Grand Island Code Enforcement Officer and will identify the NYS DOS principal reviewer for the proposed federal activity.
- C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, NYS DOS will presume that the Town of Grand Island has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.

- D. If NYS DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Code Enforcement Officer, NYS DOS will contact the Town of Grand Island Building Department to discuss with the Code Enforcement Officer any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed federal activity.
- D. A copy of NYS DOS' concurrence or objection letter to the federal agency will be forwarded to the Town of Grand Island Code Enforcement Officer.

## **II. ACTIVITIES REQUIRING FEDERAL LICENSES, PERMITS AND OTHER REGULATORY APPROVALS**

- A. NYS DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, NYS DOS will forward a copy of the submitted documentation to the Town of Grand Island Code Enforcement Officer or an identified designee and will identify the NYS DOS's principal reviewer for the proposed federal activity.
- B. Within thirty (30) days of receiving such information, the Code Enforcement Officer or the designee will contact the principal reviewer for NYS 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 federal activity with the LWRP policies.
- C. When DOS and the Code Enforcement Officer 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 Code Enforcement Officer/Building Inspector on receipt.
- D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed federal activity with the principal reviewer for DOS, whichever is later, the Code Enforcement Officer will notify DOS of the reasons why a proposed federal activity may be inconsistent or consistent with the LWRP policies.
- E. After the notification, the Code Enforcement Officer will submit the Town's written comments and recommendations on a proposed federal activity 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 Town of Grand Island has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.



- F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town of Grand Island on a proposed federal activity, DOS will contact the Town of Grand Island Code Enforcement Officer/Building Inspector to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.
- G. A copy of the DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the Town of Grand Island Code Enforcement Officer/Building Inspector.

### **III. FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS**

- A. Upon receiving notification of a proposed federal financial assistance, DOS will request information on the federal financial assistance 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 Town of Grand Island Code Enforcement Officer/Building Inspector and will serve as notification that the proposed federal financial assistance may be subject to review.
- B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Code Enforcement Officer/Building Inspector. DOS may, at this time, request the applicant to submit additional information for review purposes.
- C. 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 federal financial assistance.
- D. The Town of Grand Island Code Enforcement Officer/Building Inspector must submit the Town's comments and recommendations on the proposed federal financial assistance to DOS within twenty days (or other time agreed to by DOS and the Code Enforcement Officer/Building Inspector) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the Town of Grand Island has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.
- E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town of Grand Island, DOS will contact the Code Enforcement Officer/Building Inspector to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the Town of Grand Island Code Enforcement Officer/Building Inspector.

## 5.6. FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP

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The Town of Grand Island recognizes that the implementation of the proposed projects identified under Section IV will require funding from both public and private sources. These costs may include administrative costs, capital outlays, maintenance costs and, in some cases, property acquisition. Funding for administrative costs, such as those associated with the Town's efforts to oversee conformance and enforcement of the LWRP, would come from general revenue sources and would be reflected in the Town's annual budget.

Capital costs reflect the costs incurred by the Town to complete specific projects. The costs for the projects identified in Sections IV and V are just estimative. A number of these projects, however, would require significant capital expenditures. The Town has successfully accomplished beneficial projects within the WRA, and will continue to pursue outside funding and, where appropriate, creative financing mechanisms for these and similar efforts. Where applicable, the Town will work diligently to secure funding through grants that are available under State and Federal programs to support the implementation of LWRP projects. Most of these programs require matching funds and/or in-kind service contributions. The Town may also consider bond issues and other similar revenue enhancements to facilitate LWRP implementation.

### POTENTIAL FUNDING SOURCES:

- Clean Water Revolving Fund
- Great Lakes Restoration Initiative (USEPA)
- Empire State Development Corporation Strategic Community Investment Funds
- Empire State Development Corporation Market New York Grant Program
- Federal Moving Forward Act
- Land and Water Conservation Fund
- New York State Department of Agriculture and Markets Agricultural Implementation Grant Program
- New York State Clean Water/Clean Air Bond Act of 1996
- New York State Community Development Block Grant Program
- New York State Council for the Arts

- New York State Energy Research and Development Authority (NYSERDA) Climate Smart Communities Program<sup>66</sup>
- New York State Environmental Protection Fund
- New York State Environmental Facilities Corporation Green Innovation Grants
- New York State Legislative Grant Program
- New York State Local Government Efficiency Program
- New York State LWRP Program Implementation Grant Funds
- New York Main Street Program
- New York State Office of Parks, Recreation and Historic Preservation
- New York State Resiliency and Economic Development Initiative
- New York State Revolving Loan Fund
- New York State Wastewater Infrastructure Engineering Grant Program
- New York State Water Quality Improvement Program - Non-Agricultural Nonpoint Source Implementation Grants Program
- Parks and Trails New York

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<sup>66</sup> The Climate Smart Communities (CSC) program began in 2009 as an interagency initiative of New York State. The program is jointly sponsored by the following New York State agencies: Department of Environmental Conservation (DEC); Energy Research and Development Authority (NYSERDA); Department of Public Service; Department of State; Department of Transportation; Department of Health and the Power Authority (NYPA). DEC acts as the main administrator of the program.

## SECTION 6 – STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

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 revitalization 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.

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

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Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identifies those elements of the program that can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification or approval programs; grant, loan subsidy or other funding assistance programs; facilities construction, and planning programs that may affect the achievement of the LWRP.

#### OFFICE FOR THE AGING

- 1.0 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 Program
- 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
- 5.00 Farmland Protection Implementation Grant
- 6.00 Agricultural Nonpoint Source Abatement and Control Program

**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

#### **OFFICE 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.

#### **OFFICE OF CHILDREN AND FAMILY SERVICES**

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

3.08 Permit to Operate a Day Care Center

**DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION**

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

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

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

**EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.  
2.00 Permit and approval programs:  
    2.01 Certification of Incorporation (Regents Charter)  
    2.02 Private Business School Registration  
    2.03 Private School License  
    2.04 Registered Manufacturer of Drugs and/or Devices  
    2.05 Registered Pharmacy Certificate  
    2.06 Registered Wholesale of Drugs and/or Devices  
    2.07 Registered Wholesaler-Repacker of Drugs and/or Devices  
    2.08 Storekeeper's Certificate  
3.00 Administration of Article 5, Section 233 of the Educational Law regarding the removal of archaeological and paleontological objects under the waters of the State.

**OFFICE OF EMERGENCY MANAGEMENT**

- hazard identification,
- loss prevention, planning, training, operational response to emergencies,
- technical support, and disaster recovery assistance.

**EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION**

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

**ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
- 2.00 New Construction Program – provide assistance to incorporate energy-efficiency measures into the design, construction and operation of new and substantially renovated buildings.
- 3.00 Existing Facilities Program – offers incentives for a variety of 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
- 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
- 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 and Deposit Material in a Waterway
- 9.22 Permit – Article 15, (Protection of Water) – Stream Bed or Bank Disturbances
- 9.23 Permit – Article 24, (Freshwater Wetlands)

**Hazardous Substances**

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Elimination of Undesirable Fish

**Lands and Forest**

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas/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 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas



- 9.56 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.57 Approval – Drainage Improvement District
- 9.58 Approval – Water (Diversions for Power)
- 9.59 Approval of Well System and Permit to Operate
- 9.60 Permit – Article 15, (Protection of Water) – Dam
- 9.61 Permit – Article 15, Title 15 (Water Supply)
- 9.62 River Improvement District Permits
- 9.63 River Regulatory District approvals
- 9.64 Well Drilling Certificate of Registration
- 9.65 401 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**

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

#### **DEPARTMENT OF FINANCIAL SERVICES (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 of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
  - 1.08 Authorization Certificate (Foreign Banking Corp. 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 DeNovo 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

#### **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.

- 4.00 Administration of Article 5, Section 233, Subsection 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

**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 Shared Health Facility Registration Certificate

**DIVISION OF HOMES AND COMMUNITY RENEWAL and its subsidiaries and affiliates**

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

**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)

**DIVISION OF MILITARY AND NAVAL AFFAIRS**

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

**NATURAL HERITAGE TRUST**

- 1.0 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.
- 11.00 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

**OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES**

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

**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.

**THE GREATER BUFFALO-NIAGARA REGIONAL TRANSPORTATION COUNCIL (regional agency)**

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

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

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

**DEPARTMENT OF STATE**

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.



- 2.10 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 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**

- 1.0 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 branch lines 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**

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

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

*Note: This LWRP's list of the federal agency activities is identical to the most recent version of the Table 3 list in the New York State Coastal Management Program as approved by the federal Office for Coastal Management on May 7, 2017. Please contact the New York State Department of State, Office of Planning and Development, at (518) 474-6000, for any updates to New York State Coastal Management Program Table 3 federal agency activities list that may have occurred post-approval of this LWRP.*

This list has been prepared in accordance with the consistency provisions of the federal Coastal Zone Management Act and implementing regulations in 15 CFR Part 930. It is not exhaustive of all activities subject to the consistency provisions of the federal Coastal Zone Management Act, implementing regulations in 15 CFR Part 930, and the New York Coastal Management Program.

It includes activities requiring:

1. the submission of consistency determinations by federal agencies;
2. the submission of consistency certifications by entities other than federal agencies; and
3. the submission of necessary data and information to the New York State Department of State, in accordance with 15 CFR Part 930, Subparts C, D, E, F and I, and the New York Coastal Management Program.

### I. ACTIVITIES UNDERTAKEN DIRECTLY BY OR ON BEHALF OF FEDERAL AGENCIES

The following activities, undertaken directly by or on behalf of the identified federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart C, and the New York Coastal Management Program.

#### **Department of Commerce, National Marine Fisheries Service:**

- Fisheries Management Plans

#### **Department of Defense, Army Corps of Engineers:**

- Proposed authorizations for dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with the potential to impact coastal lands and waters.
- Land acquisition for spoil disposal or other purposes.
- Selection of open water disposal sites.

**Department of Defense, Air Force, Army and Navy:**

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

**Department of Energy:**

- Prohibition orders.

**General Services Administration:**

- Acquisition, location and design of proposed federal government property or buildings, whether leased or owned by the federal government.

**Department of Interior, Fish and Wildlife Service:**

- Management of National Wildlife refuges and proposed acquisitions.

**Department of Interior, National Park Service:**

- National Park and Seashore management and proposed acquisitions.

**Department of Interior, Bureau of Ocean Energy Management**

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

**Department of Homeland Security, Coast Guard:**

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

**Department of Transportation, Federal Aviation Administration:**

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

**Department of Transportation, St. Lawrence Seaway Development Corporation:**

- 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.

**Department of Transportation, Federal Highway Administration:**

- Highway construction

**II. FEDERAL LICENSES AND PERMITS AND OTHER FORMS OF APPROVAL OR AUTHORIZATION**

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

**Department of Defense, Army Corps of Engineers:**

- 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).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 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).
- 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).
- Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- 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).
- Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4 (f) of the River and Harbors Act of 1912 (33 U.S.C.).

**Department of Energy, Federal Energy Regulatory Commission:**

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



- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

**Department of Energy, Economic Regulatory Commission:**

- 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.
- Exemptions from prohibition orders.

**Environmental Protection Agency:**

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

**Department of Interior, Fish and Wildlife Services:**

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

**Department of Interior, Bureau of Ocean Energy Management:**

- 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.
- 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.

**Surface Transportation Board:**

- 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 slurry pipelines.

**Nuclear Regulatory Commission:**

- Licensing and certification of the siting, construction, and operation of nuclear power plants, 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:**

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

**Department of Transportation, Federal Aviation Administration:**

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

### **III. FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS**

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

**Department of Agriculture**

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities 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 Intermodal Transportation
- 11.509 Development and Promotion of Domestic Water-borne 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 - Manages ant 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 the 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 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 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 Area-wide 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

66.800 Comprehensive Environmental Response, Compensation and Liability  
(Superfund)

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



## SECTION 7 – LOCAL COMMITMENT AND CONSULTATION

### 7.1 LOCAL COMMITMENT

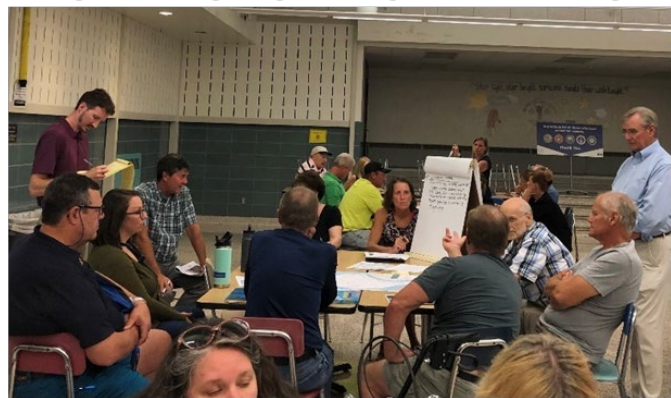
The Town of Grand Island initiated its efforts to prepare a Local Waterfront Revitalization Program (LWRP) in September of 2019, at which time the Town designated the Long-Range Planning Committee as the advisory committee to oversee and assist with the preparation of the local program.

The Long-Range Planning Committee is comprised of representatives from the Town and local community, including liaisons from the Town Board, Planning Board and Zoning Board of Appeals; the Grand Island Chamber of Commerce and Grand Island Central Schools; and the Grand Island Conservation Advisory, Parks and Recreation, Traffic and Safety, Economic Development, and Historic Preservation Boards; and a small number of citizens at large. The efforts of this Committee were supported by the New York State Department of State and the Buffalo Niagara Waterkeeper. This Committee met in person and virtually approximately 18 times to assist with the preparation of the LWRP, to provide guidance, and assist with finalizing draft project ideas.

To strengthen local commitment for the Town's planning efforts, the Long-Range Planning Committee held two significant public efforts to provide local citizens an opportunity to comment on important issues and opportunities in the Town's waterfront revitalization area. The first event, a Public Information meeting, was held at Grand Island High School on August 14, 2019. This meeting was held to

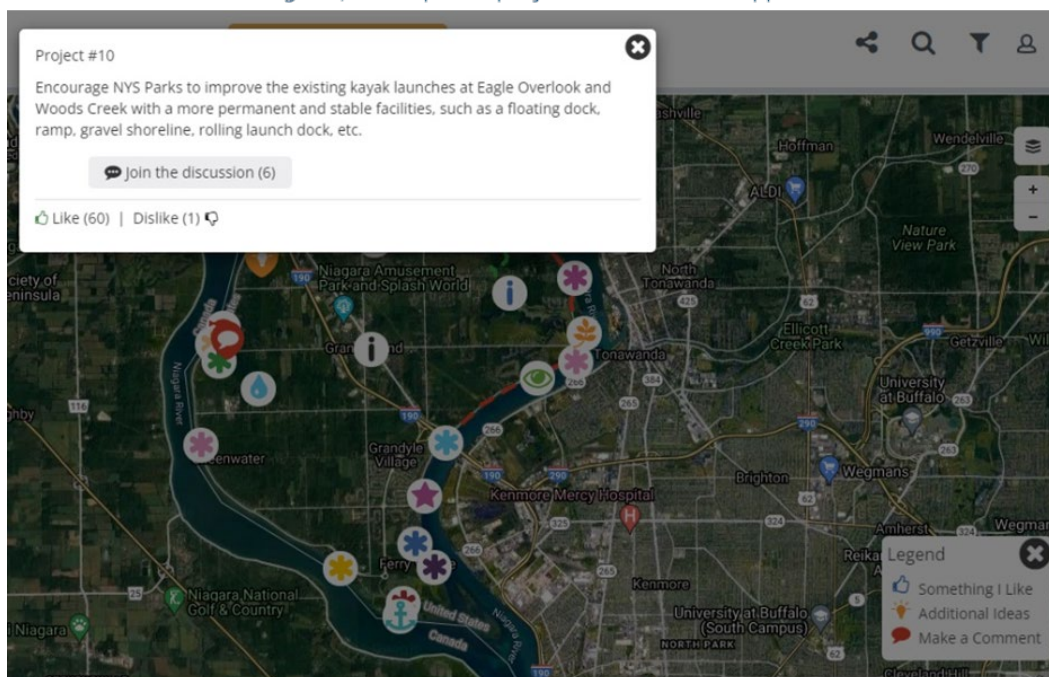
introduce the LWRP project to the public and provide an opportunity for residents and stakeholders to view maps and offer input on the issues and opportunities they felt were important in the waterfront area. This meeting was well attended, and numerous comments were gathered from breakout table discussions.

Figure 7.1: Long-Range Planning Committee meeting



The Town of Grand Island website was used to promote the LWRP throughout the planning process and to gather additional information from the public to help shape project recommendations. Using the Town’s website, the second effort to gather public input was undertaken between January and February 2021. Due to the pandemic and limitations on public meeting, this meeting was conducted online using a dedicated website application called Social Pinpoint, which combined background on the project, a timeline, and draft documents as well as several engagement opportunities. Participants were invited to attend through the Town’s social media site(s), website, communication by the Town Board, and general word of mouth.

Figure 7.2: Proposed projects interactive mapper



The engagement site included an interactive map to identify potential projects as well as issues and concerns with the waterfront, review and rank draft projects developed by the advisory committee and participate in a general survey about the waterfront. The input collected through the website were used to finalize the listing of proposed projects included in Section IV. Proposed Land and Water Uses and Proposed Projects and Section V – Techniques for Local Implementation of the LWRP.

Prior to the adoption of the Local Waterfront Revitalization Program, the Grand Island Town Board held a public hearing on the final report. This hearing provided the local citizens and stakeholders an opportunity to hear a presentation on the draft LWRP, as well as to provide the Town Board with final input on the proposed program.

## 7.2 LOCAL CONSULTATION

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During the preparation of the Grand Island LWRP, the Long-Range Planning Committee forwarded draft sections of the revised program to the Department of State for their review and comments. In addition, draft documents were distributed to several involved and interested agencies to gather their comments on program findings, policies, and recommendations. The local agencies that were contacted for their input during the planning process included the Erie County Department of Planning and Development; the New York State Department of Environmental Conservation; the New York State Office of Parks, Recreation and Historic Preservation; and the US Army Corps. of Engineers.

The draft LWRP was reviewed and accepted by the Grand Island Town Board and forwarded to the New York State Department of State. Pursuant to the requirements of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of NYS Executive Law), the Department of State sent out notifications announcing the initiation of the 60-day review and published the draft LWRP on the NYS DOS website, to make it accessible for the 60-day review by local, regional, State, and federal agencies. In meantime, the Town completed the process of compliance with the State Environmental Quality Review Act. Comments received on the posted draft LWRP were reviewed by the Town and the Department of State, and changes were made, as required, to address substantive comments. The approval of the Town of Grand Island LWRP consists of three distinctive steps: the local adoption of the document by the Town Board, submission to and approval by the New York State Secretary of State, and the incorporation of the Grand Island LWRP into the NYS Coastal Management Program after concurrence from the National Oceanic and Atmospheric Administration.