



SECTION THREE

SECTION 3
EXISTING LAND AND WATER USES AND REGULATIONS

3.1 Upland Uses

A. General Land Use

The Village of Sag Harbor and surrounding area is characterized by rolling terrain with significant areas of woodlands and extensive areas of shoreline containing beaches and fringing wetlands. As shown in the generalized land use map in [Figure 3](#), much of the shoreline area of the Sag Harbor Cove/Bay Complex is developed with low and medium density single-family residential development. Higher density residential development is found outside the harbor management study area, in the interior portions of the Village and in the vicinity of the central business district (CBD). Recreational facilities include Village marina facilities, waterfront parks, a Village beach, and smaller, private homeowners' association beaches, which are discussed in greater detail in Section 3.1.E below. Areas of undeveloped open space are found to the east of the breakwater. There is also one parcel of land which is generally used for institutional purposes. This land is known as the Cor Maria property and is owned and operated as a retreat by the Roman Catholic Diocese. These easterly-located recreational and institutional lands are important for the enhancement of visual resources and the enjoyment of passive recreational opportunities. The various land uses situated along the Sag Harbor Village waterfront are discussed in greater detail in Sections 3.1.C, 3.1.E, and 3.2.B below.

The area located between the eastern end of the Redwood peninsula and the breakwater is the Harbor District. Commercial uses are present throughout this central portion of the waterfront and include (from west to east): Redwood Boat Basin; Ship Ashore Marina and boat basin; residential condominiums; two private residences; Malloy's Sag Harbor Cove West Marina; the Village of Sag Harbor A and B Docks; Il Sole Ristorante; Malloy's Sag Harbor Cove East Marina; a private residence; a small apartment complex; a storage warehouse; a two-story professional office building; the North Haven/State Route 114 bridge; Windmill Village Park; the Long Wharf and Promenade; Waterfront Marina; Sag Harbor Village Marine Park and Boat Basin; the Sag Harbor Yacht Club; a large area of Village-owned property that contains the Village of Sag Harbor sewage treatment plant and approximate 8,150 square-foot parcel of waterfront land that is presently utilized by the Sag Harbor Yacht Yard for boat storage, and a park and parking area; the Breakwater Sailing School; the Sag Harbor Yacht Yard; and the undeveloped western portion of the Cor Maria property, from which a two-section, 3,180-foot breakwater extends. These uses are a waterfront extension of the CBD and are in many respects related to the historic maritime use and development of this area. The only commercial use located on the waterfront, outside of the harbor district, is a local radio station facility, which is situated on the north shore of Upper Sag Harbor Cove. The shoreline marine uses and in-water structures found in the Harbor District are shown on HMC.

The Village-owned land that constitutes the former Mobil Oil site is located to the immediate east of the Marine Park parking area. This property includes a dock that was formerly utilized by Mobil for the offloading of petroleum products. The Village of Sag Harbor acquired the Mobil Oil property in 1994 and is redeveloping the western portion of the site, which abuts Marine Park, for additional parking area and additional common waterfront access that will incorporate the dock structure. The Sag Harbor Yacht Yard has negotiated a new lease with the Village and has relocated its boat storage facilities to the 8,150 square-foot eastern portion of the Mobil property. In addition, 7,250 square feet has been leased to the Breakwater Yacht Club. The Breakwater Yacht Club is proposing to construct a sailing school on this site, as discussed in Section 3.1.E below.

B. Zoning

The zoning in the harbor management area is a mix of residential and commercial classifications (Figure 4). The western portion of the subject area, which includes the Upper Sag Harbor Cove and Morris Cove areas and western portion of the Village shoreline, is zoned R-20 Residential. The central portion of the harbor management area is zoned primarily Waterfront (WF). Two areas located at the eastern end of the Redwood peninsula are zoned for Marine (MA) use and Multiple-Family Residence (MF) development.

The R-20, MF, WF and MA zoning classifications have open space requirements. In the R-20 and MF zoning districts, a minimum of 50 percent of the site area must be preserved as natural or landscaped open space. In the WF and MA districts, the requirement is 30 percent of the site area. Access walks or driveways may be included in this required open area, but structures such as tennis courts, swimming pools or other constructed areas must be excluded. Furthermore, all existing site areas which contain tidal or freshwater wetlands and beach and dune habitats must be preserved in their natural state. In the R-20 and MF districts, all existing natural vegetation located within 25 feet of wetlands and beach and dune habitats must also be preserved.

In the R-20, MF and MA zoning districts, individual on-site sewage disposal systems must be set back a minimum of 100 feet from the mean high water (MHW) line or 100 feet from the upland edge of any wetland, beach and/or dune habitats. In the R-20 and MF districts, fertilized vegetation cannot be planted within 25 feet of the MHW line or within 25 feet of any wetland, beach and/or dune habitats.

MA Marine District

The only MA Marine District in the harbor management area comprises the Ship Ashore Marina and Redwood Boat Basin, located on the north side of Redwood Road, just east of Cove Road. The zoning designation for this property was created to recognize the limited suitability of such marine uses as well as to assure their future compatibility with both the surrounding residential uses and the fragile character of the environment in Upper Sag Harbor Cove. Permitted uses in a Marine zoning district include the following.

1) *Nonprofit Marinas and Yacht Clubs*, provided that:

- no adverse impacts result to groundwater of the Village, and impacts to the ecology of adjacent tidal waters are minimized;
- sanitary restrooms, pump-out facilities, holding tanks and sewage disposal systems are provided in accordance with the regulations of the Village, the Suffolk County Department of Health Services, and New York State;
- provisions are made for the collection and disposal of boat-generated solid wastes;
- outdoor lighting is not projected into or visible from neighboring upland properties, and is not more than ten feet above the ground or dock structure (excluding appropriate navigational aides deemed necessary by the Village); and
- fuel storage facilities are adequately contained so as to prevent spillage, leakage or damage from storms and are set back at least 50 feet from the mean high water line. Fuel pumps may be located conveniently to service boats, provided that precautions are taken to prevent spillage into tidal waters. In no case can fuel storage or service pumps be located less than 100 feet from adjacent property lines or can any fuel storage tanks be constructed above ground. The recommendations of the Village Fire Chief, the Town Bureau of Fire Prevention and the National Board of Fire Underwriters must be considered with respect to the siting and construction of all fuel storage facilities.

2) *For-profit Marinas and Yacht Clubs*, provided that they conform to the same conditions and performance standards set forth for nonprofit marinas and yacht clubs, and further provided that any accessory service functions include provisions for marine supplies, and minor and emergency repairs for boats and boat rentals. One accessory dwelling unit may be provided for a superintendent or caretaker.

3) *Public Utility* structures or rights-of-way, *sewage treatment plants*, or *water supply facilities* that are either water-dependent or necessary to service the Marine District.

4) *Residential community facilities* including: water-related municipal parks, playgrounds or recreational areas; and water-dependent municipal or other governmental buildings, structures, or facilities supportive of other uses in the Marine District.

5) *Residential dwellings* that lawfully existed prior to the adoption of the MA Marine zoning classification.

Special Exception uses may be permitted in a Marine District when issued a Special Exception Use Permit by the Zoning Board of Appeals, pursuant to Article XIII of the Zoning Code. Special Exception uses include: boat yards, including boat sales, rentals,

and indoor and outdoor storage areas; marine supply and hardware establishments; boat service and repair facilities, provided that major repairs are not found to be incompatible with the use of adjacent properties; beach or tennis clubs; and commercial charter and fishing boat docking. Boat yards, boat service and repair establishments and similar facilities are all subject to the same conditions and performance standards set forth for marinas and yacht clubs.

In Marine Districts certain uses, buildings or structures may be permitted as accessory to the principal or special exception uses when located on the same parcel as the principal use. Accessory uses that are not water-dependent must be located as far away from the shoreline as possible. Accessory uses include: customary accessory uses or structures; private garages or private off-street parking and truck loading space; and signage. Parking and loading areas and signs must be consistent with the supplementary regulations contained in Section 55-11 of the Zoning Code.

A number of uses are specifically prohibited in an MA zone. These include: manufacturing or industrial uses, except for the establishment of an approved boat yard; retail stores or shops not expressly permitted in MA Districts; offices, unless permitted as a customary accessory use; new residential dwellings, including cooperative and condominium developments; resort motels; drive-in businesses; outdoor vending machines or equipment; and automobile ferry slips, terminals or other landing places.

WF Waterfront District

The WF Waterfront District encompasses most of the harbor district, stretching east from the western side of the North Haven bridge to (but not including) the Cor Maria property, just west of the breakwater. The WF zoning classification was established to ensure that the maritime character of the Village's seaport area, and the economic benefits derived thereof, will be preserved and continued. This classification was designed to: maximize public access to the shoreline from both onshore and offshore points; protect views of the harbor and/or shorefront from certain vantage points; and restrict land use and development along the shoreline to water-dependent uses that would benefit most from a waterfront location and would serve to enhance the maritime character and tradition of the Village.

Permitted uses in a WF Waterfront District include all of the uses permitted as-of-right in the Marine District (pre-existing dwelling units, marinas, water-dependent government facilities, water-related municipal recreational uses, and public utility structures) as well as restaurants and bus shelters. Like the Marine District, permitted special exception uses in a Waterfront District, that require Zoning Board of Appeals approval, include boat yards and commercial charter and fishing boat docking facilities; however, beach and tennis clubs are not permitted by special exception in a waterfront district. Accessory uses permitted in the WF District are the same as those permitted in a Marine District, and must be located on the same lot with the principal use. Accessory uses that are not water-dependent must be located as far away from the shoreline as possible. Prohibited in a WF District uses are the same as those prohibited in an MA District, with the exception of resort motels which are expressly prohibited only in an MA District.

Other Zoning Classifications

The predominant zone along the Village's waterfront is the R-20 One-Family Residence District, which is also the primary zoning classification within the entire Village. The R-20 District encompasses almost the entire Redwood peninsula, except for Redwood Marina, all of the Upper Sag Harbor Cove area, (including the Glover Street, Morris Cove and Ligonee Brook communities); and the shoreline to the east of the breakwater (including the western portion of the Cor Maria property).

Permitted uses in an R-20 Residential District include: one-family detached dwelling units; municipal parks, playgrounds and recreation areas; public libraries or museums; and fire stations, municipal offices or any other government buildings of similar character. In an R-20 zoning district private moorings, docks or similar marine structures in a tidal wetland or waterway are considered accessory uses. Marine structures must comply with the restrictions contained in the Waterways Law (Chapter 53 of the Village Code).

The only MF Multiple-Family Residence zoning district in the harbor area is a single contiguous parcel located on West Water Street, immediately to the east of the Redwood peninsula. Permitted uses in an MF Residence District include clustered one-family attached dwelling units and multiple dwellings. Moorings, docks or similar marine structures in tidal wetlands or waterways are considered accessory uses in an MF zone and must also comply with the restrictions contained in Chapter 53 of the Village Code.

The only portion of the harbor management study area located within the Village Business district is situated in the vicinity of the Long Wharf, encompassing properties on the north side of Long Island Avenue and at the Long Wharf promenade. This classification generally permits commercial and retail uses and certain municipal and institutional uses as-of-right.

C. Water-Dependent and Water-Enhanced Uses

Water-dependent uses contribute significantly to the long-term economic vitality and public enjoyment of coastal areas. A water-dependent use is a use that requires a location on, in, or directly adjacent to the water in order to function or exist. A water-enhanced use does not require a location on or adjacent to the water in order to effectively operate, but derives certain benefits from a waterfront location, such as the increased enjoyment level of the users.

The Sag Harbor Cove/Bay Complex contains a number of water-dependent uses. These comprise both public and private facilities, and include the Sag Harbor Yacht Club, the Sag Harbor Yacht Yard, five private marinas, the Sag Harbor Village docks, Marine Park (a Village facility which includes the Sag Harbor boat basin), the Village of Sag Harbor sewage treatment plant, Windmill Village Park, Haven's Beach and Park (a Village facility), and a number of boat launching ramps. In addition, a Village-owned waterfront lot is proposed to be developed with a community sailing school, which is a water-dependent use.

Private residences are the typical sites for water-dependent uses (i.e. -swimming, access to sculls and other small boats, etc.) in the areas located east and west of the harbor district. These include many private homeowners' association beach facilities and private docks and boat basins. Section 3.2 below contains a more extensive discussion of many of the water-dependent uses located along the Sag Harbor Village waterfront.

D. Traditional Maritime Uses

Sag Harbor's history centers heavily on its days as a whaling port. In the mid-1800's, Sag Harbor was a leader in the whaling trade, ranking with New Bedford and Nantucket. The original Long Wharf was constructed in the early 1770's for convenient trade and navigation and operated by a Wharf Company, which remained in existence until 1896. In the early 1800's additional sections were added to the Long Wharf, which was extensively utilized for whaling purposes. Whaling activities rapidly increased the wealth and population of Sag Harbor, employing over 800 men and boys on ships or in related industries along the waterfront.

As the whaling industry declined in the 1850's, various other waterfront industries replaced this activity, including shipping; steampowered passenger travel; flour and grain milling; Concrete block, brick and pottery works; and shipyards, among others. In 1870, the Long Island Railroad extended a line for passenger and freight service to Sag Harbor. In 1891, the E.W. Bliss Company began conducting experiments with torpedoes in Noyack Bay. They established a facility on land leased from the Long Island Railroad, on the eastern side of the Long Wharf. Even the fires that destroyed many waterfront industries and businesses in 1845 and 1877 did not deter this area from continued growth and prosperity.

After the turn of the century, the railroad track was extended to the end of the Long Wharf and was used to facilitate the loading and offloading of coal, grain and other products. The turn of the century also brought the Sag Harbor Yacht Club (which was merged from two smaller clubs in 1897), the construction of the breakwater (1902-1908) and the federal navigation channel in 1937, the establishment of Haven's Beach, two breweries, a lumber and coal company, and the Texas Oil Co. The E.W. Bliss Company also extensively expanded their torpedo testing activities, which were propelled by the two world wars. After the Second World War, E.W. Bliss disbanded their operations and their facilities were taken over by Agawam Aircraft, and then Grumman.

Although the shorefront has changed since then, and the whaling industry has long been abandoned, many of the existing waterfront uses have established their foundation in this past. The protection offered by the harbor, which made it an attractive location for whaling, shipping and trade in the 19th century, supports extensive recreational boating and other tourism marine-related activities today. The harbor district and the Outer Sag Harbor Cove areas both contain full service boat yards. The waterfront also supports a passenger excursion ferry service from Connecticut and charter boat services, as well as a moderate shellfishing industry.

These maritime uses situated along the Sag Harbor waterfront are important to the economic vitality of Sag Harbor Village and are expected to continue and flourish. As discussed above, the Waterfront zoning classification was designed to preserve and protect existing water-dependent uses, and ensure that future waterfront development is reserved for uses that would most benefit from a shoreline location and advance the maritime traditions of the Village.

E. Public Access and Recreation

The waterfront throughout the Sag Harbor Cove/Bay Complex contains a variety of water-dependent recreational uses which provide excellent opportunities for public access to the cove complex, Sag Harbors and Sag Harbor Bay (Figure 5). The cove complex and Sag Harbor are connected through a narrows that is spanned by the North Haven/State Route 114 bridge. This bridge has a vertical clearance of 19 feet at its highest point. This may present a problem for larger boats, particularly those with flying bridges, with regard to gaining access to Outer Sag Harbor Cove. These vessels may have to wait for favorable tide conditions to reach the inner cove waters.

Both passive and active recreational uses, including beaches, parks, marinas and boat launching ramps, represent a primary resource in this area. Many of the uses and facilities that offer public access to the waterfront are discussed in further detail in Section 3.2 below and in the LWRP document. Public land and beach use is regulated under Chapter 27 of the Village of Sag Harbor Code, as discussed in Section 5. Public and private beach and park facilities include the following:

- *Haven's Beach* - a 18.8-acre, Village-owned public bathing facility which contains limited picnicking and playground amenities and comfort stations, and lifeguard supervision in the summer season;
- *Windmill Park* - located along both sides of the North Haven/State Route 114 bridge abutment, on the western side of the Long Wharf, this 1.9-acre strip of shorefront contains a small beach area, a tourist information center, a few benches for public viewing and a single picnic table;
- *Otter Pond* - an 11.3-acre property, located in the southwest portion of the Village, which contains a nature walk with five meditation benches located at various intervals around the pond (this park is owned and managed by the Sage Foundation);
- *Marine Park* - a 1.9-acre, Village-owned and operated facility located on Bay Street, which contains the Harbormasters office, a boat basin and boat launch, docking facilities along the bulkhead, a public comfort station, and a village green area with picnic tables, barbecues and benches; and

- *Long Wharf* - this large, public docking facility contains benches and a public walkway around its perimeter for strolling, scenic viewing, and fishing, and a Village-owned marina on the western side for the docking of recreational and charter boats.

- *Private Beach Associations*

There are three private communities located to the immediate east of Haven's Beach. Each facility maintains a limited access point to the waterfront and a small parking area for the exclusive use of community property-owners and their guests. These private facilities include the Azurest Property Owners Association beach; the Sag Harbor Hills Improvement Association beach; and the Ninevah Beach Association property. Although they are restricted for the use of residents within the adjacent communities, these facilities provide access to the shoreline that would otherwise be blocked by private, waterfront residential development.

- *Boat Launching Ramps*

Several sites throughout the Village of Sag Harbor have ramps leading into the bay and coves suitable for launching boats. Some of these structures serve as informal launching ramps, consisting of road ends which are unpaved, while others are formal paved launching ramps. The locations and physical condition of these ramps are discussed in greater detail in Section 3.2.C below.

- *Breakwater Yacht Club Sailing School*

The Breakwater Yacht Club will build a community sailing school on the Village-owned waterfront property leased to the Breakwater Yacht Club. The proposed sailing school facility will be housed in a two-story frame structure to be erected on the site. The proposal also includes the construction of a floating dock for boat storage and a ramp to extend off of the bulkhead. This facility will allow the Breakwater Yacht Club to expand their present program, which is open to the schools and community youth organization in the Village of Sag Harbor area. Presently, 40 percent of the scholarships awarded for this program go to Sag Harbor youth.

F. Infrastructure

Sewage Collection, Treatment and Disposal

The Sag Harbor Sewage Treatment Plant (STP) is located on Bay Street in the Village of Sag Harbor. The plant is situated at the water's edge and discharges treated wastewater directly into Sag Harbor via a single ten-inch diameter, cast iron outfall pipe which extends through the bulkhead seawall. A Village-maintained dinghy dock, which is discussed in Section 3.2.B., is located directly in front of this discharge point. The STP outfall pipe may be above or below sea level, depending on the stage of the tide.

The service area for the Village STP covers approximately 50 acres of the more intensively developed central business district, and includes a large portion of the harbor district (see [Figure 8](#)). The STP performs secondary treatment of sewage and "extended aeration" on the effluent up to the point of discharge. The plant monitoring and reporting requirements are set forth in the State Pollution Discharge and Elimination System (SPDES) permit issued by NYSDEC for the Sag Harbor STP. This is discussed in further detail in Section 4.1.E.

Outside the Village sewerage district, property owners are required to provide on-site sewage disposal systems (OSDSs) for developed parcels. The regulatory requirements for OSDS's and potential threats to water quality from these sources are discussed in greater detail in the LWRP document.

The Village of Sag Harbor collects vessel wastes at two pump-out facilities. Both facilities are available for use at Marine Park, free of charge, to any vessel operator. One pump-out station is a stationary facility that is attached to the Marine Park bulkhead; the other pump-out is a mobile facility. Use of these facilities must be arranged through the Harbormaster. All of the vessel wastes collected by these systems are stored in an underground tank. This tank is emptied by a private contractor and the wastes are hauled to the Suffolk County Scavenger Waste Facility at Bergen Point, in the Town of Babylon, for treatment and disposal. Vessel wastes are discussed in further detail in Section 4.1.F.

Public Water Supply

The Suffolk County Water Authority (SCWA) supplies the entire Village of Sag Harbor with potable water supplies. Water is currently drawn from three wells at the SCWA well field located on Division Street opposite Middle Line Highway. According to SCWA engineers, one older well was recently retired due to turbidity problems. Due to this fact, the SCWA can only marginally meet the demands during peak use periods in the summer. However, water restrictions are not required to meet this demand. A new well field is presently under construction further inland off Sag Harbor Turnpike. This new well field will supplement supplies from the Division Street well field and is expected to be in service some time in the summer of 1996 (Bassler, January 24, 1995).

G. Visual Resources

The visual quality of the Sag Harbor Cove/Bay Complex waterfront is characterized by a combination of several elements, including: the pattern and placement of streets and buildings in the Village center; the relationship of structures to the waterfront; the rural nature of shoreline residential development; the extent of shoreside landscaping and woodland vegetation; and the views looking out over the water from different areas along the shore. There are also a variety of significant views of the waterfront available from the water, which are framed by the built and natural environment. Since the Village is viewed by a large number of people who access the waterfront from the waterside, this aspect of visual quality is important. (Visual resources are discussed in greater detail in the LWRP).

Because of the large degree of public ownership of waterfront lands, the extent of shoreline vegetation, and the accessibility of the waterfront, good views of the harbor and cove areas are quite common. A large number of residents enjoy water views from their homes and/or places of employment. Visual access to the water from upland areas is provided in a number of areas. Many views include manmade features in the foreground, with marine and natural elements in the middle and backgrounds.

Views of the Village are linked with the water. Temporary visitors, whether arriving by boat, the North Haven/State Route 114 bridge, or Noyack Long Beach Road (County Route 60), will likely note the Sag Harbor shoreline in relation to the water. The irregular coastline, which is comprised of inlets, open space and manmade structures, provides a combination and variety of pleasing views.

3.2 Water Uses

A. Harbor Use Districts

The Sag Harbor Village LWRP, which was adopted in 1986, established three harbor use districts (i.e. - the Harbor District, the Low-Intensity District, and the Conservation District) for controlling the intensity of waterside uses within the Sag Harbor Cove/Bay Complex (see [Figure 4](#)). These harbor use districts, as they are presently defined, are described as follows.

- *Harbor District (HD)* - This area extends from the western side of the Marine District, east to the breakwater. This area is designated for intensive boating and commercial harbor uses, and encompasses four private marina facilities (discussed below in Section 3.2.B), the Village mooring area, the Long Wharf, the Sag Harbor Village sewage treatment plant and two Village marine-recreational facilities. It is subject to a considerable amount of vessel traffic and other marine-related activities during the summer boating season. This district was designed as a means of controlling marine commercial and recreational uses by limiting such activities to a specific area of the waterfront. Such action would help to strengthen the economic base of this area and protect important natural and historic resources located outside the district boundaries.
- *Low-Intensity District (LID)* - One area within the Sag Harbor Cove/Bay Complex has been designated as a Low-Intensity District. This area extends from the breakwater east to the eastern boundary of the harbor management area. The LID was designed as a general boating area where intensive boating activities would not be permitted. The LID area primarily contains residential uses along the shoreline and is subject to a limited amount of vessel traffic.

- *Conservation District (CD)* - There are two Conservation Districts areas within the harbor management study area. One CD area is located at the western end of the Village and encompasses the waters within the HMP area to the west of Cove Road on the Redwood peninsula (which includes Upper Sag Harbor Cove, Morris Cove, and Otter Pond, and Ligonee Brook). The other CD area encompasses that portion of Little Northwest Creek that is located within the harbor management area. These areas were designated as a means of protecting the sensitive natural resources (e.g., marshes and tidal flats) found therein, and to preserve and protect water quality and resources located with areas subject to poor tidal flushing. The CD is subject to very limited recreational and boating activity in the Upper/Inner Sag Harbor Cove areas; Little Northwest Creek is part of a NYSDEC protected wetland preserve.

B. Marinas, Docks and Bulkheads

Sag Harbor is protected from the east by a 3,180-foot long breakwater, which is discussed in Section 3.2.G below. The shoreline of the Sag Harbor Cove/Bay Complex contains a number of marinas and other marine-related facilities that service the local boating industry (see HMC). The size of the marinas and other boat docking facilities is controlled in large part by the parking standard contained in the Village Zoning Ordinance. Marinas and boat yards are required to provide one parking space per each boat slip, mooring, dock space or similar unit of capacity, plus one space per each five boat slips. Vessel pump-out facilities are located at the Marine Park bulkhead and at the Sag Harbor Yacht Club. The Village also operates a mobile pump-out facility, as discussed in Section 4.1.F.

The following marina descriptions have been based on information provided in the Northern 1994 Waterway Guide (published by Argus, Inc.), as supplemented by interviews with Village officials. This listing is arranged by geographic location, from west to east.

- *Ship Ashore Marina*

Ship Ashore Marina is a private facility located on Redwood Road, in the western portion of the harbor management area. Ship Ashore Marina has direct access to Outer Sag Harbor Cove. The marina is located within the Redwood canal. This marina contains 35 slips with electric service, and can accommodate power boats up to 35 feet in length. A boat launch ramp, shoreside dock, and on-site boat storage are also provided. The Ship Ashore facility is open year-round for fueling (gasoline only) and boat repair services, and is served by a 30-ton lift.

- *Redwood Boat Basin*

Redwood Boat Basin is a private facility located on Redwood Road at the eastern end of the Redwood Peninsula in the western portion of the harbor management area. It has direct access to Outer Sag Harbor Cove. It has 71 slips, and can accommodate power boats up to 30 feet in length. On-site boat storage is available.

- *Sag Harbor Cove West Marina*

Sag Harbor Cove West Marina is a private facility located on West Water Street, west of the North Haven/State Route 114 bridge, at the eastern end of Outer Sag Harbor Cove. This marina has 84 slips (30 of which are for transient vessels), and offers seasonal dockage for power boats up to 50 feet in length. Electric service and a fueling dock (gasoline only) are also provided. Additionally, the Sag Harbor Cove West Marina facility offers associated motel and restaurant services, laundry, and showers.

- *Village A and B Docks*

The Village of Sag Harbor operates two docks in eastern Sag Harbor Cove known as the A and B docks. These docks are located on West Water Street, in the cove area between Sag Harbor Cove West Marina and Sag Harbor Cove East Marina (discussed below). The A dock, which is located adjacent to Sag Harbor Cove East Marina, is a fixed structure that provides 22 slips for vessels up to 30 feet in length. The B dock, which is located near the Sag Harbor Cove West Marina, is a floating structure that provides 50 slips for vessels up to 30 feet in length. Both docks offer electric and water services and provide seasonal dockage (from April 1 to October 31), with annual leasing fees that vary based on residency status. The Village charges additional fees for the provision of seasonal and transient electric service at each dock and for the use of shower facilities at Marine Park (discussed below). Although they are seasonal berths, the slips at these docks are also subleased for transient use. The Village requires that the lessee notify the Village if they are going to vacate their slip for more than two days. The entire sublease fee is retained by the Village. The Village currently charges a set rate per foot (based on the length of the vessel) for transient subleasing. The A and B docks are generally utilized for in-water winter storage (seasonally from November 1 to March 31).

In addition to the dockage available at the A and B dock facilities, the Village provides 48 seasonal cable slips along the shoreline between the two docks. The cable slips can accommodate boats up to 18 feet in length. The cable slips are leased on a seasonal basis, with rates based on residency status. Short-term tie-up fees are charged for all three docking locations at a rate of \$10.00 for four hours.

Off-street parking is provided in the vicinity of these docks. There are 14 parking spaces located along the north side of West Water Street, adjacent to the cable slips. There are also two small parking areas located adjacent to the A and B docks. The parking area near the A dock can hold nine cars; the area near the B dock can accommodate ten. In addition, there are 14 parking spaces available in a small lot located across from the A dock and 16 spaces situated along the south side of West Water Street, adjacent to the Sag Harbor Inn.

- *Sag Harbor Cove East Marina*

Sag Harbor Cove East Marina is a private facility located on West Water Street, east of Sag Harbor Cove West Marina and west of the North Haven/State Route 114 bridge. This

marina provides 80 slips (25 of which are for transient vessels) on a seasonal basis with electric service, and offers dockage for power boats up to 85 feet in length. Ice and groceries, laundry, and showers are available. A restaurant, snack bar, and motel are also situated on-site.

- *The Long Wharf*

The Long Wharf structure is owned by Suffolk County, but all dockage activities are controlled by the Village of Sag Harbor. Docking occurs along the entire face of the Wharf, with the exception of the area set aside for the Village marina finger docks and floating dock (see discussion below) which comprise the Long Wharf Marina. The number of vessels that can tie up at any one time depends on vessel lengths. Typically, only larger vessels (to a maximum length of greater than 100 feet) utilize the Long Wharf on a regular basis. Smaller boats wishing to dock in this area utilize the finger piers (discussed below) or the adjacent mooring area (discussed in Section 3.2.D).

New England Steamship Lines runs a seasonal (summer) passenger excursion ferry service from Haddam, Connecticut that docks at the northern end of the Long Wharf. The "Yankee Clipper" (which has a capacity of 500 persons) departs Haddam each morning, to dock at the Long Wharf by noon. This ship returns to its home port three hours later. This dockage arrangement is governed by a long-term lease with the Village, for which the ferry company pays an annual fee that increases from year to year.

Other large seasonally-operated vessels utilize the western side of the Long Wharf for docking (see discussion of Village docking facility below), including large sail boats that come from Mystic, Connecticut and stay overnight. The *American Beauty* provides an established charter service which is operated by Harbor Tours, Inc. This 45-foot vessel can accommodate a maximum of 38 passengers. This charter service offers sightseeing cruises and other private charters in the Peconic/Gardiners Bay system.

- *Village Finger Docks (Long Wharf Marina)*

The Village provides seasonal dockage on the west side of the Long Wharf, known as the Long Wharf Village marina. This floating dock contains nine finger piers for small vessels on its western side; in addition, vessels (including charter boats) can tie up along the eastern side, between the main floating dock and the Long Wharf. These slips are utilized on both a seasonal and transient basis. There is a set rate for seasonal dockage; the Village charges a per-foot rate for transient use. The seasonal and transient dockage rates vary at this facility based on whether or not electric and water services are provided. Slips without these services are offered at lower rates. During the winter season, the finger piers are stored adjacent to the A dock.

- *Waterfront Marina*

Waterfront Marina is a private facility located north of Bay Street, on the east side of the Long Wharf. Waterfront Marina provides seasonal dockage for 67 vessels. Both power and sail boats, up to a maximum length of 150 feet, can be accommodated at this facility. Services include dock-side electricity, ice, and showers. A restaurant is also located on-site.

- *Marine Park and Boat Basin*

Marine Park is a Village-owned and operated facility situated on Bay Street, to the immediate east of Waterfront Marina. Seasonal and transient dockage is provided at this facility. A total of 32 vessels (maximum length 40 feet) can be docked along the main bulkhead. 16 of the slips are for transient usage. An additional fifteen vessels can be docked on a seasonal basis in the boat basin, eleven at boat slips and four on cable slips. The Village charges an annual rate for the seasonal use of dockage at the Marine Park facility. These rates are set based on residency status. Transient rates are also charged on a per-foot basis. The slips at the Marine Park site are also subleased when the lessee vacates them for any extended length of time. The entire sublease fee is retained by the Village.

Dock-side electricity and showers are available at the Marine Park site; fees for these services are charged on an annual and transient basis. In addition, the Village maintains a dinghy dock which supplies eighty slips that provide access to the Village mooring field. The dinghy dock is located at the eastern end of Marine Park, and extends off the bulkhead which is situated in front of the Village sewage treatment plant. This dock is installed every year, at the beginning of April. Annual dinghy dock rates vary based on residency status.

A boat launching ramp, which can accommodate one trailer at a time, is present in the boat basin. Use of this ramp is free to Village residents but non-residents and commercial users are charged a fee. There are two floating docks located directly west of the boat ramp. These are operated by the Bayview Bait and Tackle shop, which is located across the street from this site, on the corner of Bay and Rysam Streets. Seasonal daily and commercial permits for ramp usage are issued through the Harbormasters' office.

Parking for the Marine Park facility is provided on-site. In addition, approximately 25 off-street parking spaces are located along the north side of Bay Street, adjacent to Marine Park. Another 14 spaces are located along the south side of the boat basin. The Village provides additional parking in a municipal lot located directly south of the Sag Harbor Yacht Club docks (discussed below), on the east side of the boat basin. This lot can accommodate over 40 vehicles. The Village will be extending this parking lot eastward onto the former Mobil Oil property. The Village acquired this land in October of 1994. There are also over 50 parking spaces located along the south side of Bay Street, across from the Marine Park and yacht club facilities.

- *Sag Harbor Yacht Club*

Sag Harbor Yacht Club (SHYC) is a private facility located on Bay Street, to the immediate east of Marine Park. Dockage is provided for 75 vessels, both sail and power, up to a maximum length of 140 feet. This facility also has a vessel pump-out station. The SHYC has an easement agreement with the Village for the dock area that extends off the bulkhead located just west of the Village sewage treatment plant. (This is the same bulkhead that provides access to the Village dinghy dock). Under this easement agreement, the yacht club must maintain the triangular parcel of shorefront property situated behind the bulkhead with landscaping and a dumpster. The SHYC utilizes the eastern portion of the Marine Park boat basin. The yacht club maintains approximately 12 boat slips along the south and east sides of this basin. Services provided by the SHYC include showers, electric and a fueling dock.

- *Sag Harbor Yacht Yard*

Sag Harbor Yacht Yard is a full-service boat repair and storage facility located on Bay Street, to the immediate east of the Sag Harbor Yacht Club (and the Village sewage treatment plant). The yacht yard provides year-round dockage for 25 vessels, both sail and power, up to a maximum length of 50 feet. Services offered at this facility include a full range of boat repairs, a 35-ton lift, and showers. The Sag Harbor Yacht Yard has negotiated a lease agreement with the Village of Sag Harbor to utilize 8,150 square feet of land area in the southeastern portion of the Village-owned property (located to the immediate west of the Yacht Yard site) for boat storage purposes. The Yacht Yard had previously leased the smaller, waterfront area in the northeastern portion of this property.

- *Private residential docks, bulkheads and boat basins*

As shown on [Figure 11](#) and [HMC](#), there are numerous private docks, bulkheads, and boat basins that adjoin residential properties throughout the harbor management study area. Most of the bulkheading is found throughout the harbor district, along the shoreline of the marinas and other marine-related facilities. The Sag Harbor Cove West Marina includes a boat basin that is fully bulkheaded. The Marine Park boat basin has hardened shorelines along three sides, the western portion of this facility is unprotected. There are also a considerable number of bulkheaded properties along the shoreline of the Redwood peninsula. The southern portion of the Redwood peninsula also contains a private boat basin that is entirely bulkheaded. The only hardened shoreline found on the east side of the breakwater consists of a low masonry wall along the front of the Cor Maria property, and rubble revetments and wooden bulkheads along the stretch of shoreline located to the immediate east of Haven's Beach. This area includes most of the properties along Terry Drive.

The private docking structures found throughout the area are mostly small in size and generally can accommodate only one or a few boats. There are four private docks located along the eastern side of Ligonee Brook; six private docks within Morris Cove; twelve

private docks along the shoreline of Upper Sag Harbor Cove; and 19 private docks along the perimeter of the Redwood peninsula.

C. Boat Launch Ramps

Boat launching within the Sag Harbor Cove/Bay Complex occurs at both formal and informal launch areas (see [Figure 5](#)). There is one boat launching ramp located in the Upper Sag Harbor Cove area, on the north side of John Street, at the southern end of the cove. Although not paved, this ramp is a more formalized location for water entry, which appears to receive a considerable amount of use by local fisherman and baymen. Another launch location is situated at the western terminus of Amherst Road, on the Redwood peninsula. This site provides access to Inner Sag Harbor Cove. Unlike the John Street facility, this launching ramp does not appear to be heavily utilized, since it consists of an unpaved accessway that is somewhat overgrown with weeds and field grasses.

One active launch ramp is located in the Village Harbor District. The launching ramp is a public ramp located within the Marine Park boat basin, which consists of a paved entry ramp that extends directly from Bay Street. This launching ramp is in need of repair. An inactive ramp is located at the end of Cove Road in Redwood.

D. Mooring Areas and Anchorages

The Village of Sag Harbor operates a large mooring area which is located between the navigation channel and the breakwater. There is another, smaller, mooring area situated on the western side of the Long Wharf. Combined, these areas can accommodate up to 150 vessels, although the number varies depending on vessel size. There are generally 130 usable moorings locations at all times. Shoaling in the vicinity of the breakwater and near the Long Wharf limits the use of these areas to shallow-draft vessels. The shallow conditions make these areas inaccessible to vessels that would otherwise lease the available mooring locations, thereby denying the Village of this potential source of income. Dredging in both areas would eliminate this problem. Dredging is discussed in Section 3.2.G below.

The Village leases mooring locations on both a seasonal and transient basis. At present, the lessee must supply their own ground tackle at all but one location in the mooring field. The Village provides the ground tackle at this one location, which is utilized for transient moorings during the summer boating season. An annual (seasonal) mooring fee is charged, with the established rate based on residency status. The Village charges a set rate on a per night basis for the use of the transient mooring. The seasonally-leased moorings are also sub-leased for transient use. Seasonal lessees are required to notify the Village whenever their mooring location will be vacant for more than two days. In all cases where the Village sub-leases a mooring location, one-half of the nightly rate is given to the lessee as compensation for the use of their ground tackle.

As previously noted, the boating season runs from April 1st through October 31st; all vessels must be off the moorings by November 1st. The ground tackle should have a winter stake installed or be removed from the water by December 1st. The Village also requires that all ground tackle be inspected every two years by a private contractor hired at the owners expense. A copy of the inspection report must be submitted to the Harbormaster. The owners of ground tackle are responsible for maintaining their equipment. If notified by Harbormaster that their lines must be repaired or replaced, the owner must undertake such action within 24 hours of notification. The Harbormaster has established mooring regulations that were passed by resolution of the Village Board in January of 1995. These regulations set standards for mooring equipment and establish the bi-annual inspection of ground tackle as a Village policy. It is envisioned by the Harbormaster that these regulations will eventually be adopted as an amendment to Chapter 53 of the Village Code (the Waterways Law).

Each year the Village has a large waiting list for mooring leases. During the 1994 boating season, the Harbormaster was able to accommodate everyone on this list. The Village allows each former lessee the opportunity to renew their lease prior to March 1st. Thereafter, these locations become available for open leasing. In 1994, the Village earned over \$1,600 for the use of its transient mooring tackle; however, they shared a substantial amount of sub-lease fees with the owners of the respective ground tackle. Considering the demand for mooring locations, and the potential earnings that could be made from the direct sublease of these locations, it may be financially advantageous to the Village to invest in some additional ground tackle to provide an increased number of transient mooring locations.

E. Recreational Boating and Other In-Water Recreational Uses

Recreational boating is an important water-dependent use in the Sag Harbor Cove/Bay Complex. For recreational boaters on the eastern end of Long Island, Sag Harbor is a centrally-located port that is easily approached from the east or west. It is located approximately ten miles from Plum Gut and 15 miles from Shinnecock Canal. Over the years Sag Harbor, with its well-protected harbor area, has become increasingly more popular as a haven for summer boating and marine recreation. The close proximity of the central business district to the shoreline makes Sag Harbor Village an attractive destination for day cruises or for overnight excursions. The Village offers a variety of amenities to satisfy the provisionary and entertainment needs of recreational boaters.

As noted in previous sections, the summer boating season brings a significant increase activity, from charter boats and the ferry which brings tourists daily from Connecticut, to the extensive use of the marina and mooring areas by local and other Long Island area residents. Each year the demand for mooring space and dockage has increased. The harbor locations that experience the most concentrated activity include the Long Wharf; and the area in the vicinity of Waterfront Marina, Marine Park and the Sag Harbor Yacht Club (east of the North Haven/State Route 114 bridge). Congestion in this area is further complicated by docking structures that have encroached into the navigation channel. Boating activity is also heavy in the vicinity of the Village docks and the private marinas on the western side of the bridge, inside the protected Outer Sag Harbor Cove.

In 1994, an informal visual survey was conducted by the Harbormaster's office to estimate the average number of vessels entering the harbor and outer cove areas during mid-summer. This survey was conducted on two consecutive Saturdays. Incoming vessels were counted as they passed the Long Wharf for a three-hour period on both days. On the first Saturday, approximately 825 vessels were counted. The following Saturday, approximately 820 vessels were counted. This survey gives a clear indication that vessel activity during the summer months in Sag Harbor is extensive.

The increased boating activity in the Sag Harbor Cove/Bay Complex results in a number of congested areas during the height of the summer season. One of the main areas of congestion is the area in the vicinity of the North Haven/State Route 114 bridge. Boat traffic in this area tends to get congested due to the fact that the channel narrows and there are generally a significant number of boats seeking egress from and ingress to Outer Sag Harbor Cove. There are four marina and docking facilities in Outer Sag Harbor Cove that provide dockage for up to 385 vessels. The Ship Ashore Marina provides a full range of storage and repair services. Both the Sag Harbor Cove West and Whaler's Marinas offer overnight accommodations, among other services. Therefore, the Outer Sag Harbor Cove area supports an extensive amount of boating activity.

Another area of congestion is found near the end of the Long Wharf, where two navigation channels intersect. Although this area is marked by navigational aids, there is still a considerable amount of conflict that occurs here. This problem is further complicated by the fact that ballast was unlawfully dumped at the end of Long Wharf, reducing the water depths in this area and creating a navigation hazard. The harbormaster reports that it is not uncommon for boats to collide with this debris. Shoaling problems along the western side of the Long Wharf are also impacting access to this structure and creating the potential for future congestion problems in this area.

Congestion occurs in the Sag Harbor area, where the channels meet. Problems can arise when an increased number of boaters are attempting to enter or exit from the main channel to the harbor channel on the eastern side of the Long Wharf or the dockage and anchorage areas on the western side of the Long Wharf. Vessels are also known to create congestion problems in the channel adjacent to Sag Harbor Cove West Marina. This problem is caused when boats line up to utilize the fueling dock at this marina. Of the four marine facilities located in this vicinity, the Sag Harbor Cove West Marina is the only one that has a fueling dock.

Other in-water activities that occur in the Sag Harbor Cove/Bay Complex include windsurfing, power surfboarding, jet skiing, diving, water skiing and swimming. Swimming generally occurs at Haven's Beach, in the protected swimming area. No swimming is permitted in boat channels or in the Sag Harbor area. Water skiing, power surfboarding, jet skiing and windsurfing are not permitted within 500 feet of docks, moorings and the shoreline. Waterskiing, surfboarding and water scooters (jet skis) are regulated under Section 53-12 of the Village Code (as discussed below in Section 5.5). Jet skis are permitted to travel throughout the harbor area provided they do not exceed the five-mile per hour harbor speed limit and do not create a wake. Violators are generally issued summons and/or expelled from the area.

Windsurfing occurs in the Sag Harbor Bay area, east of the breakwater. This area is also a popular area for catamaran use. There have been occasional problems with windsurfers who block access to the navigation channel. No water skiing is allowed inside the breakwater or within the Sag Harbor Cove complex.

There is no "rafting-up" of vessels permitted within the harbor complex. Rafting-up is defined as boats tying up to one another and anchoring in one location for a prolonged length of time. This activity has been associated with localized water quality degradation due to vessel waste discharges.

F. Commercial and Recreational Shellfish Harvesting and Finfish

The waters of Sag Harbor Cove and Sag Harbor Bay support a wide variety of finfish, shellfish and crustaceans. Hard clams, soft clams, bay scallops, and conches are sought after by both commercial and recreational baymen. Oysters are also taken occasionally and ribbed mussels are sometimes harvested for bait. Finfish species taken from these waters include winter flounder, eel, white perch, porgy (scup), striped bass, weakfish, spearing, sea robin, blowfish and an occasional fluke. Blue claw crabs and squid are also harvested. Lobsters are only occasionally taken from waters east of the breakwater.

Some of the finfish and shellfish which are taken commercially are delivered to local markets, but the vast majority are cold-packed and shipped into New York City. Most of the commercial packing and shipping is performed at facilities in Wainscott or Shinnecock, and according to one source in Southampton, there does not appear to be any need for additional facilities of this kind within the Village harbor management area.

There is one commercial bayman who docks within Sag Harbor Cove, just west of the Route 114 bridge. He primarily harvests bay scallops from Sag Harbor and other waters within Southampton and East Hampton, but also drags for fish. Another full-time commercial bayman resides just outside of the Village Harbor District boundaries. He primarily harvests bay scallops, hard clams and conches from Sag Harbor Cove and other Southampton town waters. There are no charter fishing boats which operate from the Village Harbor District (Andersen, January 19, 1995; Semlear, January 20, 1995).

The Village of Sag Harbor does not have the authority to regulate the harvest of shellfish or finfish within the harbor management area. NYSDEC regulates commercial harvesting in all waters; the Town of Southampton regulates both commercial and recreational harvesting of shellfish, crabs and shrimp within Upper Sag Harbor Cove, Morris Cove, and Sag Harbor Cove. Regulatory controls in both Towns and the State are exercised through a permit system. The regulations are discussed in further detail in Section 5.6.

G. Navigation Channels, Vessel Use and Dredging

As noted above, the coastal waters in the Sag Harbor Cove/Bay Complex are heavily utilized by both recreational and commercial watercraft. The high intensity of use has

caused conflicts and problems with respect to waterway usage (including dockage, mooring and anchorage) and navigation. Many of these issues are discussed below.

Jurisdiction

Jurisdiction with respect to over-water vessel uses within the harbor complex is divided among the Village of Sag Harbor, the Village of North Haven, and the Towns of Southampton and East Hampton. Pursuant to Chapter 46A of the State Navigation Law, the Villages of Sag Harbor and North Haven have the exclusive authority to regulate the over-water use of vessels upon the waters that lie within 1,500 feet of their respective mean high water line. This gives the Villages the authority to regulate the over-water mooring and anchoring, vessel speed, the use of personal watercraft, and associated recreational activities such as water skiing and wind surfing.

In accordance with Section 130.17 of the New York State Town Law, the Towns of Southampton and East Hampton regulate over-water vessel use upon waters within their municipal boundaries, but not within the municipal limits of a village or the 1,500-foot area of water surface that extends from the mean high water line adjacent to incorporated villages. Additionally, as discussed in Section 2.2, the State of New York and the Town of Southampton own the underwater lands in Sag Harbor, and the Outer, Inner and Upper Coves, respectively. Therefore, they have the right to regulate and control all activities that entail the use of the bottom lands in these areas.

Navigation

Waterway hazards and obstructions within navigable waters include rocks and submerged and visible wrecks. Abandoned vessels are also hazards to navigation and removal is constrained since they are generally not registered, which makes it difficult to trace the owner in order to assign the costs of removal to the responsible party. Floating debris (consisting of timbers, logs, pilings, etc.) is often generated as a result of storms and tides, or ice damage to structures. The Towns are generally responsible for removing navigation hazards within local waters, and usually perform this task in Village waters at the Village's request. Navigation hazards also include excessively long docks, as well as shoals and bars within or in close proximity to navigation channels, particularly within the coves.

Sag Harbor is protected from the east by a two-section, 3,180-foot breakwater. This structure extends in a northeasterly direction from western shoreline of the Cor Maria property (a location known or formerly known as Conklin Point), and protects well over 100 acres of surface water area. The construction of the breakwater was completed by the U.S. Army Corps of Engineers (ACE) in 1908. Navigation and navigational activities, including the development of a federal navigation channel in 1937, have been designed and coordinated around this structure since that time.

The breakwater was constructed at an elevation of 7.5 feet above mean low water. The original natural depth of the protected area varied from three to 17 feet at mean low water. The ACE conducted extensive rehabilitation of the breakwater in 1963, which involved the placement of over 1,500 tons of stone to rebuild the structure to its original

elevation. Since that time, the entire breakwater has settled and needs to be repaired. In some areas the foundation is failing. Waves created by storm events break over the top of this structure, resulting in damage to shoreline structures. Rehabilitation should include the replacement of stone to increase the elevation by five to six feet, as well as the refurbishing of the foundation to improve structural integrity.

There are a number of navigational aids found within the Sag Harbor Cove/Bay Complex. Navigational aids are placed and maintained by the Village as private aids to navigation, with the permission of the U.S. Coast Guard (USCG). These navigational aids include buoys, fixed lights, range markers, day markers, and other such devices. In the Sag Harbor area, navigational aids delineate the channels and mark obstructions in local waters, as summarized below.

In Sag Harbor Bay, leading into the harbor, there are a number of buoys. The Sag Harbor sea buoy marks the middle of the entrance channel to Sag Harbor and can be passed on either side. Immediately east of the sea buoy is a green lighted buoy which marks the main navigation channel in Sag Harbor Bay. South of this green buoy is a white buoy which marks an area of rocks that are visible above the water surface at low tide.

At the harbor entrance there is a fixed green light located at the northwestern end of the breakwater. Just west of the breakwater is the navigation channel which is delineated by three buoys; one near the channel mouth, one near the northern end of the Long Wharf, and one located inside the harbor area along the western edge of the mooring area. This channel, once maintained by the Army Corps of Engineers, is now marked by the Village to maintain it as an active navigation channel. The channel buoys are provided by the Village of Sag Harbor and set and maintained by the Village Harbormaster. These exclusionary markers are used in the vicinity of Haven's Beach, in Sag Harbor Bay, to delineate the swimming area.

The North Haven/State Route 114 bridge is a fixed structure with a 19-foot vertical clearance and 37-foot horizontal clearance. This bridge is marked with red lights indicating the safest points of entry into Sag Harbor Cove. These lights provide a guide into Outer Sag Harbor Cove for boaters who are entering the harbor at the northwestern end of the breakwater. The navigation channel that runs from east to west through Outer Sag Harbor Cove is delineated by nine buoys. Three of the five red buoys that mark the northern side of this channel are lighted. All of these buoys are set and maintained by the Town of Southampton.

Dredging

Dredging activities undertaken in any navigable waterway within New York State are regulated by the U.S. Army Corps of Engineers (ACE) and NYSDEC, and the Towns of Southampton and East Hampton, as discussed in Section 5.7 and Appendix A. Local dredging activities are also regulated under Chapter 12 of the Village of Sag Harbor Code, as discussed in Section 5.4 below. The dredging of public channels, public boat basins and mooring areas in the Sag Harbor Bay/Cove complex has been performed in the past by

the ACE and the Suffolk County Department of Public Works (SCDPW). These public dredging projects are described as follows.

As discussed briefly in Appendix A, in 1937, the ACE completed construction on a navigational channel 10 feet deep, 100 feet wide and 0.4 miles long extending into Sag Harbor from about 450 feet northwest of the breakwater. The channel terminated in a turning basin, a channel extension towards Conklin Point, and two adjacent anchorage areas. The northeastern anchorage area was dredged to a depth of 8 feet, and the southern anchorage area was dredged to 6 feet deep. The navigation channel, turning basin and anchorage areas are depicted in [Figure 11](#).

Since 1963, when the ACE completed repair work on the breakwater, the ACE has had no other direct involvement in navigation projects within the harbor management area. The Sag Harbor federal channel and anchorage areas were deauthorized by the passage of the Water Resources Development Act of 1992. The breakwater is still under federal jurisdiction and any necessary future maintenance will be conducted by the ACE. However, ACE will not have any direct future involvement in maintenance dredging activities for the channel. Once the channel was deauthorized, it fell under the authority of the USCG (and the Village to mark and maintain) since it is still an active navigation channel.

According to the Village Harbormaster, several areas inside the breakwater have experienced shoaling and cannot accommodate boats with a draft deeper than four feet. Shoaling has occurred along the west side of the Long Wharf and the western side of the breakwater.

Since the federal navigation channel was deauthorized in 1992, the Sag Harbor Yacht Club has constructed an addition to their dock which extends into the navigation channel. Should the channel be reauthorized by the ACE, this portion of the Yacht Club dock would have to be removed or the channel would have to be realigned. The Waterfront Marina dock also encroaches into the turning basin of this navigation channel.

In 1960, the Suffolk County Department of Public Works (SCDPW) dredged a navigational channel through Outer Sag Harbor Cove that measured 100 feet wide and approximately seven feet below mean low water (MLW), which extended from approximately 400 feet west of the North Haven/State Route 114 bridge (and approximately 100 feet west of an underwater telephone cable) westerly through the Big Narrows. Just past the Big Narrows, the channel was widened to 150 feet wide and approximately six feet below MLW, extending into Paynes Creek. In 1965, the channel was extended south through Inner Sag Harbor Cove, the Little Narrows and Upper Sag Harbor Cove, and included the mouth of the Otter Pond tributary. The SCDPW also dredged the Village dock boat basin (Outer Sag Harbor Cove) in 1978 and the nearshore portion of Sag Harbor bordering the Village Marine Park in 1977. All SCDPW dredging projects are shown in [Figure 11](#).

The SCDPW plans to dredge a southerly spur off the main channel in Outer Sag Harbor Cove, to service the mouth of the Redwood boat basin, in the vicinity of the Ship Ashore Marina. SCDPW has filed permit applications with NYSDEC and ACE in 1990, but has not yet received approval. One problem facing this proposed project is the identification

of a suitable dredge spoil disposal area (Hunter, February 16, 1995; SCDPW File Search, 1994).

The areas where dredged material was historically placed by SCDPW are depicted in [Figure 11](#). Dredge material taken from the Sag Harbor Cove main channel was placed on the beachfront north of Long Beach Road and upland in the vicinity of the Ship Ashore Marina, where a condominium complex is now located. Dredge material from the westerly extension of the main channel and from Paynes Creek was placed on the south side of Long Beach Road as well as in upland areas of the Ship Ashore Marina and on adjacent parcels located further south. Dredge material from the Village docks (Sag Harbor, Part #1 - [See Figure 11](#)), was also placed in upland disposal locations in the vicinity of Ship Ashore Marina. Dredged material taken from the Village Marine Park facility was spread on upland areas at Haven's Beach. With the exception of the Sag Harbor (Redwood Cove) spur, all of the permits for SCDPW projects have expired. In order to facilitate future SCDPW dredging actions, new dredge material disposal areas must be identified, grain size and chemical constituent analyses must be conducted, and easements must be obtained from property owners.

The SCDPW has not conducted any maintenance dredging in the Village coastal waters since the channel or basin areas were first dredged. The SCDPW has not received any recent requests from the Village through the Towns of East Hampton and Southampton for further dredging, and hence, are not aware of any localized shoaling conditions or need for future dredging.

NYSDEC is presently taking a "hard look" approach at all "new" dredging projects. "New" dredging projects are defined as those areas that have not been dredged within the past 20 years, whether or not initial or maintenance dredging was conducted in the past. "New" projects are not likely to receive approval from NYSDEC unless an overwhelming public need can be demonstrated, and the issues of contaminated sediments and the current lack of local disposal locations for such materials are adequately addressed (Hunter, February 16, 1995; Rogers, February 14, 1995).

The administrative process for initiating County-sponsored dredging in local waters is a lengthy one, coupled with the usual time constraints involved with securing the necessary State and federal permit approvals. Once the SCDPW receives a request for dredging, the request must be reviewed to determine the public need and receive approval from the Dredging Projects Screening Committee (consisting of the Commissioner of SCDPW, several legislators, the Suffolk County Council on Environmental Quality and the Suffolk County Executive). Once approved by the Dredging Projects Screening Committee, site specific information must be gathered (including a site survey, estimation of quantities and particular dredging requirements) and permit applications filed. In the past, SCDPW dredging projects were funded through appropriations from the County Capital Program. However, the dredging funds were deleted from the 1995 Capital Budget, which implies that no new dredging will be funded by Suffolk County from 1995 through 1997 (Rogers, February 14, 1995).

3.3 Public Trust Doctrine and Underwater Lands

A. Public Trust Doctrine

New York, upon attaining Statehood, succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (Public Lands Law, section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to the vast stretches of foreshore and submerged lands along the Atlantic Ocean and Long Island Sound, and 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, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the King 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.

The Public Trust Doctrine provides that underwater lands and foreshore lands (i.e., lands between the high and low tide lines or mean high and low water lines) be held by the State of New York in trust for the people, who have certain rights in these lands. When the foreshore is covered by the tides, the public may use the water covering the foreshore and underwater lands for boating, bathing, fishing, recreation and other lawful purposes. When the tide is out, the public may pass over the foreshore as a means of access to reach the water for these purposes, may travel along the foreshore, and may lounge and recline on foreshore lands, provided that such activity does not cause impairment of habitat areas.

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 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, Town 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 or future enjoyment.

Occupation of public trust lands by littoral and riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner which does not unnecessarily interfere with the public's right of passage upon, and 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 foreshore and 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.

Physical access to trust lands is often hindered by natural features, development conditions, or land ownership patterns along the shoreline. The presence of high bluffs, for example, will effectively block land-side access to the adjacent beach. In some areas, the intertidal portion of trust lands have been entirely eliminated, as has occurred where bulkheads extend into the littoral zone. In some areas where intertidal lands remain, access to these lands by the general public is blocked by the presence of private property along the waterfront. Importantly, the Public Trust Doctrine does not grant the public the right to pass over private property in order to gain access to the trust lands beyond. In some cases where public lands are present on the shorefront, perpendicular access to trust lands is limited by residency restrictions, such as are typically applied to municipally-owned parklands. In other areas, lateral access along the public foreshore is obstructed by docks, groins, and similar structures.

A number of guidelines have been established by New York State for use in determining if a given proposed action is consistent with the requirements of the Public Trust Doctrine. These guidelines are summarized below.

- 1) The action should not entail unnecessary obstruction or encroachment by a riparian or littoral land owner to the detriment of the public's right of access over and use of the foreshore and the waters above trust lands. If while reasonably exercising riparian or littoral rights, the public's right of access along the foreshore or other trust lands is obstructed, the property owner should afford a limited easement on the adjacent upland for the public to pass.
- 2) With the exception of projects undertaken in furtherance of the commerce of the State, riparian and littoral owners are not entitled to any use of public trust lands which is inconsistent with the public right to obtain access for navigation or which unreasonably interferes with other public rights under the Public Trust Doctrine. Furthermore, it is inappropriate for a riparian or littoral owner to occupy public trust lands for a private use that is not dependent on a waterfront location. Uses which do not fulfill this water-dependency criterion include, but are not limited to, residences, bars, and restaurants.
- 3) Agencies having regulatory and planning jurisdiction over public trust lands should assure that any grants, funding, permits, leases, licenses, or other approval actions involving private use of public trust lands contain conditions and restrictions necessary to protect public rights while enabling the limited purpose of the grant, lease, etc. to be realized. In addition, agencies should, as trustees of public trust lands, endeavor

to enforce available statutory and common law remedies for redress of any violation of public trust rights and for the recovery of public access to these lands.

Any action which unreasonably and unnecessarily limits or interferes with public trust rights such as commerce, navigation, fishing, and recreation, without having a significant overriding public benefit, shall be deemed inconsistent with the requirements of the Public Trust Doctrine.

- 4) Filling of the foreshore and other public trust lands may occur only in limited circumstances. These are:
 - a. To advance public access goals in a manner which does not significantly affect other objectives of this Harbor Management Plan. Examples include fill necessary for the construction and maintenance of boat launches, public trailways and beaches and foreshore areas lost as a result of natural forces.
 - b. To restore wetlands and other habitat areas which have been destroyed by dredging and other human activities or by natural forces.
 - c. To construct, maintain and protect projects necessary for the public welfare and to promote the commerce of the State. Examples include filling necessary for the protection of public roadways.
- 5) Agencies in their actions should not approve any action or project, including a land transaction, until all conflicts are resolved to make the action consistent with the requirements of the Public Trust Doctrine.

B. Underwater Land Ownership

The ownership of the underwater lands in the Sag Harbor Cove/Bay Complex is divided between the Town of Southampton and the State of New York. The boundary line for these lands was originally delineated by the original bridge that spanned the inlet between Sag Harbor Village and the Village of North Haven. Today this dividing line is defined as running from the location of the old bridge abutment on the south shore of the North Haven peninsula to the residence owned by Rose Black, which is located along the shorefront of Sag Harbor Village, west of the existing North Haven/State Route 114 bridge (see [Figure 7](#)). The Town of Southampton owns the underwater lands located west of this line, within Sag Harbor Cove, and the State owns the bottom lands to the east.

New York State Underwater Land Ownership

The colonial governors acting as agents of the Duke of York, whose own title originated from a direct grant of the King, made grants of land on Long Island (among other places)

to settlers to establish towns. These grants conveyed to the towns or town trustees the Crown's title to uplands and underwater lands within the boundaries of the patent. They also constituted recognition of Long Island towns as corporate entities by English authority. The patent boundaries generally extended to the outer limits of the mouths of creeks, rivers, harbors and bays. The royal patents did not include the waters or underwater lands in Peconic Bay, Gardiners Bay, or Long Island Sound, and extended only to the high water mark along the shores of these waterbodies.

Upon attaining Statehood, New York, in its first Constitution confirmed the colonial patents indirectly in declaring that "such parts of the common law of England...and the acts of the legislature of the colony of New York, as together did form the law of said colony" on April 19, 1775, and "shall be and continue the law of this state" (the New York Constitution of 1777, Article XXXV). The Constitution of 1777 also confirmed and ratified the proprietary and governmental powers in the town trustees. New York, upon attaining Statehood, also succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil beneath them (Public Lands Law, Section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). The uplands and submerged land described in the colonial patents remained vested in the towns as confirmed by the first New York Constitution and subsequent State Constitutions.

As noted above, Peconic and Gardiners Bays did not pass by colonial patent to any of the towns on eastern Long Island and the lands under those waters are in the possession of the State (Town of Southold v. Parks, 41 Misc. Rep. 456, 84 N.Y.S. 1078 Sup. Ct. Suffolk Co., aff'd, 183 N.Y. 513, 1905; Laws of 1884, chapter 385, as amended by the Laws of 18965, chapter 916). The State granted Suffolk County the authority to lease lands under these bays for shellfish cultivation, beginning at a point 1000 feet from shore (Laws of 1969, chapter 990).

State-owned underwater lands are managed by the New York State Office of General Services (OGS). The OGS issues grants, leases, easements and other interests for these underwater lands. They also investigate encroachments on riparian rights and make sure there is no interference with navigation channels. The OGS also reviews NYSDEC and ACE comments for proposed projects that affect State-owned bottom lands to ensure that the benefits to the public will not be deprived and that the environment will not be adversely impacted. The OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of an interest.

The State Office of General Services is the agency responsible for issuing grants, leases and easement for underwater lands and other interests for docks and associated marine-related structures that are placed on State-owned underwater lands. In the case of Sag Harbor Village, the OGS would be the authorizing agency for docks proposed in the Sag Harbor Bay area. The construction of any commercial dock or any private, non-commercial that exceeds 4,000 square feet in area (including perimeter area) would require an interest from the OGS. Non-commercial structures less than 4,000 square feet in size do not need an interest.

Little Northwest Creek

The underwater lands in Little Northwest Creek were originally granted to the Town of East Hampton under their colonial patents. In 1972, the New York State Department of Environmental Conservation purchased over 190 acres of wetlands, meadows and uplands situated on the eastern and western sides of Little Northwest Creek with monies authorized under the Environmental Quality Bond Act. This acquisition included the transfer of ownership for the underwater lands from the Town of East Hampton to the State. All of these lands have been established as a State conservation area. Access into this area is granted only by a permit issued by NYSDEC.

Town of Southampton Underwater Land Ownership

The Town of Southampton holds ownership to all the bottom lands situated within Outer Sag Harbor Cove, Inner Sag Harbor Cove and Upper Sag Harbor Cove, including Morris Cove, Ligonee Brook and Otter Pond. These underwater lands were granted to the Town through colonial patents. The Andross Patent was issued in 1676 and conveyed the original land title to all common lands and lands beneath the creeks, streams, harbors and bays to the settlers of the Town of Southampton. The Dongan Patent was issued in 1686 and confirmed this original land grant. The Dongan Patent created the Southampton Board of Trustees to hold and manage all the unappropriated lands for the use and benefit of the freeholders of the town. These colonial charters extended the boundaries of the Town of Southampton, as well as the other towns on Long Island, only to the outer limits of the mouths of creeks, rivers, harbors and bays, and no further unless a larger abutting bay of water was specifically named as being included in the grant. Thus, the Town of Southampton's ownership of the underwater lands in the Sag Harbor Cove complex extends only to the mouth of Outer Sag Harbor Cove (as shown in Figure 7).

C. Underwater Land Grants and Leases

The underwater lands owned by New York State, as shown in Figure 6, are generally located east of the North Haven/State Route 114 bridge. These lands are managed by the New York State Office of General Services, which oversees the issuance of land grants and leases for underwater lands. A number of underwater land grants have been issued by the State to various owners of upland shorefront property along the Sag Harbor waterfront over the years. These grants were issued for the express purpose of either *commerce and beneficial enjoyment*. Grants issued for commerce were given to shorefront businesses for more restricted activities and were usually written with conditions. If the conditions were not followed, the State may bring an action to declare the grant void and thereby recover ownership, per Section 78 of the Public Lands Law. Beneficial enjoyment grants were given to shorefront property owners without restriction and provided more complete title to the underwater lands. In either case, the grantee was given full ownership rights to the bottom lands. Grants for commerce were issued in the early part of the 1800's, and then the issuance of grants for beneficial enjoyment became more commonplace. Around 1890, the State began to restrict the grants issued for beneficial enjoyment as well.

As listed in the following table, and shown on Fig. 6, the State Office of General Services records indicate that a total of seven underwater lands grants were issued by the State of New York in the Village of Sag Harbor. Four of the State grants were issued for commerce; three of these grants were issued in the 1800's. Upon a review of the original letters patents, it appears that these commerce grants were written without restrictions and provided the grantee with full ownership interest in the underwater lands. The remaining three grants were issued for beneficial enjoyment purposes. The status of these grants is discussed below.

<u>Grantee</u>	<u>Date</u>	<u>Type</u>
• Wm. Cooper & Jonathan Havens	October 30, 1845	Commerce
• East Long Island Pottery Co.	December 19, 1882	Commerce
• The Long Island Railroad	October 26, 1888	Commerce
• Socony-Vacuum Oil Co.	June 23, 1933	Beneficial Enjoyment
• The Village of Sag Harbor	February 3, 1956	Beneficial Enjoyment
• Agawam Aircraft Products	July 17, 1958	Commerce
• Sag Harbor Yachts, Inc.	October 16, 1968	Beneficial Enjoyment

In most of these cases, the grant lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. In situations where the upland ownership has changed since the grants were first issued, unless the State reconveyed the title to the underwater lands to the new property owner, the original grant to the original upland owner remains in effect. It is unclear whether some of the upland property owners were aware of the fact that their filled lands originally belonged to the State and that they did not actually hold clear title to them. In certain situations, the original upland owners were granted underwater lands in the 1800's by the Trustees of the Freeholders and the Commonality of the Town of East Hampton, who believed they owned all the underwater lands in Sag Harbor Bay by virtue of their colonial patents. These lands, however, have been in the possession of the State since the termination of English control, as discussed above; thus, the East Hampton Town Trustees had no authority to give the underwater lands away.

The underwater land grant issued to Wm. Cooper and Jonathan Havens in 1845 was released and surrendered, and the subject area was reconveyed by the State as a part of a larger land grant made to Agawam Aircraft Products, Inc. in July of 1958. In this case, the grant was made for the upland area which was once land underwater.

The grant issued to the East Long Island Pottery Company in December of 1882 was never utilized because this company never opened for business. This grant, however, is still shown to exist. The majority of the underwater land area authorized under this grant was absorbed as a part of a larger grant issued to the Long Island Railroad in October of 1888. This grant gave the railroad full interest in the underwater lands. The LIRR transferred ownership to a portion (about 75 percent) of these lands to the New York State Department of Transportation for the reconstruction of the North Haven/State Route 114 bridge at its current location. The State, in turn, conveyed its interest in these lands to Suffolk County, who reconveyed ownership to the Village of Sag Harbor. The LIRR still owns two small outlying areas of the original land underwater land grant area issued in

1888. These areas are situated on the east and west sides of the Village-owned underwater lands.

In 1930, the Village of Sag Harbor purchased all of the waterfront portion of the Standard Oil property (formerly Socony-Vacuum Oil Company). The lands sold to the Village comprised the former underwater land area that was granted to Socony-Vacuum Oil Co. in June of 1933. The grant issued to Socony-Oil in 1933 gave them full ownership to this land. This ownership was transferred to the Village of Sag Harbor when they purchased these lands from Mobil Oil Company in 1930.

In April of 1956, the Village of Sag Harbor sold a parcel of waterfront property they acquired in 1922 to Agawam Aircraft Products, Inc. (AAP). AAP added this parcel to its adjoining properties to gain ownership of a large block of waterfront property. The upland property sold by the Village to AAP comprised the former underwater land area for which the Village received a grant from the State in February of 1956. Since the State grant gave the Village full ownership to the underwater lands, this ownership was subsequently transferred to AAP.

The entire parcel of upland owned by Agawam Aircraft Products, Inc. (which was all formerly underwater lands) was sold in 1964. AAP had received a grant from the State for these former underwater lands in July of 1958. This property, which included the former Village-owned parcel which was sold to AAP in 1956, was sold two more times thereafter. These lands are presently owned by Malloy Enterprises.

In 1968, the State issued a grant to the Sag Harbor Yacht Yard. This grant remains in effect today.

Based on the information outlined above, the seven grants for underwater lands were all issued with full interest given to the grantee. Unless the upland was sold to another party, the ownership of the underwater lands remains with the original grantee; otherwise, the lands belong to the current upland owner. In the case of the grant issued to the East Long Island Pottery Company in 1882, this grant was never utilized. Therefore, this grant should be released and surrendered by the State. The six other underwater land grants have been accounted for.

There are, however, three waterfront properties that have been developed that do not have grants from the State Office of General Services. These include: the underwater lands that contain the Waterfront Marina, owned by Malloy Enterprises; the former underwater lands that comprise the Marine Park property, which is owned by the Village of Sag Harbor; and the former and current underwater lands of the Sag Harbor Yacht Club property. Grants for these lands should be obtained through the appropriate application process. In addition, since the Village of Sag Harbor owns a large portion of the original grant issued to the Long Island Railroad, they should seek to gain ownership of the two adjoining parcels of underwater lands still owned by the railroad.

There are generally three ways of securing a grant for underwater lands from the State Office of General Services. Each of the three methods provides a certain degree of ownership security in the underwater lands. An arrangement could also be worked out with the State to for a combination of the three.

The method that provides the strongest interest in the property would involve the issuance of an underwater land grant per Section 75-10 of the Public Lands Law. This grant would provide the grantee with full and complete interest in the lands with no conditions or restrictions but at the full cost of the land.

The second method provides for the conveyance of the lands for public parks, beaches, streets, etc. to a public entity who holds upland ownership under Section 75-7A of the Law. The grantee would own the land in perpetuity as long as they fulfill the conditions of the grant. Therefore, this method would not provide the grantee with full fee conveyance in the property. The fee established for the value of the lands in this case is discounted because a reverter clause would be contained in the grant that restricts the use of the lands. If the lands are ever utilized for any other purpose aside from that specified under the terms of the grant (i.e. - a commercial marina), the grantee would have to buy out the reversion interest in the lands.

The third option involves the issuance of an easement for the lands from the State. Although this is the simplest process, it does not grant full interest in the lands. The State would still retain ownership.

The Village of Sag Harbor should consider exercising the third option to obtain an easement for the underlands in the Sag Harbor area. The area located south of the main navigation channel, between the Long Wharf and the breakwater is utilized for mooring and other marine-related uses. Through the issuance of an easement, the Village would have greater control over what activities occur in this area and to what degree.