Town of Tonawanda
Local Waterfront Revitalization Program

Adopted:
Tonawanda Town Board, April 19, 1993

Approved:
NYS Secretary of State Alexander F. Treadwell, December 13, 1996

Concurred:
U.S. Office of Ocean and Coastal Resource Management, March 26, 1997

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

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

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

File
NYS Dept. of St.
B. Dimmig
Atty.
Plan. Bd.

State of New York
County of Erie
Town of Tonawanda

I, CAL CHAMPLIN, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a regular meeting of the Town Board of the aforesaid Town, on the 19th day of April, 1993, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit:

Mr. Moline offered the following resolution and moved its adoption:

WHEREAS, the Town of Tonawanda entered into a contract with the New York State Department of State for the preparation of a Local Waterfront Revitalization Program;

WHEREAS, a draft Local Waterfront Revitalization Program (DLWRP) was prepared under said contract with the guidance of the Town's Planning Board acting as the Waterfront Revitalization Program Advisory Committee; and

WHEREAS, a DLWRP and the associated Draft Environmental Impact Statement (DEIS) were referred to appropriate local, county, State, and federal agencies in accordance with State and Federal requirements; and

WHEREAS, a public hearing was advertised and held on November 29, 1984 to receive and consider comments on both the DLWRP, the DEIS and the proposed LWRP Consistency Law (part of the DLWRP); and

WHEREAS, a Final Environmental Impact Statement (FEIS) was prepared and accepted by the Supervisor and Town Board as completed on March 29, 1993;

WHEREAS, the Board has reviewed the proposed SEQR Findings Statement attached hereto;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts the SEQR Findings Statement attached hereto; and

BE IT FURTHER RESOLVED, that the Town of Tonawanda Local Waterfront Revitalization Program is hereby approved and adopted.

Seconded by Mr. Millemaci.

An aye and nay vote was taken, resulting as follows:

Carl J. Calabrese	Supervisor	Aye
E. William Miller	Councilman	Aye
Raymond E. Sinclair	Councilman	Aye
Brian O'Bannon	Councilman	Aye
Ronald H. Moline	Councilman	Aye
Joseph P. Millemaci	Councilman	Aye
Jeanne C. Bartlo	Councilman	Absent

The Supervisor announced the resolution carried by a vote of Six (6) ayes and no (0) nays.

I do further certify that I have compared the foregoing with the original minutes of the regular meeting of the Town Board held on the 19th day of April, 1993, and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by said Town Board are on file in my office.

I do further certify that the members of the Town Board are as follows:

Carl J. Calabrese, Supervisor

Jeanne C. Bartlo, Joseph P. Millemaci, E. William Miller, Ronald H. Moline, Brian O'Bannon, Raymond E. Sinclair — Councilmen

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 21st day of April, 1993.

Cal Champlin

Town Clerk, Town of Tonawanda, N.Y.

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

ALEXANDER F. TREADWELL
SECRETARY OF STATE

December 13, 1996

Honorable Carl J. Calabrese
Supervisor
Town of Tonawanda
2919 Delaware Avenue
Kenmore, NY 14217

Dear Supervisor Calabrese:

It is with great pleasure that I inform you that I have approved the Town of Tonawanda Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the coastal area.

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

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

Sincerely,

Alexander F. Treadwell

Alexander F. Treadwell

AFT:pmf

printed on recycled paper

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

MAR 26 1997

DEPARTMENT OF STATE
COASTAL PROGRAMS
MAR 28 1997
RECEIVED

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

Dear Mr. Stafford:

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

In accordance with the Coastal Management Regulations, 15 CFR 923.84, Federal consistency will apply to the Town of Tonawanda after you publish notice of our approval.

Sincerely,

Jeffrey R. Benoit
Director

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SECTION I

WATERFRONT REVITALIZATION AREA BOUNDARY

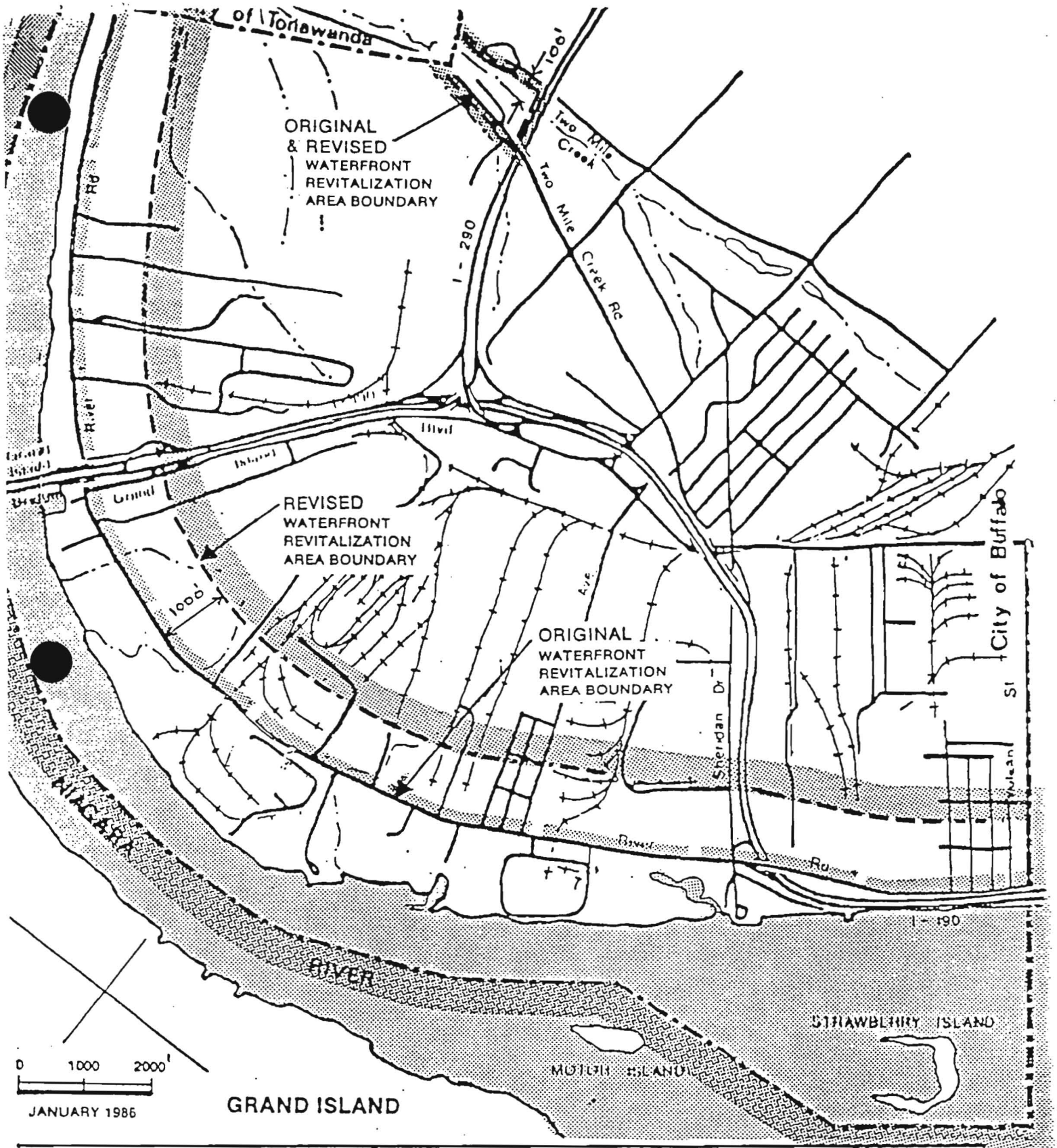
I. WATERFRONT BOUNDARY

The Town of Tonawanda Waterfront Revitalization Area includes all lands and water encompassed within the following boundary:

> Beginning at a point on the Town of Tonawanda/City of Tonawanda border 1,000 feet east of the eastern right-of-way of River Road (State Route 266), the Waterfront Revitalization Area Boundary proceeds southerly along a line 1,000 feet east of and parallel to the eastern right-of-way of River Road, following this line to the Town of Tonawanda/City of Buffalo border; then southwest and south along the Town Line into the Niagara River; then northerly along the Town Line in the Niagara River to its junction with the City of Tonawanda Line; then southeasterly along the Town Line to the point of beginning.

There is a small area representing an extension of a corridor along Two Mile Creek from the City of Tonawanda to the Youngmann Highway which is also part of the Town's Waterfront Revitalization Area. The boundary of this segment is as follows:

> Beginning at the intersection of the western right-of-way of Two Mile Creek Road and the Town of Tonawanda/City of Tonawanda border, the boundary proceeds south along the Two Mile Creek Road R.O.W. to the north right-of-way of the Youngmann Highway (Interstate 290); then east along this R.O.W. to a point 100 feet east of the center-line of Two Mile Creek; then north along a line 100 feet east of and parallel to the Creek center-line to the Town of Tonawanda/City of Tonawanda border; then westerly along the municipal border to the point of beginning. (References to the eastern right-of-way of River Road are intended to denote the right-of-way as it exists prior to the anticipated relocation of said roadway.)



LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 1

WATERFRONT REVITALIZATION AREA BOUNDARY

TOWN OF TONAWANDA

SECTION II

INVENTORY AND ANALYSIS

A. REGIONAL SETTING

The Town of Tonawanda is located in northwest Erie County immediately north of the City of Buffalo. It is bounded on the east by the Town of Amherst, on the north by the Cities of Tonawanda and North Tonawanda, and on the west by the Niagara River. The Town of Grand Island lies offshore and is connected to Tonawanda by the twin spans of the South Grand Island Bridges. Map 2 shows the Town within the region.

Tonawanda encompasses 21.4 square miles of land (including the 1.4 square mile Village of Kenmore, located in the south-central portion of the Town), and had a 1990 population of 82,464 (including 18,474 residents of the Village of Kenmore). During the 1940's and 1950's the Town experienced dramatic growth, increasing in population by 227% from 32,000 residents in 1940 to over 105,000 by 1960. A modest 2% growth during the 1960's resulted in a peak 1970 population of 107,282. Since then, the Town's population has declined by 15% to its present level. Since 1960, the Town has maintained a steady 9% to 10% share of the total population of Erie County.

The eastern three-fourths of the Town is predominantly single-family residential in character with intensive commercial development occurring along major arterial highways such as Sheridan Drive (NY 324), Delaware Avenue (NY 384), Niagara Falls Boulevard (NY 62) and Elmwood Avenue. Delaware and Elmwood Avenues are major north-south thoroughfares and commuter routes to downtown Buffalo five miles south.

Tonawanda is directly served by two interstate highways: the New York State Thruway Niagara Section (I-190) and the Youngmann Memorial Highway (I-290). The Thruway lies in the industrial corridor occupying the western quarter of the Town and links Niagara Falls with downtown Buffalo and points south and west. The Youngmann Highway is an east-west route through northern Tonawanda that links I-190 with the Thruway's main line (I-90) in Amherst and areas to the east.

The western quarter of Tonawanda, including its entire waterfront, has been used for industrial purposes since the early decades of the 1900's. The Niagara River and Erie Canal provided water for industrial processing, cooling, and transportation. Presently, firms such as General Motors, Dunlop, DuPont, FMC, and Tonawanda Coke continue to serve as major regional employers. According to the 1980 Census, 108,000 residents of Erie County were employed in manufacturing. Roughly 7,000 manufacturing jobs are located within the 2,900-acre industrial zone of western Tonawanda,[1] which constitutes the largest single concentration of industry in Erie County outside the City of Buffalo.

B. HISTORIC SETTING

Settlement along the Tonawanda waterfront began after completion of the Erie Canal in 1825. Farming was practiced in the area from that time until well into the 1900's. The canal also fostered the establishment of inns and taverns along its banks; these uses continued until the filling of the original canal in the early 1900's.

At the turn of the century, most manufacturing was located in the City of Buffalo. As expansion of the industrial base continued, land became increasingly scarce and expensive. Electrical power was provided from Niagara Falls directly to Buffalo through the Town of Tonawanda. The combination of available land in large holdings, electricity and water for industrial processing combined to attract manufacturing to the Town's waterfront as early as 1904. At that time the Wickwire-Spences Steel complex, now referred to as the Roblin Industrial Park Complex, was begun (it opened in 1907), and rail service was extended into the area. This was followed by construction of the Huntley Power Plant in 1916 and the Dunlop Tire complex in 1920. As industry expanded, farming declined.[2]

Also, the expansion of industry led to an increased demand for residential areas to accommodate employees. The Riverview neighborhood (an extension of the well-established Riverside community in the City of Buffalo) expanded, and a residential enclave developed immediately east of the Huntley plant along Sawyer Avenue. These neighborhoods continue to exist today.

Transportation improvements, such as the paving of River Road and construction of Sheridan Drive, continued to provide momentum for industrialization. The construction of the Grand Island Bridge and Boulevard in 1935 opened the northern half of the waterfront area for development. At the same time, ferry service to Grand Island, which was provided at the foot of Sheridan Drive, ceased. The area near the ferry terminal was occupied by small commercial establishments which have since disappeared. Much of the land was cleared to accommodate the Town's water treatment plant and, eventually, the Town's waterfront park and boat launch.

Other major industrial facilities such as Chevrolet, Western Electric, and the Frontier Oil Refinery complex continued to be developed during the 1930's and 1940's. The presence of large-scale industry was enormously beneficial to the Town's fiscal well-being. Partly because of this, the Town became extremely attractive for residents (due to favorable residential tax rates), and Tonawanda experienced rapid growth in the first wave of post-war suburbanization. The Town's residential areas were fully-developed by 1970, with the Town's population exceeding 107,000.[3] Table 1 presents population figures for the Town during the 1940-1990 period.

The construction of the New York State Thruway in the mid-1950's and of the Youngmann Highway during the 1960's once again greatly increased accessibility to the Tonawanda waterfront area. Truck terminals were attracted by the convenience of access to the interstate system, as transportation shifted from a rail to a highway emphasis.

A significant consequence of industrialization has been the use of large areas of land for industrial waste disposal. Such activities have been occurring since the earliest days of industrial development. Today, the waterfront and immediate surroundings are dotted with nearly 30 waste sites, some of which remain active today.[4] These sites contain a wide range of deposits, including several toxic substances. The precise extent and composition of hazardous waste deposits have not yet been completely documented, and continue to undergo analysis.

During the 1960's and 1970's the pace of industrial expansion in Tonawanda declined in a manner common to the Buffalo metropolitan area at large. Industrial obsolescence and overall market factors have resulted in frequent abandonment and underutilization of facilities. Lately, the general public has developed a heightened awareness of the untapped potential of the waterfront for recreation. Beginning in the mid-1970's, attention throughout the Buffalo area has increasingly focused on this potential. In the Town of Tonawanda, efforts to increase public use of the waterfront began in the 1970's with construction of the Town's waterfront park and boat launch at the foot of Sheridan Drive. Segments of the Erie County Riverwalk are currently in varying stages of design and construction. A section of this hike-and-bikeway between the Grand Island Bridges and Erie County's Isle View Park opened in May 1988. Eventually, about one half of the Town's shoreline will be accessible for public recreation at a scale never before possible.

The waterfront is in transition. While industrial uses are still dominant, efforts are underway to diversify activities in the area. This process of change, begun twenty-five years ago, is likely to continue for some time to come. The Town's response to, and intervention in, this process will ultimately determine the future of this critically important area.

C. INVENTORY AND ANALYSIS: METHODOLOGY

The purpose of the Inventory and Analysis is to describe existing conditions along the waterfront, as well as opportunities and constraints to future growth. In the case of the Town of Tonawanda, the waterfront zone includes the area shown on Map 1. However, activities within this zone are affected by land uses in adjacent areas. Patterns of land ownership, physical development, circulation, and environmental factors beyond the zone boundaries directly influence activities within the corridor to a large degree.

The study area encompasses 1,131 acres within the designated waterfront zone, as well as 1,800 additional acres of land to the east. This area, whose eastern boundary follows Kenmore Avenue, the Niagara Thruway (I-90), the Youngmann Highway (I-290) and Two Mile Creek, includes most of the industrialized area of western Tonawanda.

Table 1: Town of Tonawanda Population: 1940-1990		
Year	**Population**	**% Change**
1940	32,155	
1950	55,270	+71.9
1960	105,261	+90.4
1970	107,282	1.9
1980	91,269	-14.9
1990	82,464	- 9.0

Source: The U.S. Census of Population

Within this area, information has been assembled pertaining to land use, parcel size and ownership, circulation, soils, water quality, air quality, flooding, topography, wetlands, erosion, fish and wildlife habitats, industrial waste sites, archaeological sites, zoning, utilities, major capital investments and aesthetics. The information has been analyzed to determine short and long-term development constraints, as well as opportunities for change. The waterfront area has further been divided into three subareas, each with distinctive characteristics. These include:

1. **The Southern Sector (Sheridan Drive South)**, encompassing the residential/commercial area adjacent to the City of Buffalo in the southernmost portion of the Town's waterfront area (and also including Strawberry Island). It contains 172 acres and 0.4 miles of river frontage.

2. **The Central Sector**, including the area between Sheridan Drive and the Grand Island Bridges encompasses 729 acres and extends along 2.5 miles of shoreline.

3. **The Northern Sector**, encompassing the remaining waterfront area north of the Grand Island Bridges. It includes 262 acres and 1.3 miles of river frontage. The area also includes the 19 acre Two Mile Creek corridor illustrated in Map 1.

Map 3 locates these subareas, as well as the entire study area.

D. DEMOGRAPHIC AND SOCIAL CHARACTERISTICS

Residential development within the study area is limited to the Southern Sector and the Sawyer-Kaufman section of the Central Sector. According to 1980 Census figures, these areas have a combined population of 1,104 (966 in the Southern Sector and 138 in Sawyer-Kaufman.) In addition, a mobile home park located within the study area at Sawyer

Avenue and Grand Island Boulevard (roughly 3/4 mile east of the waterfront area) contains an additional 80 residents.

The above is included in Census Tract 84, which extends from the Niagara River east to Military Road (about one mile east of the study area boundary).

E. LAND USE

Map 4 displays existing land use along the waterfront. Specific subarea descriptions are presented below.

1. **Southern Sector:** This portion of the waterfront area encompasses 172 acres, including the 11-acre Strawberry Island. The horseshoe-shaped island is vacant and owned by New York State. Its area fluctuates depending upon River levels. The island is wooded, low, and subject to considerable erosion. Between 1912 and 1950, a sand-and-gravel company used the island as a source of raw materials. At that time the island exceeded 40 acres.[5] Excavations of the northern portions eventually produced the present horseshoe configuration. The island remains popular with area boaters and fishermen as an informal rest area and picnic grounds. Immediately offshore from the State-owned Strawberry Island is the Town's water supply intake.

   The mainland portion of the Southern Sector includes two sections: the shoreline along Aqua Lane at the foot of Sheridan Drive, and the inland section from River Road east. These are separated by the Niagara Thruway (I-190), which follows the course of the Old Erie Canal. River Road runs along the crest of a 20-foot high bluff above the Thruway. Views from the road to the Niagara River are significant.

   The eastern side of the four-block section of River Road from the City of Buffalo north to Edgar Avenue is commercial. The neighborhood immediately east along Vulcan Street, Heutter, Roswell, Riverdale, and Edgar Avenues is a stable residential community of older homes. The Town Boys' and Girls' Club at the northeast corner of Riverdale Avenue and Grover Place provides recreation facilities.

   Two large industrial complexes - DuPont and Chevrolet-Pontiac Canada Group (CPC) - are located between the residential community and Sheridan Drive to the north. Both are heavily dependent on industrial cooling and processing water.

   The shoreline along Aqua Lane includes the Town's Aqua Park and boat launch, as well as the municipal water treatment plant. Privately-maintained water intakes for the nearby Chevrolet and DuPont plants are also located here. Commercial uses include a restaurant and marina. DuPont also maintains a boathouse for employees. The area exhibits high scenic potential.

2. **Central Sector:** Much of the subarea is occupied by major industrial facilities and utilities, including the Erie County Water Authority pumping plant, a Town of Tonawanda sanitary sewer lift station, the massive Huntley Steam generating plant of the Niagara Mohawk Power Corporation (which occupies 120 acres of land), two private marinas, the Erie County Water Authority Treatment Plant (occupying 88 acres), the Roblin Industrial Park complex, a sand-and-gravel processor/ distributor, a vacant 55-acre (former NMPC waste site) parcel known as the "Cherry Farm" owned by Niagara Mohawk, a truck terminal, a large private marina, and the Grand Island Bridges.

   To the east of River Road, Dunlop Tire owns a vacant 25-acre area (a former waste disposal site) at the northeast corner of River Road and Sheridan Drive. The Dunlop manufacturing complex is located immediately east of this site.

   The eastern side of River Road north to the Grand Island Bridges is entirely occupied by industrial uses such as FMC Industrial Chemical Group, Tonawanda Coke, tank farms, scrapyards, truck terminals, rail lines, power lines, and the Niagara Mohawk Fly-Ash Disposal site. At the northeast corner of Sawyer Avenue and River Road lies the small residential enclave known as the Sawyer-Kaufman community. It is surrounded by heavy industry.

   Facilities within the waterfront area display considerable variety. Utilities such as the Huntley Power Generating Plant, Erie County Water Authority Plant, and the municipal water treatment plants are water-dependent. The Huntley plant occasionally receives shipments of coal by barge and relies on the River for industrial cooling. Other docking facilities at the Roblin complex and the Ashland Refinery are rarely used.

   Elsewhere, other uses such as scrapyards and warehousing facilities have existed in the area for decades without any direct requirement for locating in proximity to the waterfront.

3. **Northern Sector:** Immediately north of the Grand Island Bridges east of River Road is the 140-acre Ashland Oil Refinery complex. Petroleum refining ceased in 1984, but tanks are still used as storage and distribution facilities for area service stations. Further north lies the Seaway Industrial Park, a major active landfill of regional importance. Several truck terminals and a small tank farm are in the vicinity. Roughly 65 acres of land north of the Seaway facility within the waterfront area are vacant.

   Other sections of the Northern Sector subarea west of River Road include the Ashland docking facilities, utility transmission lines and the County's Isle View Park. The park includes sections of the Riverwalk and a boat launch ramp.

Two-Mile Creek corridor is also part of the Northern Section. It contains 19 acres, evenly split between vacant brushland and the Town's sewage treatment plant. The corridor links with the City of Tonawanda's waterfront revitalization area to provide a potential open space link between the Niagara River and Sheridan Park.

F. INVENTORY OF MAJOR PARCELS

As part of the analysis of the Tonawanda waterfront, all privately-owned parcels 10 acres or greater in size have been identified. Such parcels represent areas with the most opportunity for change, as well as the greatest barriers to development. Major development activities usually require the assembly of large contiguous areas of land. A preponderance of large parcels in an area might ease acquisition procedures, particularly if such parcels are underutilized. Conversely, large parcels which include relatively stable uses are typically less likely to become available for redevelopment and consequently become significant long-term factors to be considered in formulating and upgrading plans and policies for the waterfront.

Of the 845 acres of privately-owned land within the waterfront, roughly 733 lie within parcels of 10 acres or more. This figure represents 87% of all privately-owned lands within the waterfront, and 63% of all waterfront lands. The acreage is contained in 28 parcels, representing an average parcel size of 26 acres, while actual parcel sizes range from 10 to over 170 acres. Many of the largest parcels extend well beyond the limits of the waterfront area east of River Road. In some cases, their property lines are located over one mile away. Map 5 and 6 present information on these parcels.

Table 2 Major Private Parcels (see Map 5)

#	Owner	Approx. Size within study area (acres)	Land Use	Specific Use	Water Dependent	Major Investment
1	General Motors	32	Industry	Chevrolet	Yes	Yes ($360M)
2	Dupont	30	Industry	Dupont, Buffalo Film Div.	Yes	No
3	Dunlop	33	Industry	Dunlop Tire	No	Yes ($100M)
4	FMC	14	Industry	Industrial Chemical	No	No
5	Noco Energy	8	Industry	Tank Farm	No	No
6	Ashland	10	Industry	Tank Farm	No	No
7	Niagara Mohawk	5	Utility	Transmission Lines	No	No
8	Rouse Breihan, Inc.	12	Industry	Formerly Allied Chemicals (closed)	No	No
9	Erie County Industrial Dev. Agency (ECIDA)	6	Industry	Tonawanda Coke (Limited Operation)	No	No
10	NY Wire Mills	17	Industry	Cable Manufacturer	No	No
11		10				
12	Carmen Pariso	11	Industry	Trucking for Niagara Mohawk	No	No
13	INS Equipment	5	Industry	Scrapyard	No	No

14	Niagara Mohawk	96	Landfill & Vacant	Fly Ash Site & "Cherry Farm"	No	No
15	ECIDA c/o Newman Oil	17	Industry	Tank Farm	No	No
16	Ashland	65	Industry	Refinery/Tank Farm	Yes	No
17	Agway Petroleum	10	Industry	Tank Farm	No	No
18	Seaway Indus. Park	28	Landfill	Landfill	No	No
19	Ashland	9	Vacant	Vacant	No	No
20	TNT Canada	13	Vacant	Vacant	No	No
21	George K. Hambleton	18	Vacant	Vacant	No	No
22	Neil Irving Norry et. al.	7	Industry	Tank Farm	No	No
23	Kenneth & Patricia Lefler	5	Vacant	Vacant	No	No
24	Inter-Mountain Terminal	10	Light Industrial	Truck Terminal	No	No
25	Niagara Mohawk	120	Utility	Huntley Plant	Yes	No
26	ECIDA	26	Industrial	Tank Farm	No	No
27	Marathon Petroleum	14	Industrial	Tank Farm	No	No
28	ECIDA	62	Industrial	Roblin Complex	No	No

G. ZONING

The Waterfront Mixed Use District (W-1) is established on the shore of the Niagara River. District regulations permit a variety of public and private water-related park and recreational facilities. Additional specially permitted uses include marinas, boatyards, hotels, retail stores and restaurants, and other water-related commercial activities, as well as some residential uses.

The Waterfront Commercial Use District (W-2) is established on the land side of River Road. With site plan review, this district allows public and private water-related park and recreational facilities. All other uses, including boatyards, hotels, automotive service stations and other commercial and business uses, require a special permit.

The Waterfront Residential District (W-R) is established to allow medium to high density residential development along the river's edge. District regulations allow single family dwellings and public recreation with site plan review. Multi-family dwellings and townhouses are allowed by special permit. All structures must be setback a minimum of 75 feet from the crest overlooking the river shoreline. All uses should be designed to allow pedestrian access to and along the crest.

The Waterfront Industrial District (W-I) is established on the east side of River Road. The only permitted use in the District is public and private parklands and trails. Specially permitted uses include boat storage, offices, light manufacturing wholesale and warehousing, and other business and professional uses. Heavy industry, junk yards, truck terminals, landfills, and a variety of other uses are prohibited.

Map 7 illustrates zoning.

H. LAND OWNERSHIP

Of the 1,045 acres within the Town's waterfront area not occupied by transportation facilities, roughly 200 acres (19%) are publicly-owned. The Town of Tonawanda owns 51 acres, including the water and sewage treatment plants and lift stations, the boat launch, and waterfront park. Erie County owns 58 acres, much of which is included within the former Erie Canal right-of-way. The Erie County Water Authority owns 91 acres at its treatment plant and pump facility. New York State owns Strawberry Island, which is approximately 11 acres. The remaining 845 acres of waterfront land (81% of the total) is privately owned.

Approximately 32% of the river frontage is controlled by public agencies. Public ownership extends over an 8,400 foot length (including 1,600 feet used for the Niagara Thruway and Grand Island Bridges). In addition, Erie County owns 56% of the western frontage of River Road (13,000 feet out of a total highway length of 23,000 feet). This was the old Erie Canal bed.

Table 3: Land Ownership		
Ownership	**Acreage**	**% of Total**
Town-owned	40	4.4
Other Public	150	12.8
Private	845	72.7
Transportation	118	10.1
TOTAL	1,163	100.0

I. VACANCY ANALYSIS

Nine privately-owned parcels in the Tonawanda waterfront area are vacant, comprising 117 acres, and 57% of all vacant waterfront land. Of these parcels, five exceed 10 acres in size and include 98 acres in total. The three remaining parcels range from 1 to just under 10 acres.

Significant vacant public parcels include Erie County's 25-acre undeveloped section of Isle View Park, the 6 acres of NYS Thruway Authority land under the Grand Island Bridges, the 11-acre Strawberry Island (owned by New York State), and approximately 12 acres in the Two Mile Creek Corridor. These 42 acres of vacant public land represent 20% of all vacant land within the waterfront area.

The remaining 47 acres of vacant land are scattered among four partially developed parcels, including the Dunlop complex, the Erie County Water Authority Treatment Plant, and the Ashland refinery complex. A small vacant area is also located at the southern end of Aqua Lane. Forty-six of these 47 acres are privately owned.

Approximately two-thirds (172 acres) of the 206 acres of vacant land is located in the northern half of the waterfront area. The "Cherry Farm" parcel accounts for 55 acres. Another 46 acres are located just south of the City of Tonawanda boundary. In fact, these vacant lands extend inland for a considerable distance and include a total of 314 acres.

Table 4 and Map 8 presents detailed information on vacant land in the Tonawanda waterfront area.

Table 4: Vacant Land: Tabular Summary (see Map 8)		
Parcel No.	**Owner**	**Size (Acres)**
1	Town of Tonawanda	11
2	Dunlop	25
3	Placid Harbor Marina	2
4	Erie County Water Authority	2
5	INS Equipment	9.6
6	Niagara Mohawk	55
7	Erie County	7
8	NYS Thruway Authority	6
9	Ashland	5
10	Erie County	2
11	Ashland	11
12	Ashland	91.4
13	Goetz Oil	2
14	TNT Canada	19.9
15	George K. Hambleton	80.9
16	Kenneth & Patricia Lefler	37.3
17	Town of Tonawanda	12
18	Erie County	25
19	Niagara Mohawk	7

J. ENVIRONMENTAL FACTORS

A series of environmental characteristics has been identified and evaluated within the waterfront area. These include topography, soils, flooding and erosion, water quality, air quality, wetlands, habitats, waste sites, and aesthetics.

1. **Topography:** Most of the terrain in the waterfront is level, exhibiting a gradual slope towards the riverbank. The bank is generally 5 to 8 feet above normal river levels. Bluffs along River Road's western edge in the Southern and Northern Sectors are approximately 20 feet in height. The Two Mile Creek corridor experiences an approximate 20% slope from Two Mile Creek Road to the stream itself.

2. **Soils:** Soils within Niagara View and Industrial Corridor subarea are classified as urban land.

   In the Northern Sector, Cazenovia-Cayuga soils are found near the shoreline and the Two Mile Creek corridor. These silty-loam soils are moderately well drained and exhibit slow permeability and a seasonally high water table of 1.5 feet to 4 feet. These soils are considered fair for intensive urban development, and fair to good for recreational uses. The northernmost 50 acres of the waterfront east of River Road consists of Churchville-Remson soils. These silt and silty clay loam soils are poorly drained, with slow permeability and high water tables, and are poorly suited for development.

   Palms soils, which consist largely of organic deposits, are found on Strawberry Island. They are poorly-drained, have a high water table, and are often inundated by water for prolonged periods. These soils are poorly suited for development.

   Map 9 shows soils in the area.[6]

3. **Flooding:** The northernmost two miles of the Town's shoreline west of River Road lies within the Flood Hazard Area delineated by the Federal Emergency Management Agency. Floodplains also are found along several minor drainage facilities between the Roblin Complex and Sheridan Drive, as well as along areas immediately adjacent to the shoreline south to the City of Buffalo. No floodplains are found east of River Road.

   It should be noted that the 50-acre Cherry Farm is designated as a special flood hazard area. Field inspections indicate substantially higher elevations than the adjacent Niagara River. This calls into question the accuracy of the special flood hazard area designation. Over the long term, the Cherry Farm has development potential. Thus, the Town should consult with the Federal Emergency Management Agency to have the site reexamined relative to its flooding potential.

   Map 10 indicates the extent of flood hazard areas.[7]

4. **Erosion:** Erosion along the Niagara River shoreline of the Town is not a major problem, and no erosion hazard areas have been designated pursuant to the Coastal Erosion Hazard Area Act (Environmental Conservation Law, Article 34).

   Severe erosion is, however, experienced at Strawberry Island. Records indicate that in 1912 the island had an area of 204 acres.[8] Between 1912 and 1950, the island was extensively excavated as a source of sand and gravel. Aerial photos of 1951 show a remaining area of roughly 25 acres on the island. Since that time, the size of Strawberry Island has continued to diminish due to erosion. Its present size is 11 acres.

   Map 11 notes the location of areas subject to severe erosion.

5. **Water Quality:** The Niagara River is classified as "Class A - Special Waters" subject to water quality standards listed in Part 700, Section 702.1 of the Rules and Regulations of Title 6 of the New York State Environmental Conservation Law. The river is a major source of drinking water.

   Two Mile Creek is designated a "Class B" stream as defined in Part 700 of the State Environmental Conservation Law. The stream is suitable for all uses except as a source of water for drinking, culinary, or food processing purposes.

   Map 11 shows protected streams and water quality classifications.

6. **Air Quality:** The Town's waterfront area is in compliance with all State and federal standards governing air quality.[9]

7. **Wetlands:** A 13-acre Class II wetland (BW-8) is located west of River Road in the old Erie Canal right-of-way, roughly 1,500 to 4,000 feet south of the Grand Island Bridges. The wetland is classified as Class II by the NYS Department of Environmental Conservation's Final Freshwater Wetlands Map for Erie County, filed on 9/10/86. The wetland is adjacent to the 55-acre "Cherry Farm" parcel on River Road.

   Map 10 shows wetlands greater than 12.4 acres.[10]

8. **Fish and Wildlife Habitats:** Strawberry Island - Motor Island Shallows and the surrounding 400 acres of river area has been designated as a significant coastal fish and wildlife habitat, pursuant to Executive Law, Article 42. Approximately 200 acres are in the Town of Tonawanda. The significant habitat designation indicates that the area warrants maximum protection from all public and private intrusions that might hinder its continuing function as a significant habitat. Strawberry Island is owned by New York State.

Strawberry Island - Motor Island Shallows is located in the upper Niagara River, roughly bounded by Strawberry Island, Motor Island, and the southern tip of Grand Island. The fish and wildlife habitat is an extensive shallow shoal area (generally less than 6 feet deep below mean low water), containing beds of sugmergent aquatic vegetation (e.g., wild celery), and patches of emergent wetland vegetation in shoreline areas. Much of this island appears to be eroding as a result of ice scour, high water levels, and direct removal by dredging. Dredging was responsible for much of the reduction in surface area of the island from approximately 200 acres in 1912 to 40 acres in 1948. Strawberry Island is a horseshoe-shaped island which is now 20 acres in size. There is a stand of native willow trees on the south end and a lagoon and marsh on the north side. The island functions as the geologic dividing point of the east and west branches of the Niagara River. The underwater portion of Strawberry Island - Motor Island Shallows is owned by the NYS Office of General Services and as of 1987, the upland portion of Strawberry Island is also owned by the State. Most of the adjacent land area on Grand Island is within Beaver Island State Park, which is extensively developed for recreational use.[11]

Map 10 shows significant habitats.

9. **Waste Disposal Sites:** Fourteen waste disposal sites are located within the Town of Tonawanda waterfront area, two of which are active[12] - the Seaway Industrial Park, which received municipal and industrial wastes from throughout western New York; and the Niagara Mohawk disposal site, which receives fly ash from the coal-fired Huntley power plant.

The Seaway facility occupies approximately 100 acres of land on the east side of River Road about one-half mile north of the Grand Island Bridges. It has been given a Class 2 priority by the NYS Department of Environmental Conservation, indicating that it presents a significant threat to the public health or environment and requires corrective action. The site is continually being upgraded with a leachate collection system to meet current standards. Collected leachate is piped to the Town sewer plant for treatment. Portions of the site contain radioactive uranium tailings from the Manhattan project and PCB's have been detected in some surface water samples.

The Niagara Mohawk disposal site occupies nearly 100 acres of land east of River Road, roughly one-quarter mile south of the Grand Island Bridges. The site is in compliance with current regulations.

Twelve other inactive waste sites are located within the waterfront area. The presence of hazardous wastes has been confirmed at eight. One site, the 55-acre "Cherry Farm," has been given a Class 2 priority rating by the NYS Department of Environmental Conservation, while the INS Equipment site has been given a Class 3 ranking, indicating no significant threat to health or environment. The remaining hazardous waste sites' potential significance as environmental threats have not yet been determined.

The "Cherry Farm" lies adjacent to the Niagara River about one-quarter mile south of the Grand Island Bridges. It was used as a waste site for prolonged periods until the 1970's. It includes foundry sand, fly ash and slag materials that have been capped with 6 inches of clay. Fill material reach depths of 20 feet. The site has been rededicated and is being redeveloped as a recreation facility of regional significance. A Class I wetland borders the site on three sides. Samples from the hazardous waste site indicated the presence of phenol tars, chlorinated benzines, lead, chlorinated organics, and 22 priority pollutants.[13]

Table 5: Waste Disposal Sites (see Map 12)

#	Site Name/Owner	Status A=Active C=Closed (Year Closed)	DEC Class
1	Allied Chemical-Special Chemical Division	C (1960)	3
2	Ashland Oil Company	C (1982)	2a
3	Dunlop Tire & Rubber	C (1970)	2a
4		C	2a
5	FMC-Chemical Division	C (1976)	2a
6	INS Equipment Site	C (1978)	3
7	Polymer Applications	C	2a
8	Tonawanda Coke	C (1979)	3
9		C (1978)	2a
10	Roblin Steel	C (1976)	3
11	Ashland Petroleum	C (1982)	2a
12	Niagara Mohawk "Cherry Farm"	C	2
13	Seaway/Niagara Landfill Inc.	A	2
14	Niagara Mohawk Fly Ash Disposal Site	A	

DEC Class as Follows:
2: Significant threat to health and/or environment
2a: Significance undetermined
3: No significant threat

10. **Historic/Archaeological Sites:** No sites or structures are listed, or are eligible for listing, on the National Register of Historic Places within the waterfront area.

An archaeological site (UB 235) has been identified as lying on the mainland opposite Strawberry Island. Its potential significance is unknown and it may presently be located beneath the Chevrolet Plant.[14] Reference should be made to Map 3 for the site's location.

11. **Aesthetics:** Opportunities to view the Niagara River are limited to areas south of Aqua Land Park, north of the Ashland Refinery, Isle View Park Extension, and in the immediate vicinity of the Grand Island Bridges. The remaining shoreline is blocked from view by industrial development and woodland.

In the southern portion of the waterfront area, river views along River Road and I-190 are significant, encompassing Grand Island, Strawberry Island, downtown Buffalo, and the Canadian shore.

At the Grand Island Bridges, vistas are degraded by poor landscaping and bridge abutments. North of the Ashland refinery, overgrown slopes and overhead power lines diminish the area's aesthetic appeal. Dominant features of the landscape include the Huntley Station (with its smokestacks and transmission lines), the Grand Island Bridges, oil storage tanks, and the Roblin Industrial Park. Although attempts to lessen the visual impact of heavy concentrations of industry have been made through the installation of landscaped buffers (notably at the water plants and Huntley Station), overall aesthetic quality remains poor.

K. UTILITIES

The Town's sewage treatment plant on Two Mile Creek Road has a design capacity of 70 million gallons per day (M.D.) and is currently operating at a level of approximately 13 M.D. Trunk lines, 15 inches to 18 inches in size, parallel most of the west side of River Road; widely scattered service lines branch off to the east side of River Road between Sheridan Drive and the City of Tonawanda. Several branch lines provide service to the properties on the west side of River Road.

The Town operates a water treatment plant servicing the entire municipality. The plant's design capacity is 30 M.D. and current utilization is approximately 18 M.D. The intake lies just offshore of Strawberry Island.

Stormwater drainage in the waterfront area occurs through a combination of natural swales and piped storm drain systems.

Both electrical and natural gas services are available in the area. Supplies can readily accommodate new development in the area.[15]

The Town's solid waste is disposed of at the Occidental Waste to Energy Plant in the City of Niagara Falls, New York. The Town generates 150 tons per day and the disposal facility is operating at approximately 81% capacity. Since there is unlikely to be significant growth along the waterfront in the short term, the solid waste capacity is sufficient.

L. CIRCULATION AND ACCESS

River Road is the primary highway serving the Tonawanda waterfront. The road is a four-lane State highway (NY 266) and is considered a minor arterial within the Buffalo urban area highway system.[16] River Road extends south (as Niagara Street) to downtown Buffalo. Traffic volumes vary on its three distinct sections within the Town: between the City of Buffalo and Sheridan Drive, 9,300 average daily trips (ADT's) occur; between Sheridan Drive and the Grand Island Bridges daily volumes of 6,950 occur; north of the bridges daily volumes average 9,900.[17] The segment between Sheridan Drive and the Grand Island Bridges has one railway overpass. Abutments of this overpass are those of the previously existing overpass and act to constrict the width of River Road and serve to eliminate shoulders.

Grand Island Boulevard, Sawyer Avenue, Sheridan Drive, and Vulcan Street are east-west roads connecting River Road with the remainder of the Town. State highways are Grand Island Boulevard (NY 324, a two-lane minor arterial with an ADT of 1,930) and Sheridan Drive (NY 325, a four-lane collector with an ADT of 7,540).[18] Sawyer Avenue, a County highway is a two-lane local street with an ADT of 5,400.[19] Vulcan Street, a two-lane local street, runs directly on the Tonawanda-Buffalo boundary and is maintained by both municipalities. In addition, the Town maintains several minor local streets which are residential in character in the Niagara View area and in the vicinity of Sawyer Avenue and River Road.

The Niagara Section of the New York Thruway (I-190) serves the Tonawanda waterfront with interchanges at Sheridan Drive and River Road/Grand Island Boulevard. The four-lane interstate highway continues north over the Grand Island Bridges through Niagara Falls and on to Canada. To the south, the highway passes through downtown Buffalo connecting with I-90. Daily volumes in the Tonawanda waterfront range from 36,100 to 54,400.[20]

Public transportation is provided in the area by the Niagara Frontier Transportation Authority. Route No. 40 provides service along River Road between Buffalo and the Grand Island Bridges. The route connects downtown Buffalo with Niagara Falls via Grand Island. Hourly service is generally available mornings through evenings from Monday to Saturday.

Routes No. 5 and 30 serve the Southern Sector. Route 5 proceeds north from downtown Buffalo via Niagara and Tonawanda Streets, terminating at the intersection of Vulcan and Tonawanda Streets. Route 30 is an east-west route along Kenmore Avenue which also terminates at Vulcan and Tonawanda Streets. Frequencies on each route are approximately 30 minutes, with regular service provided Monday through Saturday.

An extension of Route No. 30 (No. 30S) continues north along River Road to Sheridan Drive during morning and evening weekday rush hours and serves the Chevrolet, DuPont, and Dunlop complexes.

Completion of the Erie County Riverwalk will provide a safe and scenic bicycle route between downtown Buffalo and the City of Tonawanda. The route parallels River Road. For a further explanation see Section I, subsection XIV (A.5).

Map 13 illustrates the circulation system.

M. MAJOR RECENT AND PROPOSED IMPROVEMENTS

Several substantial public and private capital investments have occurred during the past five years which represent a major commitment to the future of the Town's waterfront. In addition, plans for future investment have been developed which will ensure the long-term stability of several major industries in the area. These are summarized below.

1. Recent Improvements

a. River Road Resurfacing: NYS Department of Transportation - sponsored project consists of resurfacing and safety improvements to River Road between the Grand Island Bridges and the City of Tonawanda boundary. The $583,000 project was completed in 1983.

b. South Grand Island Bridge (north span) Reconstruction: NYS Thruway Authority project consisting of bridge deck reconstruction, repair of supporting piers, and painting. This $5,100,000 project was completed in 1985.

c. Chevrolet-Pontiac-Canada Group, Inc.: A program of ongoing modernization to production facilities and equipment has resulted in an investment of $200 million in private funds since 1980.

d. Erie County Riverwalk (River Road Section): The Riverwalk is a hike-and-bike path along the Niagara River that will eventually link downtown Buffalo with the Barge Canal in the City of Tonawanda. Several major sections have been completed. In the Town of Tonawanda, construction of a four mile section between the Grand Island Bridges and Barge Canal in the City of Tonawanda was completed in 1988. Project cost was $850,000.

e. Anchor Marina: Major renovations to this marina in the Niagara View subarea include new above-water docks and other ancillary improvements.

f. Cherry Farm Park: This 57-acre former hazardous waste site is being redeveloped as a park. The site has been remediated, design plans have been

completed through an Environmental Protection Fund grant awarded to the Town in 1995 by the NYS Department of State, and completion of site improvements is anticipated by 2000. When completed, the park will be of regional significance.

g. Fire Tower Industrial Park: A 62-acre Town sponsored project immediately northeast of the I-190/I-290 interchange. Begun in 1980, the Town has invested $300,000 to construct roads and utilities to service this previously vacant and inaccessible area. The park is now 90% occupied. Twelve light industrial buildings have been constructed, and private investment totals $12,000,000.

h. Uniland Development has constructed five new buildings in an industrial and office park complex at Kenmore Avenue and Vulcan Street. Private investment has been roughly $6,000,000. The firm has also constructed 8 new buildings in the 22-acre Interstate Commerce Center at a cost of $12 million.

i. O-Cel-O Corp. on Sawyer Avenue has invested $20 million to upgrade production facilities since 1984.

j. Erie County Riverwalk (Erie Canal Section): The 3.5 mile section of the Riverwalk between the City of Buffalo and the Grand Island Bridges was completion during the early 1990's at an estimated cost of $2,300,000.

k. I-190 Rehabilitation: The NYS Thruway Authority has implemented major rehabilitation of I-190 through the Town of Tonawanda during 1990. Resurfacing, safety improvements and reconstruction where necessary are estimated to cost $10,500,000.

l. Fire Tower Industrial Park Expansion: During 1985 the Town undertook a long range study regarding the potential for expanding Fire Tower Industrial Park. The conceptual plan prepared for this study recommended eventual acquisition and development of over 200 acres of vacant land between the existing Industrial Park and River Road. If implemented, this project would require the expenditure of $1,250,000 for land acquisition, and $4 million for roads, utilities, and site work.

N. SUMMARY

The Tonawanda waterfront is in transition. Although the area has historically been dominated by heavy industry, a gradual awareness of the waterfront's value as a recreation resource has been steadily growing. It seems likely that increased recreation coupled with a steady decline of marginal industrial activities will continue in the foreseeable future.

Portions of the Tonawanda waterfront exhibit signs of industrial obsolescence. Drastic underutilization or outright abandonment of industrial facilities is common. This is not a local phenomenon, however. Underutilized industrial waterfront property in Tonawanda must be viewed in the context of all industrial waterfront land in the Buffalo metropolitan area. The City of Buffalo is grappling with the same issue of underutlization as the Town, only on a more massive scale. Two square miles of waterfront land and infrastructure abandoned by Bethlehem Steel in the City of Lackawanna are at the initial stages of revitalization.

Market forces have produced an extensive local surplus of waterfront industrial property while simultaneously creating a diminishing demand for their industrial reuse. Concurrently, a local demand for waterfront recreation exceeds the local supply of recreation facilities. Heavy utilization of nearly all water-related parkland throughout Erie County is readily apparent. The recreation potential of the Town of Tonawanda waterfront has yet to be fully realized. Three private marinas, the Town boat launch and its waterfront park, and development of the Cherry Farm Park currently respond to some of this recreation demand. The Riverwalk project, as well as the Isle View Park extensions, provide valuable fishing, cycling, and scenic opportunities.

While heavy industry may be declining along the Tonawanda waterfront, several important exceptions to this trend are evident. Recent and ongoing investments in the Chevrolet and Dunlop complexes seem to virtually guarantee their long-term presence in the area. The success of the Town's Fire Tower Industrial Park and the expansion of several other nearby industries also suggest that some level of industrialization will be present in the waterfront area for years to come. Water-dependent uses, which include the Niagara Mohawk Huntley Station now embarking on a $13 million expansion, as well as the municipal and County water treatment plants, are also certain of long-term stability. All these facilities will strongly influence the course of future development.

Hazardous waste sites constitute a major factor affecting development. Approximately 200 acres in scattered locations have been used for the disposal of industrial wastes. The extent of potential hazards to the environment and public health have yet to be fully documented. Remedial work will be necessary at a number of locations prior to undertaking any redevelopment activities.

Any expansion of the BFI landfill will continue the high volume truck traffic along River Road, eliminate redevelopment of the Ashland site for less intensive uses, and continue the negative image many residents have of the Town shoreline. Finally, development of a portion of the Ashland property as a federal radioactive waste disposal site will result in a variety of negative impacts similar to those caused by any BFI expansion.

The challenges confronting Tonawanda's efforts to fully capitalize upon its waterfront resources are formidable. Nevertheless, given a long-term commitment of joint public and private actions to undertake necessary steps, the potential to transform significant portions of the waterfront into an attractive and productive local and regional asset remains viable.

ENDNOTES

1. Clifford Carlsen and Maryanne LePage, "25 Largest Employers, Business First of Buffalo: Top 25 Lists, 1984-85", Dec. 23, 1985, p. 25-B.

2. Conversation with John Percy, Town of Tonawanda Historian, Jan. 25, 1986.

3. U.S. Bureau of the Census, U.S. Census of Population, 1990.

4. U.S. Environmental Protection Agency, "Preliminary Evaluation of Chemical Migration to Groundwater and the Niagara River from Selected Waste Disposal Sites", EPA-905/4-85-001, March 1985, pp. 210-284; and NYS Department of Environmental Conservation Division of Solid and Hazardous Waste, Inactive Hazardous Waste Disposal Sites in New York State, Appendix Volume 3, January 1984, pp. 3-11.

5. Erie County Department of Environment and Planning, Preliminary Report: Strawberry Island, Nov. 13, 1985, pp.8-9.

6. U.S. Department of Agriculture Soil Conservation Service, "General Soil Map and Interpretations: Erie County, New York," May 1979.

7. Federal Emergency Management Administration National Flood Insurance Program, "Flood Boundary and Floodway Maps, Town of Tonawanda, New York," August 17, 1981.

8. Erie County Department of Environment and Planning, OP. CIT.

9. NYS Department of Environmental Conservation, New York State Air Quality Implementation Plan, Erie and Niagara Counties, March 1979.

10. NYS Department of Environmental Conservation, Wetland Map Series, Map No. BW-6 and TW-30, Revised 1985.

11. NYS Department of Environmental Conservation, "Coastal Fish and Wildlife Habitat Rating Form: Strawberry Island - Motor Island Shallows," pp.2-3 (undated).

12. U.S. Environmental Protection Agency and NYS Department of Environmental Conservation Division of Solid and Hazardous Wastes, OP.CIT.

13. Engineering-Science, Inc. and Dames & Moore, Engineering Investigations and Evaluations at Inactive Hazardous Waste Disposal Sites Niagara Mohawk Cherry Farm, Erie County, New York: Phase II Report, June 1985.

14. Correspondence from Ben A. Nelson, Director, Archaeological Survey, SUNY at Buffalo, to Erie County Department of Environment and Planning, Feb. 19, 1986.

15. The Saratoga Associates and Economic Research Associates, Comprehensive Development Plans and Strategy for expansion of Fire Tower Industrial Park, September 1985, pp. 47-49.

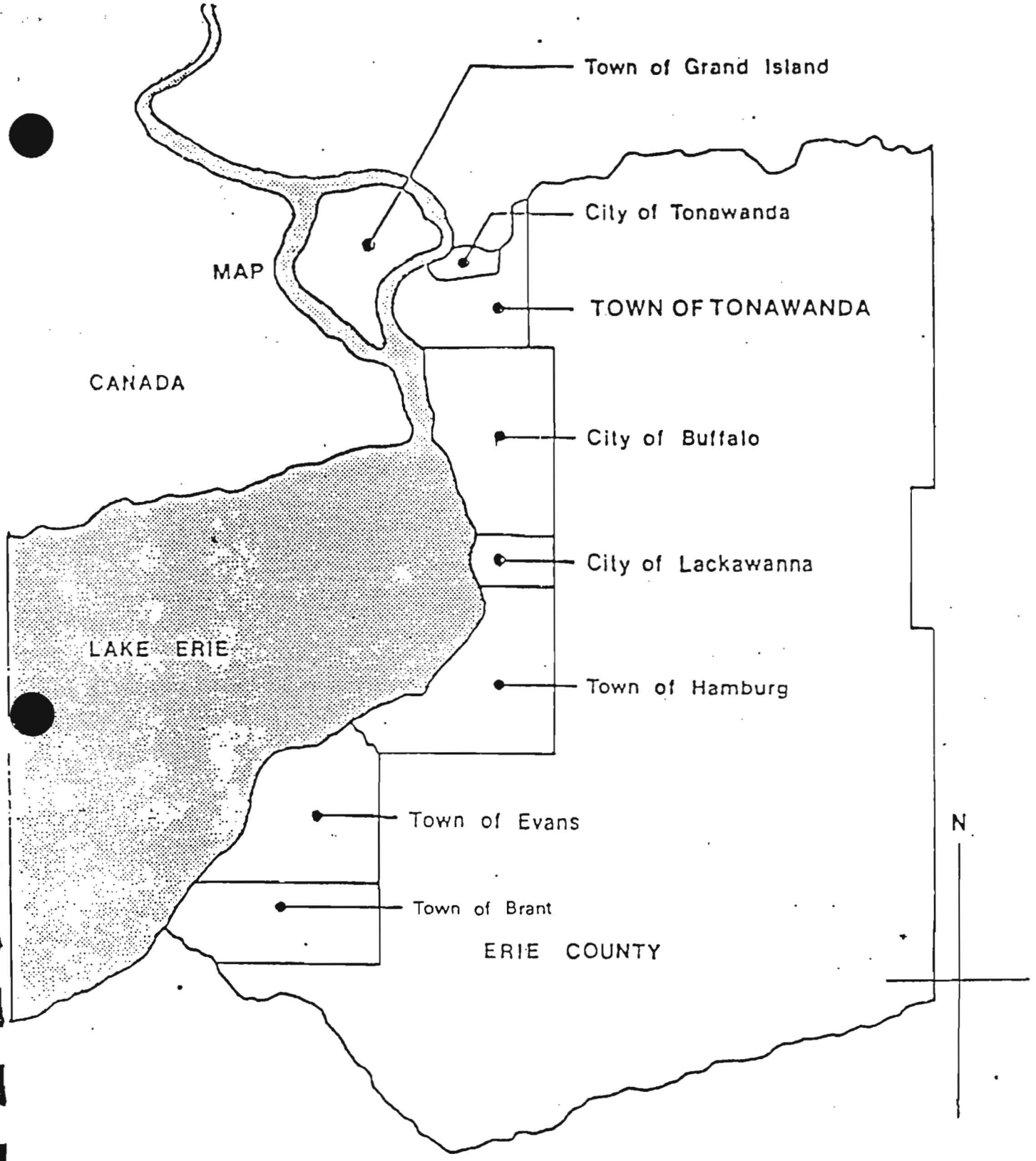
16. NYS Department of Transportation - Region 5 Planning Office, Departmental Files, 1989.

17. IBID.

18. IBID.

19. Erie County Department of Environment and Planning, "Capital Assets and Facilities Management Program," 1986.

20. NYSDOT, OP.CIT.



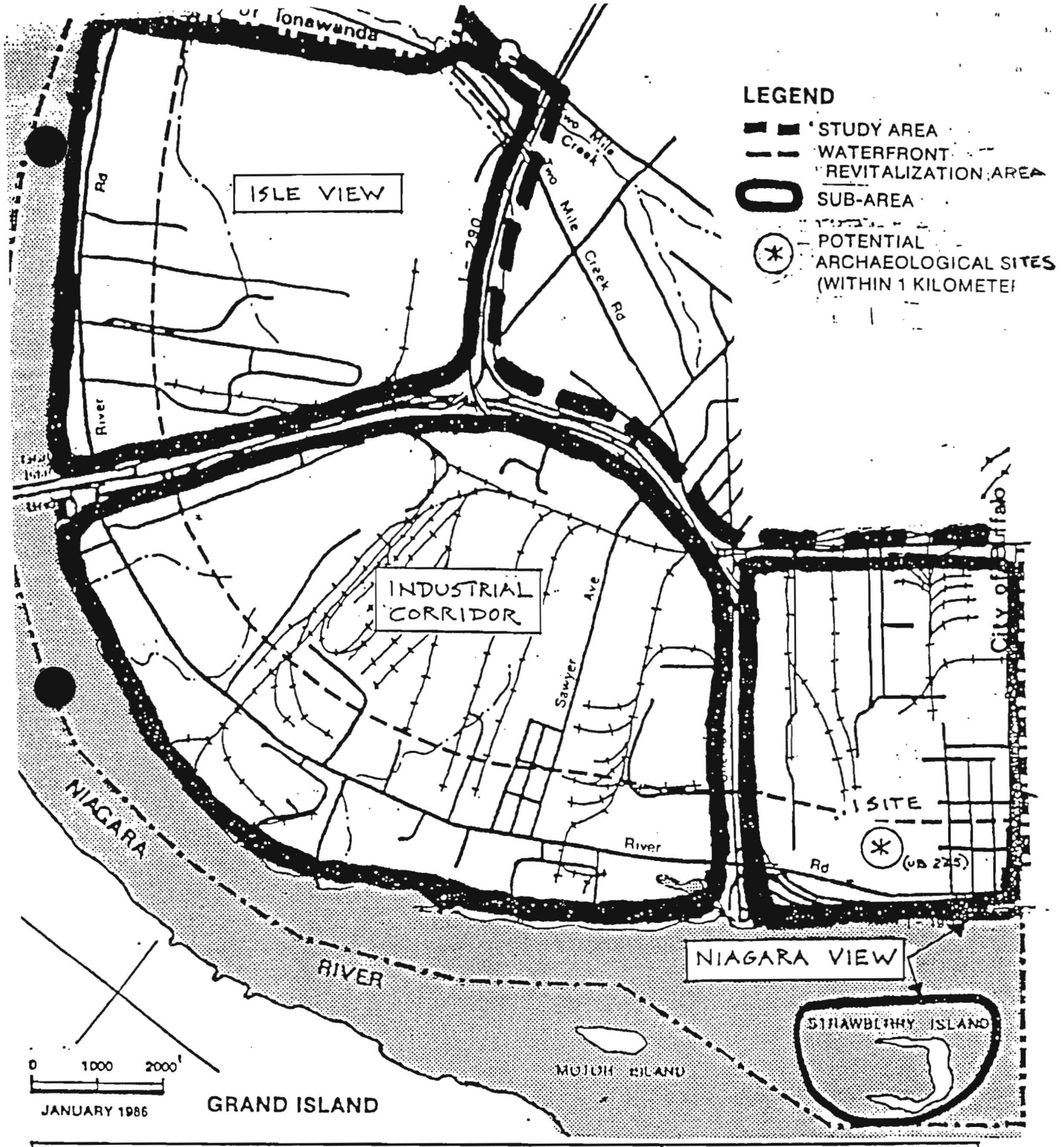
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 2

REGIONAL SETTING

TOWN OF TONAWANDA



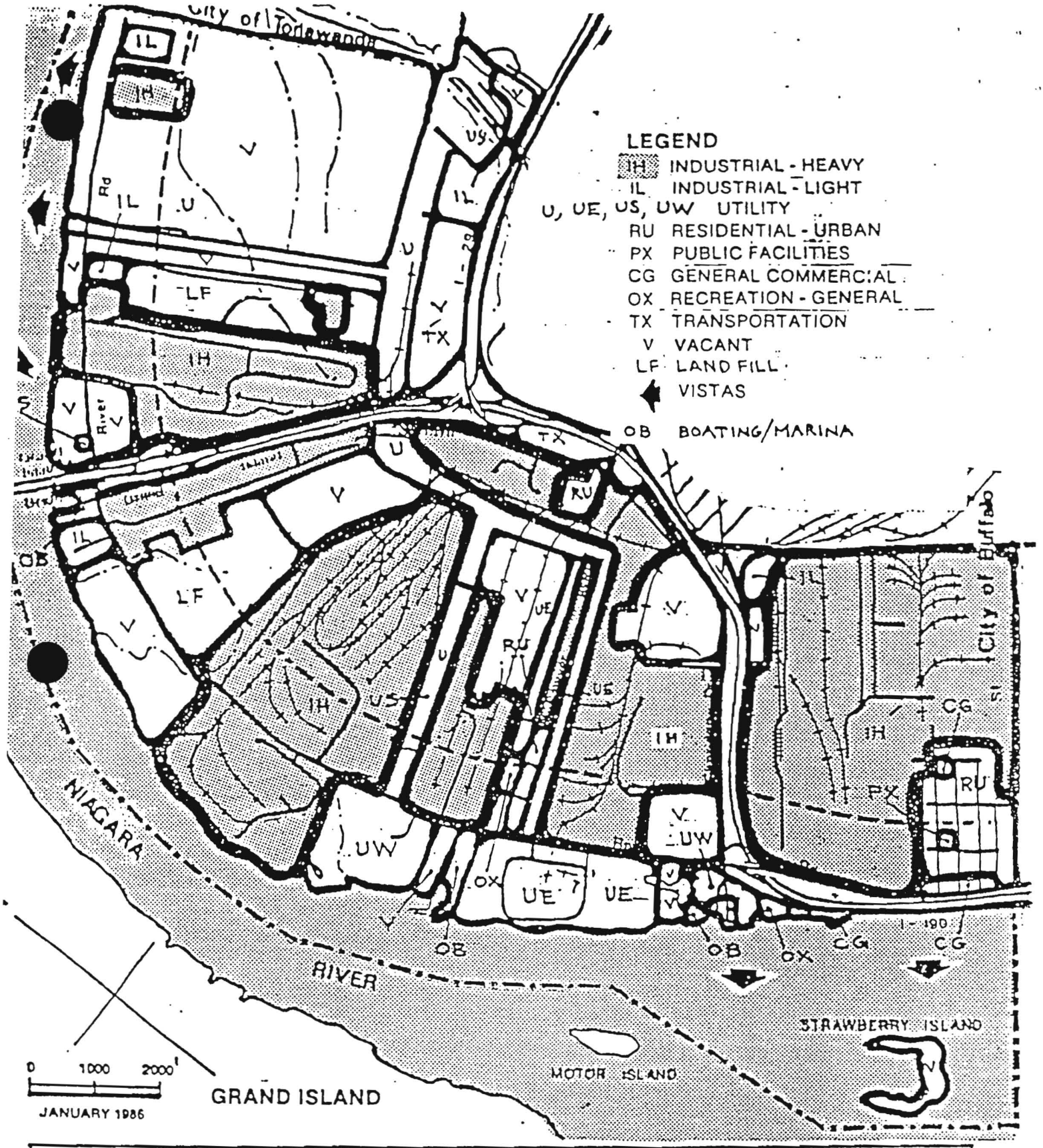
LOCAL WATERFRONT REVITALIZATION PROGRAM

E COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 3

STUDY AREA AND SUB-AREAS

TOWN OF TONAWANDA



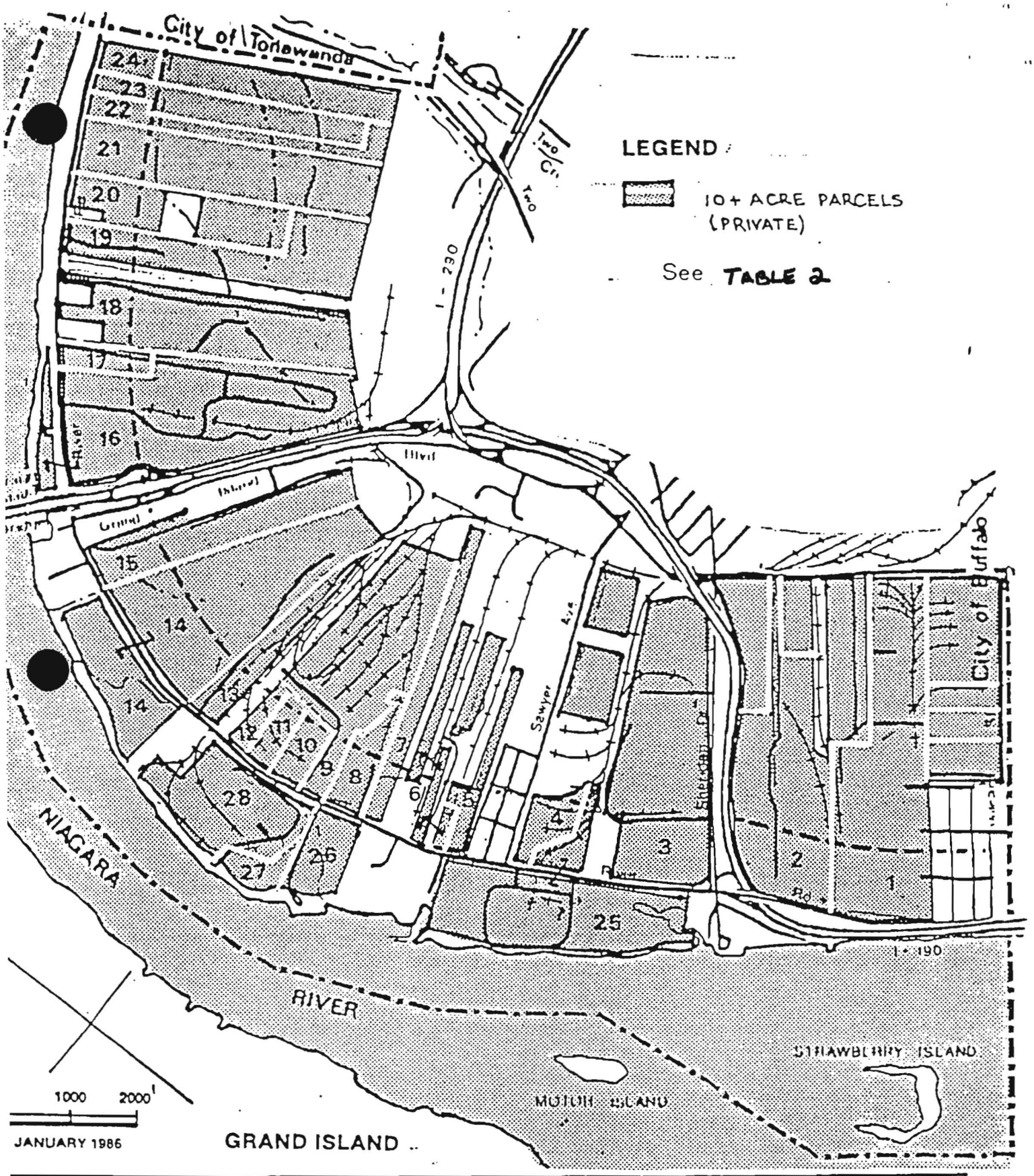
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 4

EXISTING USES & VISTAS

TOWN OF TONAWANDA



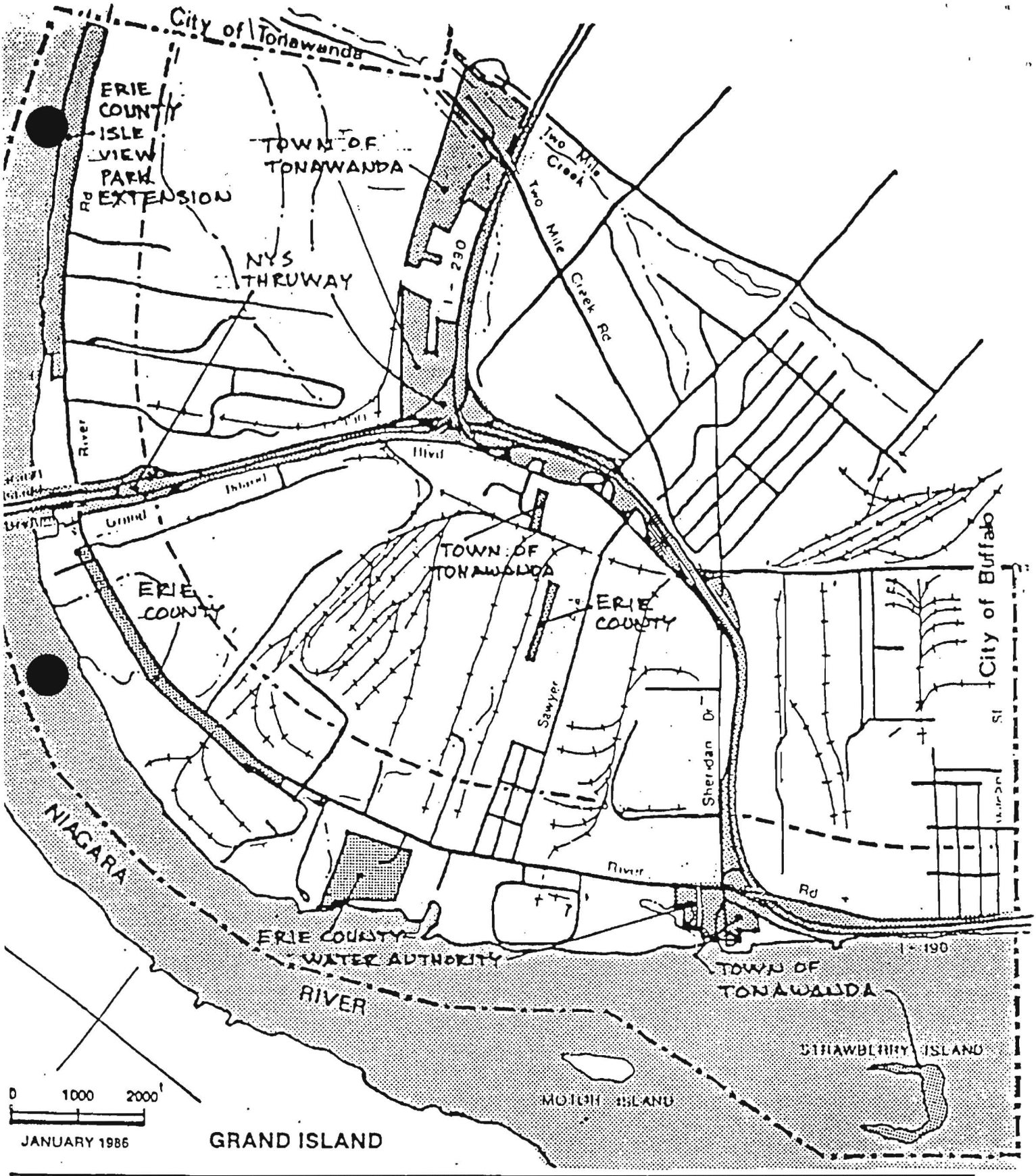
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 5

INVENTORY OF MAJOR PARCELS

TOWN OF TONAWANDA



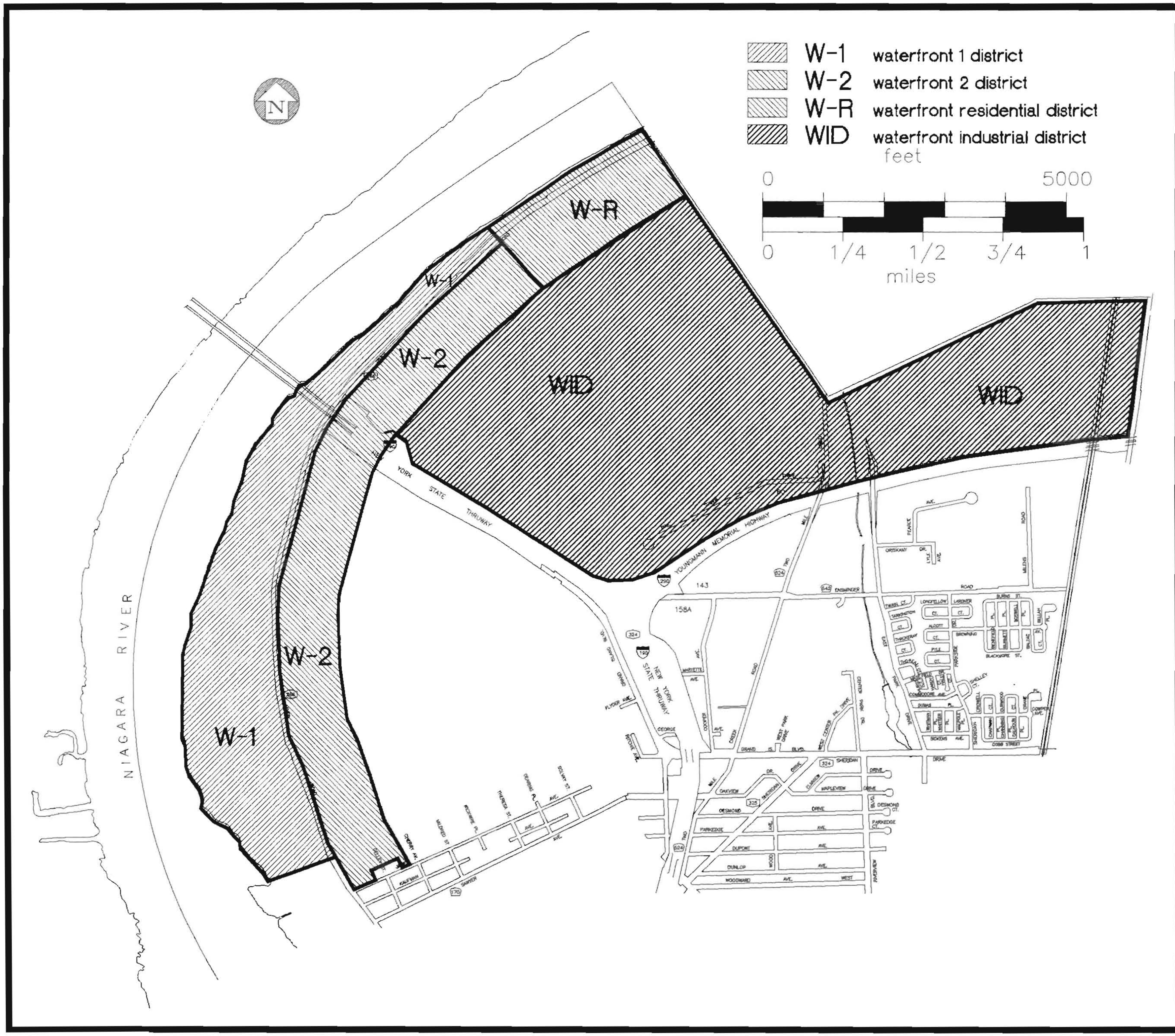
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 6

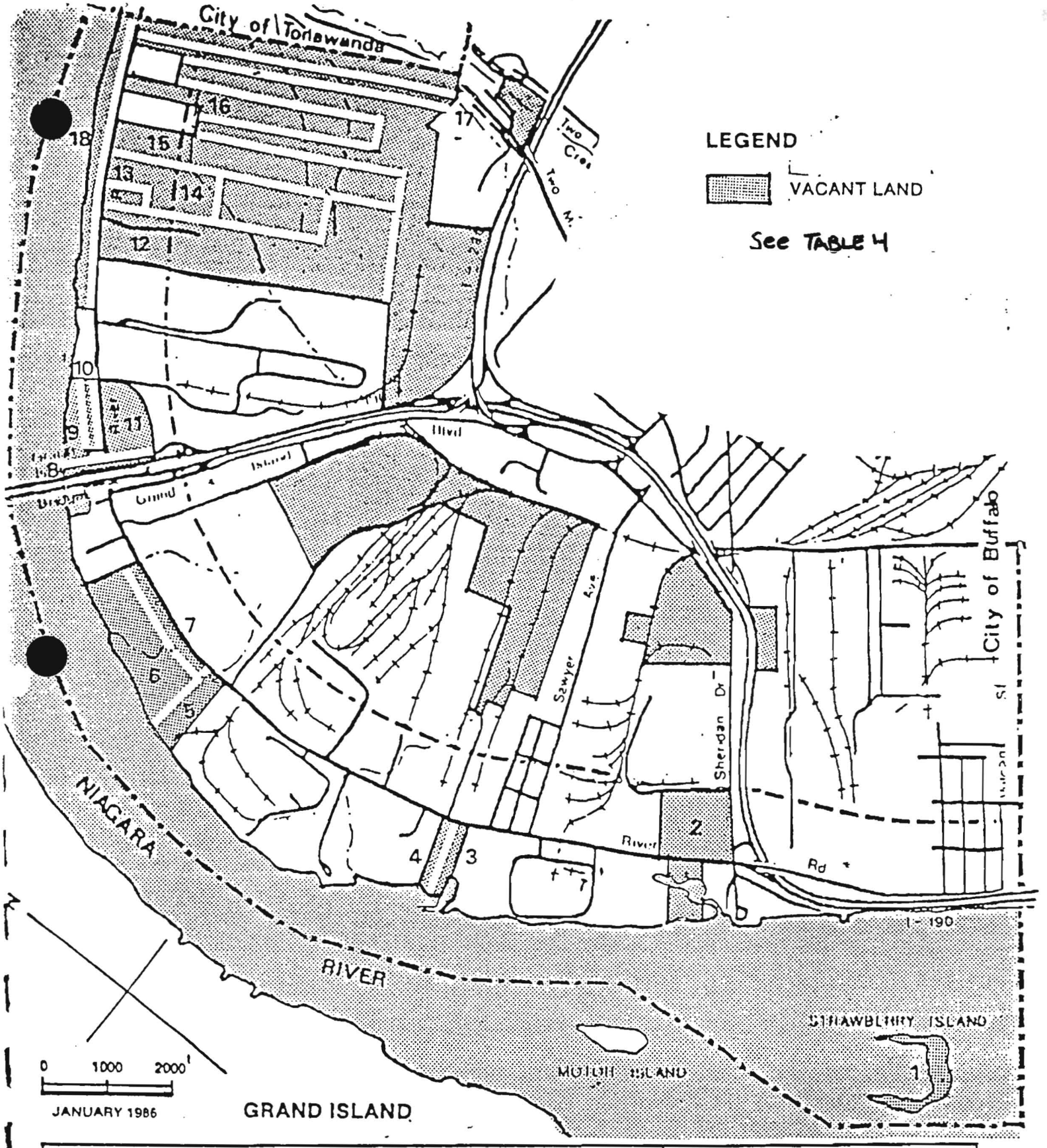
PUBLIC LANDS

TOWN OF TONAWANDA



Zoning Map

Map 7



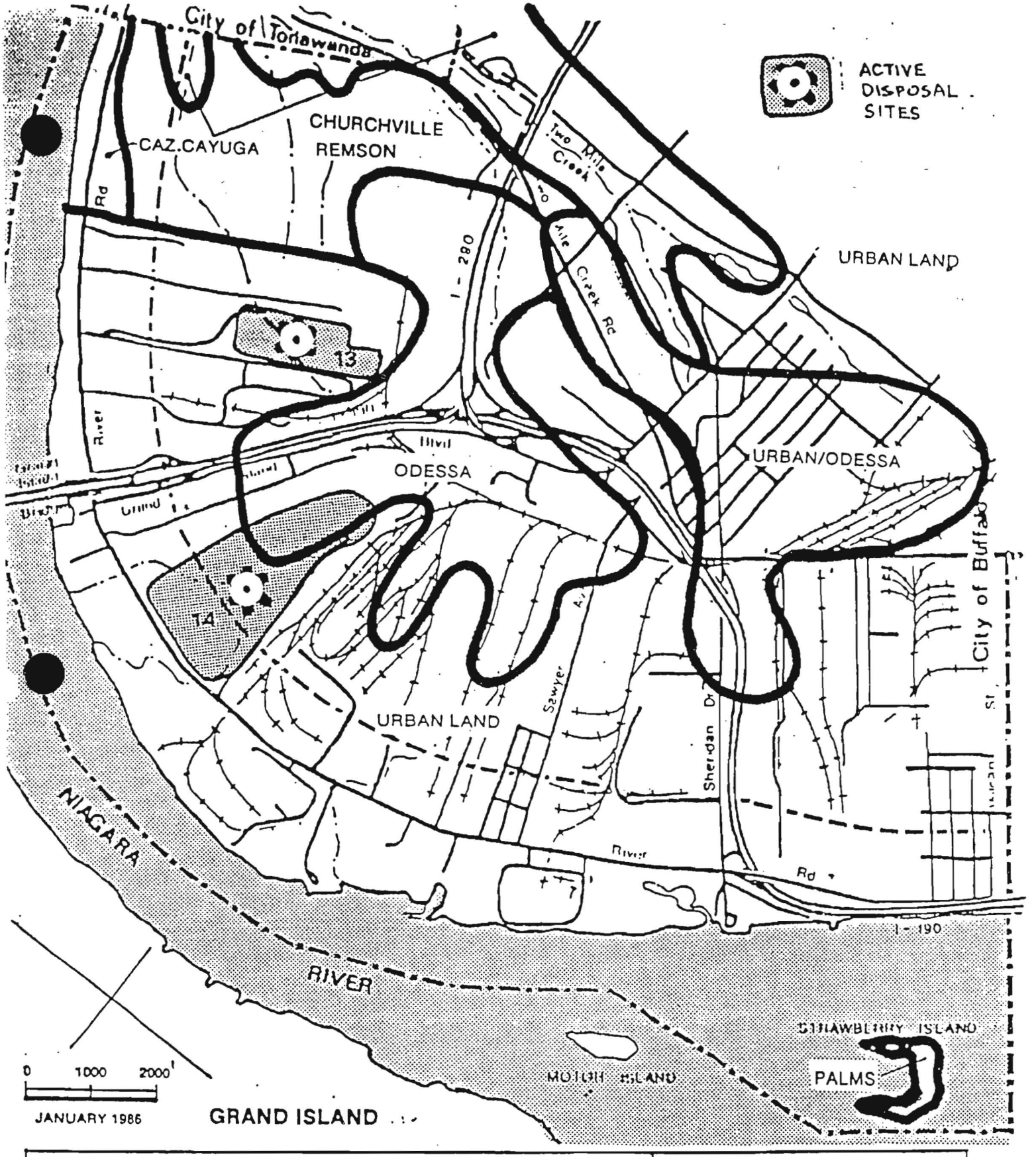
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 8

VACANT LAND

TOWN OF TONAWANDA



LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

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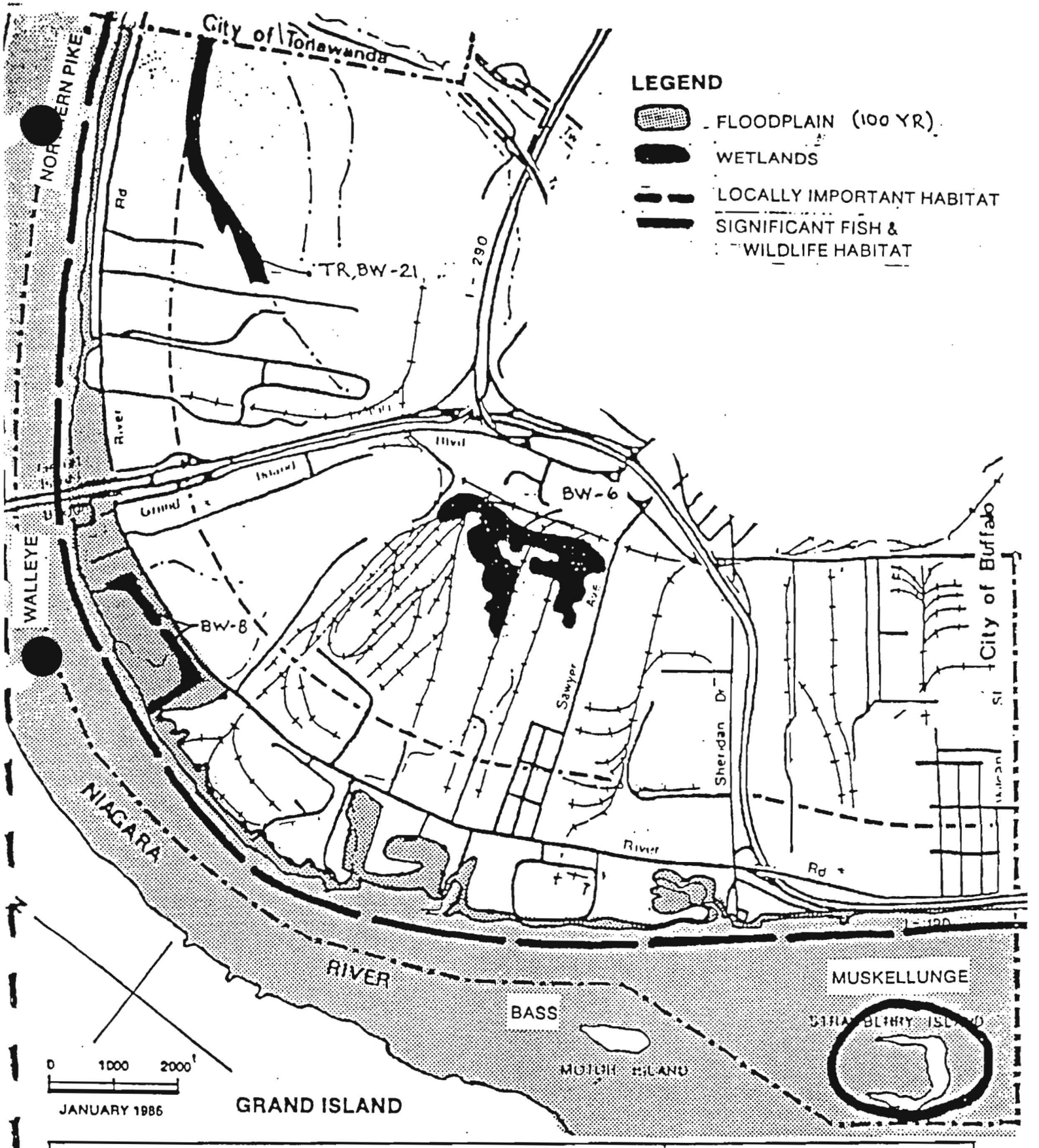
MAP 9

SOILS & INDUSTRIAL DISPOSAL SITES

TOWN OF TONAWANDA



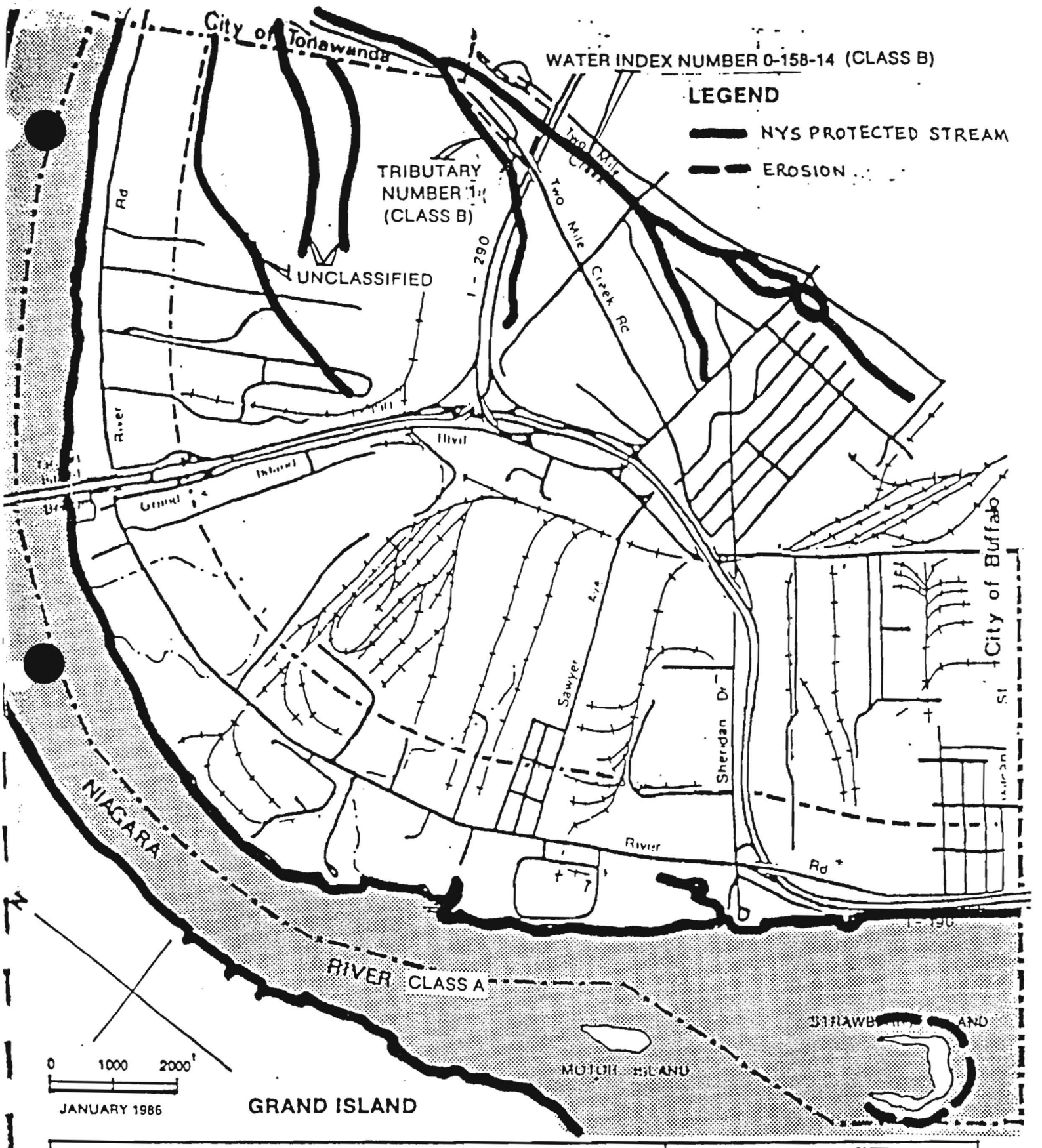
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 10

FLOODPLAINS/ HABITATS

TOWN OF TONAWANDA



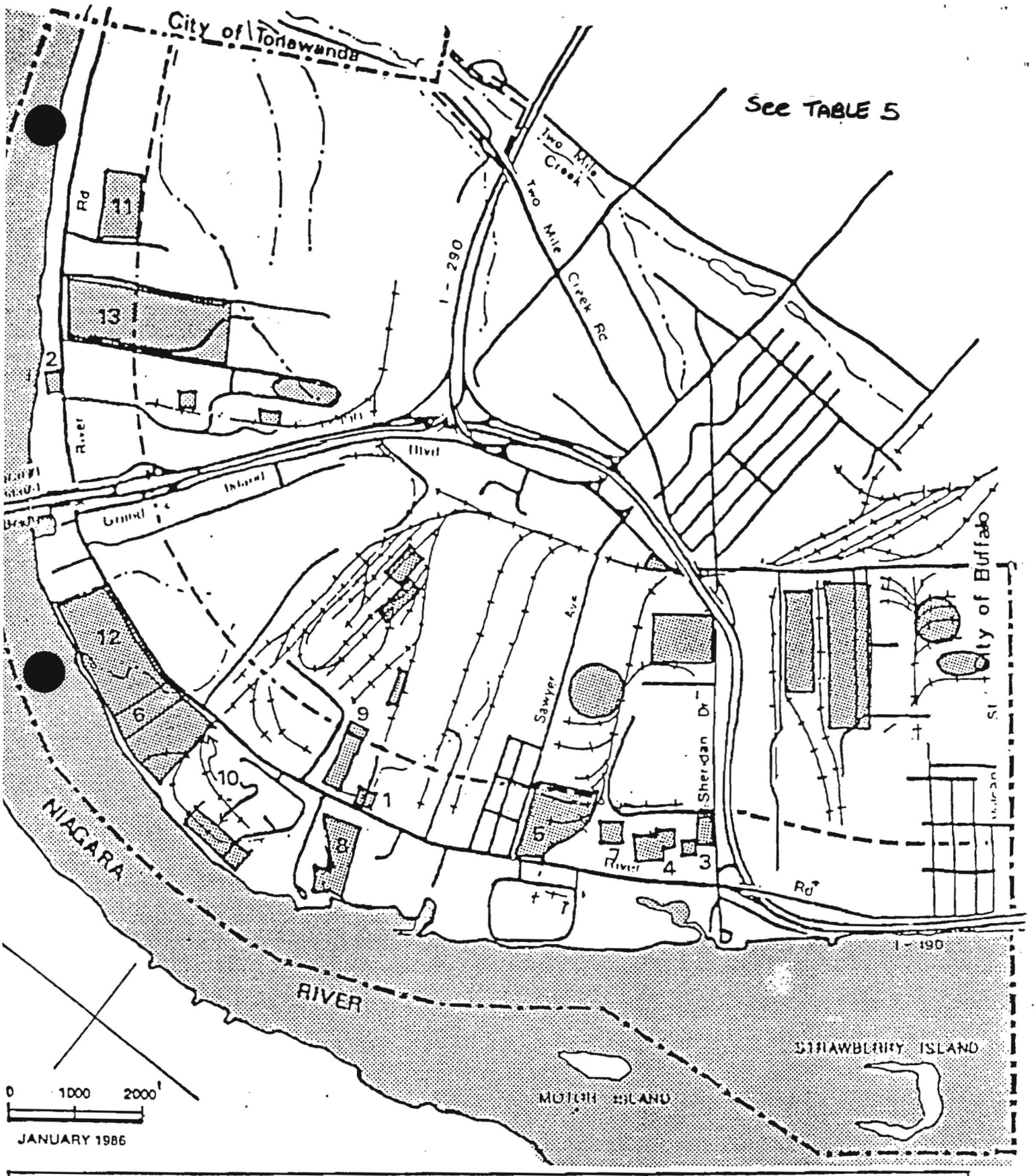
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP II

WATER QUALITY/ EROSION

TOWN OF TONAWANDA



JANUARY 1986

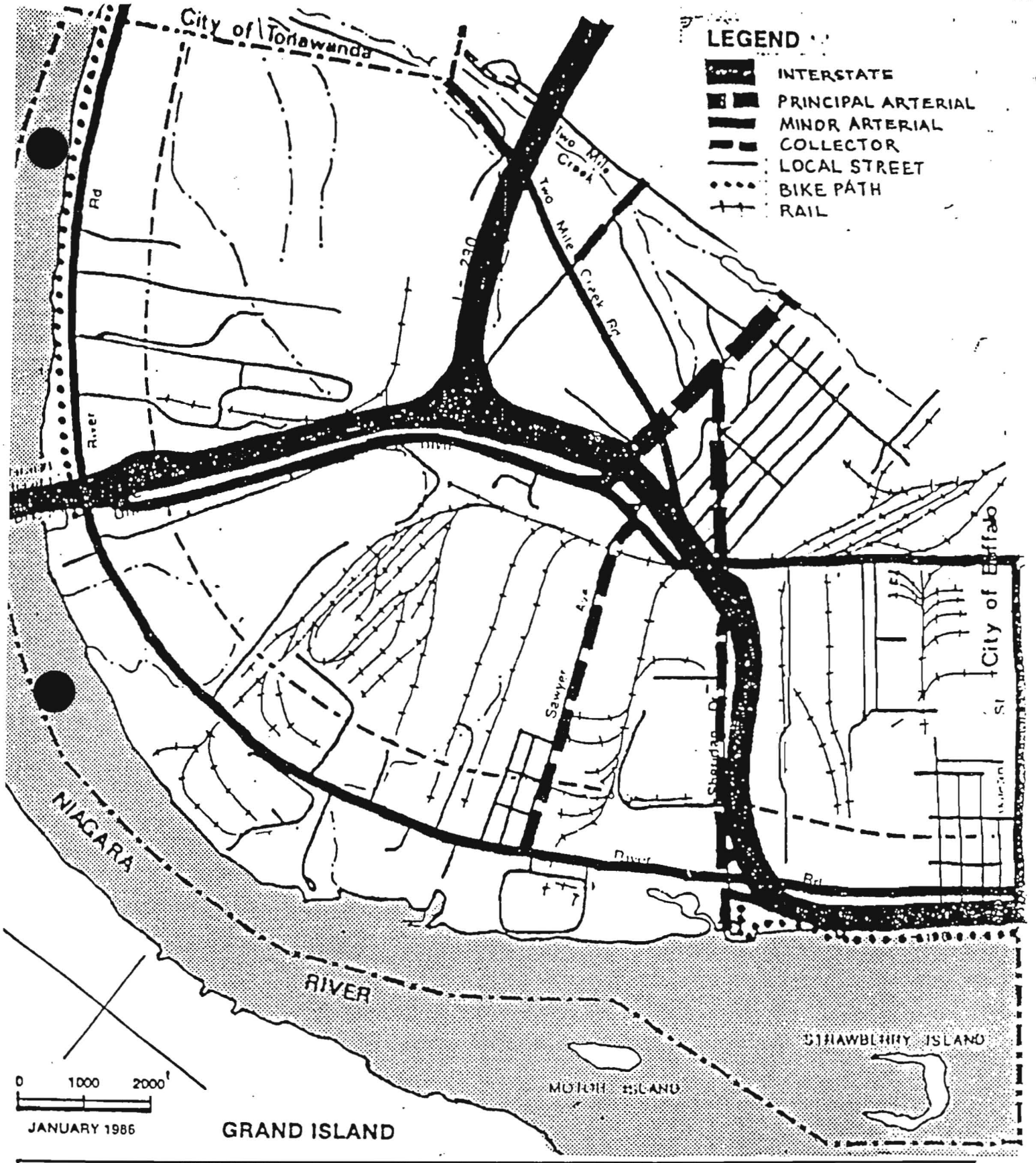
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 12

INACTIVE WASTE INDUSTRIAL DISPOSAL SITES

TOWN OF TONAWANDA



LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 13

CIRCULATION & ACCESS

TOWN OF TONAWANDA

SECTION III

WATERFRONT REVITALIZATION PROGRAM POLICIES

DEVELOPMENT POLICIES

POLICY 1 **RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.**

POLICY 1A **REVITALIZE THE WATERFRONT AREA BETWEEN THE NORTHERN LIMIT OF THE ERIE COUNTY WATER AUTHORITY PROPERTY TO THE SOUTHERN LIMIT OF THE COUNTY-OWNED ISLE VIEW PARK FOR A MIX OF USES, WITH AN EMPHASIS ON WATER-DEPENDENT AND WATER-RELATED USES ON THE SHORELINE.**

POLICY 1B **CONSOLIDATE CURRENT OPERATIONS AT THE ASHLAND OIL DOCKS WITH THOSE AT THE ADJACENT NOCO DOCKS.**

POLICY 1C **RELOCATE THE PORTION OF RIVER ROAD RUNNING NORTH OF THE GRAND ISLAND BRIDGES INLAND TO CREATE EXPANDED DEVELOPMENT OPPORTUNITIES ALONG THE SHORELINE.**

The Central and Northern Sectors of the Tonawanda waterfront contain vacant and underutilized parcels which offer opportunities for redevelopment. The revitalization of the once-dynamic waterfront industrial corridor represents an effective means to regain the public's positive perception of their shoreline. It will also serve to increase the marketability of vacant, underutilized sites by improving land use compatibility, the visual environment, and the economic potential of the area.

While water-dependent uses will be given priority for location immediately adjacent to the shoreline, the upland portions of the waterfront are appropriate for redevelopment for a variety of water-enhanced and non-water-dependent uses.

The mix of water-dependent uses that is appropriate for the Central and the Northern Sectors includes: marina, yacht club or boat launch facilities; commercial, excursion, or fishing charter boat facilities; boatyard or boat storage facilities; and parkland, trails, fishing docks, and piers; and water-dependent industrial activities, such as water-intakes.

In addition to the above uses, the following water-enhanced and non-water-dependent uses may be developed in the Central Sector: light industrial uses, including continuation of the Niagara Mohawk fly ash disposal site; restaurants; business or professional offices; nature and interpretive centers; and motels or hotels. Light industrial uses may only be located on the east side of River Road. Other non-water dependent and water-enhanced uses may be located to the east of River Road on parcels having frontage on the Niagara River provided they incorporate public access along the shoreline or include a water-dependent use as an element of the project.

In the Northern Sector, residential uses will be permitted in addition to the water-dependent and water-enhanced uses listed above. Unless public access is provided or a water-dependent use is incorporated into the project proposal, the non-water dependent uses will be located to the east of River Road.

These water-dependent, water-enhanced, and non-water-dependent uses shall be subject to the following standards:

1. The maximum building height for structures located west of River Road is 35 feet.

2. All buildings, parking lots and outdoor storage areas shall be set back a minimum of 50 feet from the shoreline of the Niagara River, unless it is impracticable to do so. Trails, docks or piers, boat launch facilities, water-intake facilities, and structures associated with public park purposes may be located closer to the shoreline.

3. Parking, loading areas, and storage yards shall be screened with year-round plantings or berms or a combination thereof.

4. Structures shall be located on a site in a manner that preserves views of the Niagara River from public roadways and lands.

5. Existing natural features and vegetation, including mature trees, shall be incorporated into site design to the maximum extent practicable.

In addition to the specific standards listed above, the following guidelines will be used to review actions for consistency with this policy:

1. The action should enhance existing and anticipated uses. For example, utility systems should be designed and constructed so as to serve the potential needs for desirable mixed use development (ie. recreation, commercial, marina, residential, light industrial).

2. The action should serve as a catalyst to private investment in the area.

3. The action should improve the deteriorated condition of the sites and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline.

4. The action must lead to development which is compatible with the future plans for the area, with consideration given to scale, architectural style, density, and intensity of use.

5. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base.

6. The action should improve adjacent and upland views of the water and, at a minimum, must not affect these views in an insensitive manner;

7. The action should have the potential to improve the possibilities for multiple uses on the sites.

8. The action should not have potential for depreciating the value of nearby sites and should be fully compatible with existing or future planned nearby uses.

In addition, River Road runs close to the shoreline of the Niagara River in the area north of the Grand Island Bridges. Relocation of this section of River Road approximately 1,000 feet inland would open a large section of the Town's waterfront for expanded development and public use. Realignment of this section of River Road shall be pursued as future upgrades of the road are programmed.

If an action is proposed by a state or federal agency to take place outside of the areas covered by this policy, the agency proposing the action must first determine if it is feasible to take the action within the area covered by this policy. If such an action is feasible, the agency should give strong consideration to undertaking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause deterioration of the waterfront area, or the County's Isle View Park.

Refer to Policies 2, 21, 22, 25, 37, Part IV, and Appendix A for additional standards and guidelines.

POLICY 2 FACILITATE THE SITING OF WATER DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

Within the Town of Tonawanda waterfront, there are existing public and private water-dependent uses which are encouraged to continue. These uses include marinas, water-intake facilities for industrial uses, the Huntley power station, Town and County boat launch ramps, and a boat livery service. In addition to these specific uses, the following shall also be considered appropriate water-dependent uses for the Tonawanda waterfront:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel);

2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);

3. Flood and erosion protection structures (for example: breakwaters, bulkheads);

4. Facilities needed to store and service boats and ships (e.g. marinas, boat repair, boat construction yards);

5. Scientific/educational activities which, by their nature, require access to coastal waters;

6. Support facilities which are necessary for the successful functioning of permitted water dependent uses (e.g. parking lots, interpretive centers, parks, snack bars, first aid stations, short-term storage facilities).

Market studies indicate that there is an annual growth potential of approximately 1,900 boat slips within the region. Tonawanda can be expected to capture 20% to 30% of this demand. Consequently, the Town can benefit from facilitating the location and expansion of water-dependent uses in its waterfront. However, the large amount of vacant waterfront land does not warrant creation of an exclusive water-dependent use area along the waterfront. Water-dependent uses will be given priority on the waterfront, but compatible non-water-dependent uses will be permitted to locate in the waterfront area, in accordance with Policies 1A and 1B.

The following standards shall apply to the siting of marinas within the Tonawanda waterfront:

1. Marinas shall be located and designed to minimize adverse impacts on coastal fish and wildlife habitats of local and statewide significance, and upon regulated freshwater wetlands.

2. Marinas shall be located in areas where minimum physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding minimal navigable depths, low rates of sediment transport, and sufficient water movement to promote flushing.

3. Sites selected for new marinas shall contain adequate upland to accommodate associated facilities and accessory uses. Expansion of existing marinas is dependent upon the availability of adequate upland to accommodate the expansion.

4. Marinas shall be adequately landscaped to provide a park-like setting.

5. Pumpout facilities shall be provided in accordance with Policy 34.

6. Marinas shall be designed to maximize flushing to prevent possible accumulation of contaminants that could lower the quality of coastal waters.

7. New marinas must be sited and/or designed with adequate protection against boat wakes caused by existing boat traffic.

8. Marina design shall include provision for control of stormwater to prevent direct runoff from undeveloped portions of the site directly into coastal waters.

9. Marina design shall minimize interference with public use of underwater lands and the water surface.

The following standards shall apply to facilities providing boat maintenance service:

1. Boat maintenance activities, including washing, sanding, painting, draining bilge water, and servicing motors, shall not discharge waste water or other substances into any waterbody, nor shall any waste materials be disposed of in such a manner that they run overground and into a waterbody.

2. Dismantled boats, engines, all parts or supplies, goods, materials, refuse, garbage or debris shall be fully screened from view from public roads and from the waterside.

Refer to Policies 1, 19, 20, 21, 22, 37, Part IV, Proposed Land and Water Uses, and Appendix A, for additional standards.

POLICY 3 **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF THE STATE'S MAJOR PORTS IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

POLICY 4 **THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF SMALL HARBORS IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

POLICY 5 **ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATES ITS LOCATION IN OTHER COASTAL AREAS.**

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

The Town of Tonawanda waterfront area is fully serviced with adequate infrastructure to support the development called for by this LWRP. Proposed projects will be reviewed to ensure that existing system capacities will not be exceeded. Local, State, and federal agencies charged with allocating funds for improvements in water and sewer facilities should give high priority to the needs of the waterfront area, so that full advantage may be taken of the rich array of existing infrastructure components in promoting waterfront revitalization.

POLICY 6 **EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.**

The confusion, time delay, and costs associated with the issuance of permits required from all government levels prior to approval of waterfront development is not conducive to attracting public or private investment along the shoreline.

The Town will utilize existing laws to ensure compliance with the LWRP. Where practicable, new regulations will coordinate and combine review periods and public hearing requirements to the maximum extent possible.

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

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

FISH AND WILDLIFE POLICIES

POLICY 7 **SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICABLE, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics: (1) are essential to the survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas); (2) support populations of rare and endangered species; (3) are found at a very low frequency within a coastal regional; (4) support fish and wildlife populations having significant commercial and/or recreational value; and (5) would be difficult or impossible to replace.

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

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

> In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:
>
> -- destroy the habitat; or,
>
> -- significantly impair the viability of a habitat.

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

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

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

The range of parameters, which should be considered in applying the habitat impairment test include:

1. Physical parameters, such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;

2. Biological parameters, such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and

3. Chemical parameters, such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Significant coastal fish and wildlife habitats are evaluated, designated, and mapped pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42). The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas.

POLICY 7A **THE STRAWBERRY ISLAND-MOTOR ISLAND HABITAT SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICABLE, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

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

Installation and operation of water intakes could have a significant impact on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Recreational use of Strawberry Island should be controlled to restrict activities that may increase soil erosion. (See Appendix D for a detailed description of this habitat.)

POLICY 8 **PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUB-LETHAL OR LETHAL EFFECT ON THOSE RESOURCES.**

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Sec.27-0901(3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by DEC (6NYCRR Part 371).

The handling (storage, transport, treatment and disposal) of the wastes included on this list is being strictly regulated in the Town of Tonawanda to prevent their entry or introduction into the environment, particularly into the Town's air, land and waters. Such controls should effectively minimize possible contamination of, and bio-accumulation in, the Town's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

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

POLICY 9 **EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

POLICY 9A **EXPAND RECREATIONAL USE OF FISH RESOURCES (I.E., FISHING AREAS) OFFSHORE OF THE TOWN'S NORTHERN AND SOUTHERN SECTORS.**

The educational and recreational value of coastal areas having a significant concentration of fish and wildlife resources is of extreme importance to the general public. This is important in the Strawberry Island area and Upper Niagara River areas offshore from the Southern and Northern sectors. The former represents a significant fish and wildlife habitat, while the latter areas are locally significant fishing areas. Both Southern and Northern sectors provide opportunities to catch yellow perch, walleye, and trout/salmon.

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

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

1. Consideration should be made by federal, State and Town agencies as to whether an action will impede existing or future utilization of the Strawberry Island - Motor Island Shallows.

2. Efforts to increase access to Strawberry Island - Motor Island Shallows should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes impairment can be more subtle than actual physical damage to the

habitat. For example, increased human presence can deter animals from using the habitat area.

3. The impacts of increasing access to the Strawberry Island - Motor Island Shallows should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policies 7 and 7A) and/or conferring with a trained fish and wildlife biologist.

4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g.creating private fee-hunting or fee-fishing facilities) must be done in accord with existing State law.

See Policy 7.

POLICY 10 **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF COMMERCIAL FISHING RESOURCES IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

FLOODING AND EROSION POLICIES

POLICY 11 **BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.**

POLICY 11A **BUILDINGS AND OTHER STRUCTURES WITHIN SPECIAL FLOOD HAZARD AREAS, INCLUDING THE WATERFRONT ZONING DISTRICT (SEE POLICY 1A), THE AREA SOUTH OF TWO MILE CREEK OFF THE NIAGARA RIVER, THE AREA SOUTH OF THE HUNTLEY PLANT, AND ALL OTHER AREAS IDENTIFIED AS SPECIAL FLOOD HAZARDS ON THE FLOOD INSURANCE STUDY MAPS FILED FOR THE TOWN OF TONAWANDA DATED NOVEMBER 12, 1982, WILL BE SITED SO AS TO MINIMIZE DAMAGE TO PROPERTY AND HUMAN LIFE.**

Within the Town's waterfront, the Niagara River floodway and flood hazard areas have been designated on the official Flood Insurance Rate Maps dated November 12, 1982, prepared for the Town by the Federal Emergency Management Agency. The floodway and flood hazard areas are shown in Map 10.

There are no designated coastal erosion hazard areas within the Town's waterfront.

The public health and welfare is continuously threatened by flooding. The public and private cost and endangerment of human life which can result from such natural occurrences requires utmost attention by public agencies and jurisdictions.

No new development or substantial improvements (for definition see Local Flood Damage Prevention Law, 5/24/82) are permitted in those areas covered under Policy 11A except for outdoor recreation and municipal uses.

Within flood hazard areas the following guidelines shall apply to permitted uses.

A. Anchoring:

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. Construction materials and methods:

1. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

2. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage and shall be consistent with the need to minimize flood damage.

3. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less.

C. Subdivision proposals:

1. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

2. On-site waste disposal systems shall be located as to avoid impairment or contamination from flooding.

D. Specific standards:

In all areas of special flood hazard where base flood elevation data have been provided as set forth in the Town's Flood Damage Prevention Law, the following standards are required:

1. Residential construction: New residential construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

2. Nonresidential construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either

have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

Where human lives may be endangered by major lake storms, all necessary emergency preparedness measures shall be taken, including disaster preparedness planning. In response to a flood event or severe coastal storm, municipal and other agencies shall follow those procedures outlined in the Town's adopted Disaster Preparedness Plan.

POLICY 12 **ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, AND BLUFFS.**

POLICY 12A **ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO PREVENT FURTHER DAMAGE TO STRAWBERRY ISLAND - MOTOR ISLAND SHALLOWS.**

The nearshore area adjacent to Strawberry Island helps safeguard the island from increased erosion. Activities or development in the nearshore area, as well as activities on the island itself, must be done in a manner that prevents any endangerment to the continued viability of the island and Motor Island shallows as a natural habitat (see Policy 7).

For the purposes of this policy, the nearshore area are those lands underwater beginning at the mean low water line off the island and extending waterward a distance in a direction perpendicular to the shoreline to a point where mean low water depth is 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.

Guidelines for reviewing consistency of shoreline actions with this policy are as follows:

1. Excavating, mining or dredging which may cause erosion of the island is prohibited, except construction or maintenance of navigation channels, bypassing sand around any natural or man-made obstruction, artificial beach nourishment, and maintenance of Town water intake.

2. Clean sand or gravel of a compatible type and size is the only material which may be deposited within nearshore areas.

POLICY 13 **THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

POLICY 13A **THE CONSTRUCTION OF EROSION PROTECTION STRUCTURES AT STRAWBERRY ISLAND SHALL BE UNDERTAKEN ONLY IF IT HAS A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST 30 YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

Erosion protection structures may be proposed for Strawberry Island by private interest groups or the federal and state governments. Due to the significance of Strawberry Island as a fish habitat and recreational resource it is imperative that any such structure be designed properly and utilize construction and maintenance standards which ensure their reliability. This policy will help ensure the reduction of such damage or loss which might occur from inadequate erosion structures at the island.

This policy applies to any structures specifically designed to reduce or prevent erosion on Strawberry Island, such as a groin, jetty, seawall, revetment, breakwater or artificial beach nourishment project. It also applies to any shoreline protection structure that is constructed at other locations within the Town's waterfront area.

Guidelines for evaluating an action's consistency with this policy are as follows:

1. The construction, modification, or restoration of erosion protection structures must:

   a. Not be likely to cause a measurable increase in erosion at Strawberry Island or lands located at other waterfront locations in the Town's coastal zone.

   b. Minimize, and if possible, prevent adverse effects upon the significant fish habitat on and around the island.

2. All erosion protection structures must be designed and constructed according to generally accepted engineering principles which have demonstrated success or, where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.

3. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.

See Policies 7 and 14.

POLICY 14 **ACTIVITIES AND DEVELOPMENT INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN, SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

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

See Policies 7, 11, 11A, 12, 12A, 13, 13A.

POLICY 15 **MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation, and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

See Policies 7, 12, 12A, and 14.

POLICY 16 **PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT**

HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

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

POLICY 17 **WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (I) THE SETBACK OF BUILDINGS AND STRUCTURES; (II) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINAGE; (III) THE RESHAPING OF BLUFFS; AND (IV) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.**

POLICY 17A **WHENEVER POSSIBLE UTILIZE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO PROPERTY FROM FLOODING IN THOSE AREAS LOCATED IN SPECIAL FLOOD HAZARD AREAS (I.E. 100 YEAR FLOOD PLAINS). SUCH MEASURES SHALL INCLUDE THE (1) INSTALLATION OF PROPER DRAINAGE MEASURES AND (2) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.**

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

This policy shall apply to the planning, siting, and design of proposed activities and development within special flood hazard areas, including measures to protect existing activities and development. These areas are shown in Map 10. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

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

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

1. Avoidance of risk or damage from flooding by the siting of buildings outside the hazard area.

2. Flood-proofing of buildings or raising their elevation above the base flood level.

See Policy 11.

GENERAL POLICY

POLICY 18 **TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.**

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

PUBLIC ACCESS POLICIES

POLICY 19 **PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.**

POLICY 19A **MAINTAIN THE EASE OF PUBLIC ACCESS TO AQUA LANE PARK, TOWN BOAT LAUNCH, AND ERIE COUNTY RIVERWALK.**

POLICY 19B **INCREASE ACCESS OPPORTUNITIES, WHEREVER PRACTICAL, AT THE ERIE COUNTY ISLE VIEW PARK, STRAWBERRY ISLAND, NEW YORK STATE THRUWAY AUTHORITY PROPERTY UNDER THE GRAND ISLAND BRIDGES, AND THE TWO MILE CREEK CORRIDOR.**

Within the Town's waterfront, there are important public recreational resources that provide opportunities for the public to reach and enjoy the Niagara River shoreline. These areas include: Aqua Lane Park, Erie County Riverwalk, Town Boat Launch, and Erie County's Isle View Park. Maintaining access to these recreation facilities is a primary concern of the Town. In addition, there are currently undeveloped publicly-held areas which have the potential to provide expanded riverfront access in the future. These areas include Strawberry Island, the Two Mile Creek corridor, and New York State Thruway Authority property under the Grand Island Bridges. Ensuring that public access to these future sites is not precluded is also an important component of this policy.

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

1. The existing access from River Road, Aqua Lane, and NYS Thruway Authority Rights-of-Way to County Riverwalk, Aqua Lane Park, Town Boat Launch, and Erie County's Isle View Park shall not be reduced, nor shall the possibility of increasing access in the future from these thoroughfares to the above mentioned resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

2. Existing access points to future recreation areas along Two Mile Creek, the County's Isle View Park, Riverwalk, and the New York State Thruway Authority property under the Grand Island Bridge shall not be reduced or eliminated unless use of these resources is deemed unfeasible or too low to justify maintaining the access level.

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

a. Access - the ability and right of the public to reach and use public coastal lands and waters.

b. Public lands or facilities - lands or facilities held by New York State, State Authority, or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands.

c. A reduction in the existing level of public access - includes, but is not limited to, the following:

(1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.

(2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting systemwide objectives.

(3) Pedestrian access is diminished, or eliminated, because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

(4) Pedestrian access to the public recreation resources listed above is not provided as River Road is improved.

(5) Vehicular access to parking areas serving the recreation areas listed in this policy is diminished or eliminated.

(6) There are substantial increases in existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the Niagara Frontier Transportation Authority determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis showing that such increases will significantly reduce usage by individuals or families and incomes below the State government established poverty level.

d. An elimination of the possibility of increasing public access in the future includes, but is not limited to, restricting the following:

(1) Construction of public facilities (such as expansion of River Road) which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities (e.g. to the County's Isle View Park).

(2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.

(3) Construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities. An example includes the sale of excess New York State Thruway

Authority property north of the Grand Island Bridges for use as a gasoline station, thereby diminishing access to the County's Riverwalk.

3. Any proposed project to increase public access to public water-related recreation resources and facilities, including the State-funded Riverwalk, shall be analyzed according to the following factors:

   a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.

   b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

4. The public agencies will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

5. In their plans and programs for increasing public access to public water-related resources and facilities, public agencies shall give priority, in the following order, to projects located within (1) the Northern Sector, (2) the waterfront zoning district, and (3) the Southern Sector.

See Part IV, Proposed Land and Water Uses and Proposed Projects, and Appendix A, Waterfront Zoning Districts.

POLICY 20 **ACCESS TO THE PUBLICLY-OWNED RIVERBANK AND TO LAND IMMEDIATELY ADJACENT TO THE RIVERBANK OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LAND SHALL BE RETAINED IN PUBLIC OWNERSHIP.**

POLICY 20A **ACCESS TO THE EDGE OF THE NIAGARA RIVER SHALL BE PROVIDED OFF AQUA LANE PARK, TOWN BOAT LAUNCH, SECTIONS OF COUNTY RIVERWALK, COUNTY ISLE VIEW PARK, AND STRAWBERRY ISLAND.**

New York State owned lands under the Niagara River are recognized as beginning at the last known natural location of the "ordinary high waterline" of the riverbank.

While such publicly-owned lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy,

provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and land immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

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

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

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

a. (See definitions under Policy 19 of "access," and "public lands or facilities").

b. A reduction in the existing level of public access - includes, but is not limited to, the following:

(1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

(2) Pedestrian access is diminished or blocked completely by public or private development.

c. An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:

(1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.

(2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.

(3) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.

2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated. A reduction in the existing level of public access includes, but is not limited to, the following:

   a. Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

   b. Access is reduced or blocked completely by any public developments.

3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

4. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

5. In their plans and programs for increasing public access, State and Town agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area, but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary, but not served by public transportation.

6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:

   a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.

   b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

See also Policies 1, 2, 7, 9, 19, 21 and 22, Section IV, Proposed Land and Water Uses and Proposed Projects, and Appendix A, Waterfront Zoning Districts.

POLICY 21 **WATER-DEPENDENT AND WATER-ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.**

POLICY 21A **REDEVELOP THE CHERRY FARM SITE FOR A MIX OF ACTIVE AND PASSIVE WATER-DEPENDENT AND WATER-ENHANCED RECREATION USES.**

POLICY 21B **DEVELOP A LINEAR TRAIL FOR PASSIVE RECREATION ALONG TWO MILE CREEK.**

The demand for additional marina, swimming and fishing facilities in the Town of Tonawanda and Erie County has been well documented in Town, County, and State reports. The public right to recreational use of the Niagara River's resources is important to realize and can be accomplished through the expansion, development, and improvements of public water-related recreation facilities along the Town's waterfront area. This includes the County Riverwalk and Isle View Park, as well as the Town Boat launch and Aqua Lane Park.

The Cherry Farm site is a 55-acre former landfill located in the Central Sector of the Tonawanda waterfront. The site offers excellent opportunities for creation of additional active and passive water-related recreation for the Town. Investigation and remediation of hazardous wastes is required prior to use of the site for recreation purposes, and this work is being undertaken in consultation with the NYS Department of Environmental Conservation. Appropriate recreational use of the site includes boat launch facilities, shoreline walkways, an interpretive center, a wetlands nature trail, a bandshell, and open space. Design of the site should be protective of the natural resources on the site and in the Niagara River adjacent to the site, and should take full advantage of views to the Niagara River.

Two Mile Creek flows through the northeastern extension of the Town's waterfront and into the City of Tonawanda, where it empties into the Niagara River. Within the City of Tonawanda, the creek is incorporated into a municipal park, and the City has proposed a linear trail along the creek. Provision will be made for continuation of the linear trail into the Town's waterfront, providing a continuous link to the Niagara River and to the Riverwalk.

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

Any development of water-related recreational facilities or increase in recreational use must be consistent with the preservation and enhancement of other important coastal resources, such as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, and significant mineral and fossil deposits and their capacity to accommodate anticipated use. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities.

Use of off-road recreational vehicles shall not be permitted on public lands covered by this policy.

See also Policies 1, 2, 9, 19, 20 and 22 and Section IV, Proposed Land and Water Uses.

POLICY 22 **DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.**

POLICY 22A **PROVIDE FOR MULTIPLE USE OF THE TOWN'S WATER TREATMENT PLANT FOR PASSIVE RECREATIONAL USE IN ASSOCIATION WITH AQUA LANE PARK AND THE COUNTY RIVERWALK.**

POLICY 22B **PROVIDE MULTIPLE USE OF LAND CONTROLLED BY THE NEW YORK STATE THRUWAY AUTHORITY FOR WATERFRONT RECREATION ACCESS.**

POLICY 22C **PROVIDE FOR MULTIPLE USE OF APPROPRIATE SECTIONS OF THE TOWN'S SEWAGE TREATMENT PLANT WHICH ARE DEEMED SAFE AND ENVIRONMENTALLY COMPATIBLE FOR A PORTION OF THE LINEAR TRAIL FACILITY PROPOSED FOR TWO MILE CREEK.**

POLICY 22D **PROVIDE, WHERE PRACTICABLE, FOR MULTIPLE USE OF AQUA LANE FOR THE RIVERWALK LINEAR TRAIL FACILITY.**

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located along the shore, they should, to the fullest extent permitted by existing law, provide for some form of water-related

recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The types of development which can generally provide water-related recreation as a multiple use include, but are not limited to, the following:

parks
highways
power plants
utility transmission rights of way
sewage treatment facilities
large residential subdivisions (50 units or more)
shopping centers
office buildings

Prior to taking action relative to any development, state agencies should consult with the NYS Office of Parks, Recreation, and Historic Preservation, and with the Town of Tonawanda to determine appropriate recreation uses. The agency should provide OPRHP and the Town with the opportunity to participate in project planning.

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

Whenever a proposed development is compatible with the natural and built environments of the Town and consistent with the LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore.

The land controlled by the New York State Thruway Authority and owned by Erie County under the Grand Island Bridges offers ideal opportunities for passive recreational use. The Town shall initiate discussions with the Authority and Erie County to determine proper legal arrangements. The site contains the County Riverwalk , bridge abutments, and occupies 480 linear feet of river shoreline and includes approximately 7 acres.

See Part IV, Proposed Land and Water Uses and Proposed Projects, and Appendices A and B.

HISTORIC AND SCENIC RESOURCES POLICIES

POLICY 23 **PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.**

POLICY 23A **PROTECT ARCHAEOLOGICALLY SIGNIFICANT SITES IN THE SOUTHERN SECTOR.**

A potentially valuable man-made resource in the Town is the archeological site in the Southern Sector. Its protection must involve a recognition of its importance by all agencies and the ability to identify and describe it.

While the Town's program is concerned with the preservation of all such resources within the waterfront area, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

Prior to undertaking any action in the archaeologically-sensitive parts of the Southern Sector, the NYS Office of Parks, Recreation and Historic Preservation shall be contacted to determine if archeological resources will be affected by the proposed activity.

An archeological site (UB 235) has been identified as lying on the mainland opposite Strawberry Island. Its potential significance is unknown. It may presently be located beneath the Chevrolet Plant.

All practicable means to protect the area noted in Policy 23A shall be undertaken to prevent an adverse change to the site. A significant adverse change includes, but is not limited to, demolition or removal in full or part of the site.

POLICY 24 **THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATE-WIDE SIGNIFICANCE IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

POLICY 25 **PROTECT, RESTORE, OR ENHANCE NATURAL AND MANMADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.**

POLICY 25A **PROTECT AND ENHANCE THE SCENIC VISTAS OF THE TOWN'S SHORELINE.**

POLICY 25B **UPGRADE THE APPEARANCE OF RIVER ROAD BY PROVIDING TREES AND LANDSCAPE PLANTINGS THAT ARE SUITABLE FOR A ROADSIDE LOCATION.**

The scenic vistas within the Town's waterfront area are shown in Map 4.

The views of the Niagara River off River Road in the Northern Sector of the Town represent the only area where waterfront views are available to those using this major north-south coastal road. In the Southern Sector, the Town boat launch site, the Town water plant, and Interstate 190 also offer

expansive views of the river. It is important to maintain these views. Therefore, the following guidelines will be used when reviewing actions against this policy:

1. Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.

2. Clustering or orienting structures to retain views, save open space, and provide visual organization to a development.

3. Incorporating sound, existing structures into the overall development scheme.

4. Removing deteriorated and/or degrading elements.

5. Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest.

6. Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters.

7. Using appropriate materials, in addition to vegetation, to screen unattractive elements.

8. Using appropriate scale, form, and materials to ensure that buildings and other structures are compatible with, and add interest, to the landscape.

9. Within the Waterfront Revitalization Area, billboards, roof signs and pole signs are prohibited. Ground signs are allowed for identification of a project or project area and will be consistent with the Town sign ordinance and design standards developed by the former Horizons Waterfront Commission.

River Road is a major access road in the Tonawanda waterfront, serving industrial users, as well as through traffic. Since it serves as a gateway to the Town's waterfront, its visual character is an important component of the public's perception of the waterfront. Street trees and appropriate landscaping shall be incorporated into improvement plans for River Road. In addition, private development shall provide street trees in accordance with the standards of the Waterfront Zoning District and the General Industrial Zoning District.

See Policies 1 and 2, and Part IV. Refer also to Appendix A and Appendix B.

AGRICULTURAL LANDS POLICY

POLICY 26 **THE STATE COASTAL POLICY REGARDING THE CONSERVATION AND PROTECTION OF SIGNIFICANT AGRICULTURAL LANDS IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

ENERGY AND ICE MANAGEMENT

POLICY 27 **DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.**

POLICY 27A **DECISIONS ON THE EXPANSION OF NIAGARA MOHAWK POWER CORPORATION'S HUNTLEY STATION WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.**

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

A determination of public need for energy is the first step in the process for siting any new facilities. The directives for determining need are set forth in the New York Energy Law. With respect to transmission lines and steam electric generating facilities, Articles VII and VIII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Town of Tonawanda, the Department of State will comment on energy policies and planning reports as may exist; present testimony for the record during relevant proceedings under State law; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area are made consistent with the policies and purposes of this Local Waterfront Revitalization Program.

POLICY 28 **ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDRO-ELECTRIC POWER.**

POLICY 28A **ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE THE STRAWBERRY ISLAND HABITAT, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDRO-ELECTRIC POWER.**

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydroelectric power, the Strawberry Island - Motor Island Shallows, flood levels, and rates of shoreline erosion damage. Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

POLICY 29 **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF OFF-SHORE ENERGY SOURCES IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

WATER AND AIR RESOURCES

POLICY 30 **MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater, but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into the Niagara River and Two Mile Creek, and those which pass through the Town's sewage treatment system before reaching the Niagara River.

POLICY 31 **STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217), the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has

adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Program and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

The State has identified certain stream segments as being either "water quality limiting" or "effluent limiting." Waters not meeting State standards and which would not be expected to meet these standards even after applying "best practicable treatment" are classified as "effluent limiting," and all new waste discharges must receive "best practicable treatment." However, along stream segments classified as "water quality limiting," waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.

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

POLICY 32 **THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IS NOT APPLICABLE TO THE TOWN OF TONAWANDA.**

POLICY 33 **BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.**

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g. construction of retention basins) and combined sewer overflows (e.g. replacement of combined system with separate sanitary and storm-water collection systems) are not economically feasible. Until funding for such projects becomes available, non-structural approaches (e.g. improved street cleaning, reduced use of road salt) will be encouraged.

POLICY 34 **DISCHARGE OF WASTE MATERIALS INTO THE COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS, AND WATER SUPPLY AREAS.**

The discharge of sewage, garbage, rubbish, and other solids and liquid materials from watercraft and marinas into the State's water is regulated. Within the Town's waterfront area, priority will be given to the enforcement of this law in the area of public water supply intakes which need particular protection from contamination by vessel wastes.

Pumpout facilities shall be required at all new or expanded marinas or at other places where boats are moored, except where:

1. The facility is designed for, and will serve, boats of 26 or less feet in length, which are not equipped with marine sanitation devices; or

2. The facility provides less than 25 seasonal slips for boats of 26 or more feet in length, and there is adequate pumpout capacity at a neighboring marina or other place which, by notarized agreement, will allow use of its pumpout facilities.

POLICY 35 **DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES AND WETLANDS.**

Dredging often proves to be essential for waterfront revitalization, maintaining navigation channels at sufficient depth, and removing pollutants. Such dredging projects, however, may adversely affect water quality and scenic resources. Often, these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the spoil disposal site.

State dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulation developed pursuant to Environmental Conservation Law, Articles 15, 24, 25, and 34.

See Policies 7, 12, and 15.

POLICY 36 **ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

The NYS Environmental Conservation Law (Section 37-0101.2) defines materials hazardous to the environment as "substances which, because of their toxicity, magnification or concentration within biological chains, present a demonstrated threat to biologic life cycles when discharges into the environment." All activities within the Town's waterfront area which are subject to this policy shall comply with all State and federal regulations.

POLICY 37 **BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS**

NUTRIENTS, ORGANICS, AND ERODED SOILS INTO COASTAL WATERS.

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

To maintain natural drainage functions of the land, and to reduce the volume of sedimentation and other pollutants entering the Niagara River, the following standards will be applied to all development and land use activities with the Town's waterfront area:

1. Stream channels, natural flood plains, and major drainage swales shall not be altered in a manner which decreases their ability to accommodate and channel stormwater runoff and flood waters. Disturbance of land includes activities such as alteration of slope, deposition of waste materials, and removal of vegetation.

2. Development shall preserve salient natural features of a site, minimize grading and cut and fill operations, ensure conformity with natural topography, and retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and adequately handle the volume and rate of velocity of surface water runoff.

3. Natural drainage patterns shall be protected and incorporated into site design.

4. Site preparation, including stripping of vegetative cover and grading, shall be undertaken so that no individual building site is stripped of its vegetation cover more than thirty (30) days prior to commencement of construction.

5. Disturbed soils shall be stabilized and revegetated or seeded as soon as practicable. During the interim, erosion protection measures such as temporary vegetation, retention ponds, recharge basins, berming, silt traps, and mulching shall be used to ensure that sedimentation is minimized and mitigated.

6. In no case shall stormwater be diverted to another property either during site preparation or after development.

7. Fill shall not encroach on natural watercourses, constructed channels, wetlands, or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion, and prevents settlement.

8. A natural vegetative buffer of twenty-five (25) feet shall be retained adjacent to surface waters and wetlands to absorb floodwaters and trap sediments.

9. Trails and walking paths along waterbodies shall be sited and constructed so they are not a source of sediment.

10. The amount and velocity of runoff from a site after development shall approximate its pre-development characteristics. However, if the site is adjacent to coastal waters, stormwater shall be contained on-site, to the maximum extent practicable, to prevent direct discharge of runoff into coastal waters.

POLICY 38 **THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

The Niagara River is the sole source of drinking water in the Town of Tonawanda and therefore must be protected. The Town's waterfront area is serviced by a high technology water treatment and sanitary sewer system and all commercial and industrial discharges are regulated by State and federal law.

POLICY 39 **THE TRANSPORT, STORAGE, TREATMENT, AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT SURFACE WATER SUPPLIES, RECREATION AREAS, AND SCENIC RESOURCES.**

POLICY 39A **THE PERMANENT DISPOSAL AND PERMANENT STORAGE OF SOLID AND HAZARDOUS WASTES ARE PROHIBITED WITHIN THE TOWN'S COASTAL ZONE.**

The definition of terms "solid wastes" and "solid waste management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris, and industrial and commercial wastes. For a definition of hazardous waste see Policy 8.

Hazardous materials are substances used in the manufacturing or refinery process generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901(3)), as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed, transported or otherwise managed." A list of hazardous wastes (NYCRR Part 366) has been adopted by DEC (6 NYCRR Part 371).

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills, and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may

include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Permanent solid and hazardous waste disposal and storage in the local waterfront area is prohibited.

POLICY 40 **EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.**

POLICY 40A **EFFLUENT DISCHARGED FROM THE NIAGARA MOHAWK POWER CORPORATION HUNTLEY GENERATING STATION, CHEVROLET MOTOR DIVISION, DUNLOP, DUPONT, AND OTHER INDUSTRIAL FACILITIES INTO THE NIAGARA RIVER WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.**

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

POLICY 41 **LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.**

POLICY 41A **LAND USE OR DEVELOPMENT IN THE TOWN'S WATERFRONT DISTRICT WILL NOT CAUSE ANY DECREASE IN AIR QUALITY STANDARDS.**

The Town's Local Waterfront Revitalization Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and state laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

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

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

In addition, any land use or development proposed for the Town's Waterfront Zoning District must not result in a decrease in air quality within the area.

See Policy 1A.

POLICY 42 COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREA PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

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

POLICY 43 LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS; NITRATES AND SULFATES.

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

POLICY 44 PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

POLICY 44A PRESERVE AND PROTECT THE FRESHWATER WETLANDS IN THE CHERRY FARM AREA.

A freshwater wetland of 13 acres is located in the Town's waterfront area adjacent to the Cherry Farm, and is illustrated in Map 10.

The benefits derived from the preservation of this wetland include, but are not limited to:

- -- erosion, flood, and storm control
- -- natural pollution treatment
- -- groundwater protection
- -- recreational opportunities

Any activity proposed in this wetland shall conform to those standards established in NYCRR, Title 6, Parts 663 and 664.

In the Cherry Farm area, the existing freshwater wetland will be protected and incorporated into the design of the park as a passive natural area. Care shall be taken in the design, construction, and maintenance of the park to ensure that freshwater continues to flow into the wetland from the Niagara River through the existing inlets. In addition, any road crossing the wetland to provide access from River Road to the Cherry Farm site shall be constructed in a manner that permits the continued exchange of water from one side of the wetland to the other.

SECTION IV

PROPOSED LAND AND WATER USES

In order to provide a sound direction for both short and long term land and water uses along the waterfront, it is beneficial to review recent reports and certain marketing factors which may influence such proposals. This section reviews such information and concludes by outlining proposed short (up to 5 years) and long (to 20 years) terms.

The Town has taken major initiatives to advance revitalization of its waterfront. Several Waterfront Zoning Districts were created by local law in 1996, see Map 7. In 1989, the Town completed a study of the waterfront, which produced an integrated waterfront land use plan with development options and implementation strategies. A waterfront master plan was prepared in 1992 in conjunction with the Horizons Waterfront Commission. This section of the LWRP reflects these development activities.

The Horizons Waterfront Commission Action Plan was adopted by the Town Board in 1992. The Town's plans have been tailored to form an integral part of this coordinated overall Erie County plan.

A. RECENT REPORTS

1. **Upper Niagara River Study, 1976, Erie and Niagara Counties Regional Planning Board:** The Regional Planning Board conducted a study of how to increase the recreational opportunities along the Niagara riverfront from the City of Buffalo's northern border to the Falls area of the City of Niagara Falls. Emphasis was placed on the development of both general and specific proposals which could be implemented with existing operation and maintenance funds of various agencies operating along the river. The plan emphasizes the improvement of access to the riverfront, development of specific recreational areas, and the development of a continuous trail along the entire Niagara River.

   Specific recommendations for the Town included the following:

   a. Southern Sector

   - Continuation of Riverwalk between the Thruway and Niagara River, as well as along Niagara Street.
   - Limited public use of Strawberry Island and designation as a nature preserve.
   - Development of an artificial reef offshore of Strawberry Island for shore protection and fish habitat.
   - Expansion of recreation facilities at Aqua Lane Park.

- Linking Sheridan Park to the waterfront by a Class I trail.

b. Central Sector

- Continue the Riverwalk along the Erie Barge Canal bed, acquiring public access easements between the Town boat launch and the Grand Island Bridge.

- Develop the area north of the Spencer Wickwire/Roblin site (Cherry Farm and adjacent parcels) into a municipal shoreline park with facilities for picnicking, boat launching and docks, bicycling, motor camping, and sports.

- Continue industrial land uses in all areas except the park area.

c. Northern Sector

- Continue the Riverwalk to connect with the Niawanda and Two Mile Creek Parks.

- Coordinate industries to use a single river dock.

- Promote landscaping along the entire corridor.

- Complete the extension of Isle View Park into the Town.

2. **Interim Report on Feasibility of Improving Access and Water-Related Land Management, 1979, U.S. Army Corps of Engineers:** The Corps report outlined alternative water and related land management plans compatible with the comprehensive development goals of the Buffalo area. The recommendations for sections of the Town of Tonawanda waterfront include the following:

- Bicycle path on the waterside of the Thruway in Niagara View and extending to Sheridan Park via Sheridan Drive and Two Mile Creek Road.

- Ferry service to Strawberry Island.

3. **Riverwalk - Phase II, 1981, Erie County Department of Environment and Planning:** The County report identified the preliminary trail route in the Town and City of Tonawanda. In the Niagara View section, the walk would be located on the waterside of the Thruway. The trail would follow the old Canal bed through the industrial corridor with two diversions to the water's edge at the Erie County Water Authority treatment plant, as well as at the Cherry Farm Overland Express

International complex. In the Northern Sector, the Riverwalk would follow the canal bed to the undeveloped section of the County's Isle View Park. At that point, the trail would hug the shoreline.

4. **Comprehensive Development Plans and Strategy for Expansion of Fire Tower Industrial Park, 1985, Town of Tonawanda:** The report provides an in-depth analysis of the proposed expansion to the Fire Tower Industrial Park. The latter is located immediately east of the Northern Sector of the shoreline. Part of the study encompassed a section of the Isle View subarea east of River Road.

   The report recommends the following for the waterfront area:

   - Development of Zone 1 (see Maps 14 and 15) for office and service functions.
   - Development of Zone 2 for light industrial uses (see Maps 14 and16).
   - Provide road access into site with a minimum of two connection points.
   - Landscaping along River Road.
   - In anticipation of continued use of the tank farm at the Ashland Refinery site, continue the industrial zone classification for this area. Dismantle the refinery facilities as soon as possible.

5. **Horizons Waterfront Action Plan, 1992, Horizons Waterfront Commission:** In the Fall of 1988, the City and Town of Tonawanda, the Cities of Buffalo and Lackawanna, the Towns of Hamburg, Evans, and Brant, Erie County, and the Niagara Frontier Transportation Authority signed the Intermunicipal Agreement forming the Horizons Waterfront Commission. The Commission then began work on the Horizons Waterfront Master Plan, which was a multi-year effort to define the waterfront study area, inventory critical resources, formulate goals and objectives, develop a conceptual land use plan and prepare implementation recommendations and guidelines. The goals of Action Plan are to:

   - provide a waterfront that gives significant enrichment to the quality of life;
   - rejuvenate and sustain the waterfront as a clean, inviting, and healthy environment;
   - achieve a prosperous waterfront by pursuing economic development that advances environmental quality and enriches the quality of life.

- The Town of Tonawanda was an active member of the Horizons Waterfront Commission, and continues to be with its successor, Western New York Empire State Development; therefore, it's plans for future development are in concert with recommendations put forth in the Action Plan.

6. **Waterfront Region Master Plan, Town of Tonawanda, 1992, Waterfront Master Plan Consulting Team:** Halcyon Real Estate Advisors, Sasaki Associates and Nutter Associates: The Tonawanda Waterfront Region Master Plan was a study completed by the Halcyon Real Estate Advisors to assess the public costs and benefits along with the feasibility of private investment to redevelop the Town of Tonawanda's waterfront. The study focused on an overall development strategy including development phases and funding sources. Target development projects were examined, as follows:

   a. River Road Relocation: The realignment of River Road will occur 1,000 feet east of the existing River Road centerline. It is anticipated that the northern terminus of the new road will be at the intersection of River Road and Two Mile Creek Road and the southern terminus of the new road will be at the Grand Island Bridge. Between the new and existing River Roads will be a site suitable for residential development.

   b. Office and Light Industrial Development: Three areas have been identified for future development:

      - "300 Acres" - An industrial park bounded by Two Mile Creek to the north, River Road to the west, Seaway Landfill to the south, and the Niagara Mohawk transmission corridor to the east.

      - Thruway Commerce Center (Ashland Site) - Development will occur in two areas. Across from Riverfront Park will be light industrial, office, "flex tech," and incubator development. The area across from the Seaway landfill will consist of a business campus.

      - Ashland North - Light industrial uses are anticipated on this property.

   c. Riverfront and Town Harbor: The Town Harbor will include a variety of uses, including a family-style restaurant, a boat dock, a small hotel/inn, and an exhibit center/museum. It will also connect the existing Riverwalk path and Isle View Park.

   d. Riverfront Housing: Development of the site made available by the River Road relocation will accommodate several densities of housing: single

family lots; medium density residential townhouses; and higher density residential with a combined total of 346 dwelling units.

e. Cherry Farm Park: Uses for the site include an active and passive park consisting of a marina with launching ramps and dry storage, play fields, restoration of a small segment of the former Erie Canal, picnic areas, and a wetlands trail.

B. MARKET FACTORS

Buffalo's role as one of the nation's leading industrial centers in transportation, chemical production, and steel-making has declined since the 1960's as a result of national and international competition, significant shifts in the nation's economic and industrial output, and the aging of the region's capital stock and infrastructure. Today, Buffalo's economy is presently undergoing transformation from heavy industrial and manufacturing to service, reflecting similar nationwide trends. Service industries and wholesale and retail trade have experienced significant growth since the 1970s. The current leading manufacturing industries in Greater Buffalo include automotive components, printing, fabricated metals, industrial machinery, chemical and food processing, and computer and medical instruments.

As part of the region's economic restructuring, a number of public and private initiatives have been created to enhance economic and industrial development. These efforts are led by local, State, and federal governments, as well as private industry to facilitate regional economic diversification, industrial expansion and relocation, and linkages between education, research, and industry. The Erie County Industrial Development Authority (ECIDA) and the Metro Buffalo Alliance (MBA) are two examples of public/private partnerships involved in economic and industrial development.

The Town's waterfront offers a unique physical setting which may warrant private developer interest, even without the massive public assistance programs of the past. Therefore, it is appropriate to consider the following market observations for some key land uses prior to outlining any proposed land and water uses:

1. Industrial

- Based on recent trends and nationwide shifts, industrial growth areas are likely to be high technology sectors. The total Buffalo SMSA absorption of this type of industry per year is approximately 50 acres. It is expected that many of the new and growing industries in this field will continue to seek suburban locations with good corridor access.

- Recent reports have indicated little demand for water-dependent industry along the Buffalo waterfront due to market changes, lack of growth rate projected for water-dependent industry, and the fact that the availability of sites having access to processed water is not limited to the waterfront.

- As of 1990, there were 700 vacant acres of industrial park space in Erie County. Given the annual absorption rate, the above figure is enough to accommodate the region's needs for the next 12-15 year period.

- Given the large amount of underutilized waterfront industrial land in the Town of Tonawanda, opportunities are present to redirect these vacant areas to alternative land uses.

- The absorption rate for industrial park space at the Town's Fire Tower Park averaged 8 acres annually over an 8 year period.

- Based on market data, it is estimated that the '300 Acres Site' could absorb some 3.02 million square feet of light industrial and office space.

2. Residential

- An evaluation of the need for residential units in the year 2000 indicates that there is likely to be an oversupply of units to satisfy Town population needs. The analysis was limited strictly to Town needs and assumed a year 2000 population of 79,650 and total households of 27,190. However, by using a parallel analytical technique, recent reports have indicated that the City of Buffalo will need 30,580 new units by the year 2000. It can be assumed that much of this demand can be met in the Town of Tonawanda.

- The actual number of units which can be supported at the waterfront is certainly a function of numerous items including site availability, environmental conditions, and pricing structure. Since the waterfront and adjacent areas are the only substantial areas in the Town where vacant land exists, it is reasonable to assume that some residential uses could be accommodated at choice locations if certain other conditions are present. These are noted later in this section.

3. Marina

Demand for boat slips on the Tonawanda waterfront will come from three basic sources: latent demand, or boats that would dock in a marina if space were currently available; transfer demand, or boats captured from existing marina space; and new boats entering the market each year seeking dockage space. A market analysis indicates that tapping area boating demand is limited more by a lack of available waterfront sites than by a lack of market strength.

a. Latent Demand: Local marina operators estimate that 25% of boat owners in Greater Buffalo would desire a boat slip. This yields a supply of 7,952 craft (of 31,809 total craft in 1987). Assuming present occupancies approaching 100%, the entire existing and proposed 1991 supply of slips is projected to be 4,362 slips. As a result, it is estimated that there is an unmet demand for approximately 3,590 slips. Halcyon projects that an attractively designed, well-located marina(s) on the Tonawanda waterfront could capture 20% to 30% of this latent demand, or from 700 to approximately 1,000 craft.

b. Capture from Existing Marinas: The ability of a marina on the Tonawanda waterfront to capture demand currently being met by existing facilities depends, in large part, on the facility's location, access, fees, services, and design. However, these sources of demand will depend on a site-specific, detailed marina development program. A limited capture is possible.

c. Annual Growth Potential: Erie and Niagara Counties have witnessed a substantial increase in the number of registered boats, particularly since 1985. This growth rate is conservatively projected to continue at approximately 3.0% annually into the early 1990s, yielding 1,937 new boats by 1991. Presuming 25% of these owners would desire boat slips, this results in an annual slip demand of 242 over this two-year period. Tonawanda's waterfront could capture 20% to 30% of this annual growth, providing demand for 97 to 145 slips.

Table 6: Marina Demand Analysis Summary Tonawanda Waterfront Region			
	Demand	**Unmet Demand(3)**	**Capture of Unmet Demand**
Latent Demand	7,952(2)	3,950	@20.0 718 @30.0% 1,077
Capture from Existing Marinas	N/A	N/A	N/A
Annual Growth Potential	1,937(4)	484(5)	@20.0% 97 @30.0% 145
		TOTAL:	**@20.0% 815** **@30.0% 1,222**

(1) In Erie and Niagara Counties Only.
(2) Assumes 25% of total existing demand (31,309) would utilize boat slips.
(3) Existing slip demand @ 25% less existing and proposed marina slips (4,362).
(4) Growth compounded annually between 1989-1991.
(5) At 25%.

C. PROPOSED LAND AND WATER USES

The following provides a description of recommended land and water uses within each waterfront subarea. Emphasis is placed first on vacant parcels which have the best potential for development either in the short or long term. Map 17 illustrates the long term uses in an overview manner, complemented by Map 18, which displays those new uses anticipated in the short term (up to 5 years) and the longer term (6 to 20 years).

1. Southern Sector (Sheridan Drive and south):

The New York State Thruway, Aqua Lane Park, and the Town's Water Treatment Plant can be considered permanent uses throughout the study period. The marina/commercial uses along Aqua Lane, although appropriate, require upgrading and facade and maintenance improvements. The industrial uses, General Motors and DuPont, are vital industries to the Town and are assumed to continue.

The following recommendations pertain to key vacant parcels in this subarea.

a. Public Parks and Launch Site: Continue the upgrading and development of the public access park facilities at Aqua Lane Park, the Town's Water Treatment Plant, and the Town launch site.

b. New York State Thruway and adjacent waterfront: The parcels located on the waterside of the Thruway are recommended for use by the Riverwalk to provide a connection to the City of Buffalo. The Thruway is scheduled to be rebuilt in this area and it is recommended that physical and aesthetic improvements provide opportunities for increased public access to and enjoyment of the shoreline.

c. Strawberry Island: The island is a most important fish spawning area and is vital to maintaining the shoals region immediately downstream. The island is under the jurisdiction of the NYS Office of Parks, Recreation, and Historic Preservation and protection from erosion is necessary to prevent imminent destruction of the island. Once stabilized, a regional park ferry service should be considered to increase access to the island's fishing resources.

d. Sheridan Drive Corridor: Extension of the Riverwalk eastward along Sheridan Drive to a connection to Sheridan Park will provide an attractive linkage and trailway.

2. **Central Sector (from Sheridan Drive to Grand Island Bridge):**

a. Dunlop Parcel: The vacant 25 acre site at the northeast corner of River Road and Sheridan Drive includes a former hazardous waste disposal site undergoing remedial action. It is targeted for industrial development following remediation, with expansion of Dunlop's activity as the primary use. Among its advantages are its large size under single ownership, proximity to I-190, and the nearby rail access.

b. Erie County Water Authority Site: It is proposed that this public property be modified to provide public access to the waterfront with possible extension of the Riverwalk to the shoreline. Ample space is available for incorporating passive public uses on the park-like site while providing for security of the public utility.

The site also provides a desirable transitional buffer between the NMPC Huntley Plant and the Roblin Steel Complex described below.

c. Niagara River World (Wickwire/Roblin Steel): This parcel presents a special opportunity for future development. It is under new ownership by

Niagara River World Inc. The 62-acre site presently contains a variety of underutilized and deteriorating industrial structures, plus docking facilities. It is currently used for light industrial and warehousing activities.

Upgrading to mixed uses of residential, marina, hotel, office and some commercial is proposed. The installation of extensive landscaping and other aesthetic improvements can dramatically transform the site. Demolition of obsolete structures and rehabilitation of buildings is required. New facades will dress up possible continuing pre-existing non-conforming uses. As a part of the overall redevelopment efforts, opportunity for public access along the shoreline is proposed.

d. Niagara Mohawk Fly Ash Disposal Site: This site extends from River Road inland for several thousand feet. The portion adjacent to River Road is nearing closure and portions farther inland will continue to be utilized for long term fly ash disposal. The River Road frontage has been bermed and partially landscaped to screen operations from public view.

Redevelopment of the site, in and adjacent to the waterfront area, is subject to the closure of these portions of the site. Productive use of the site is proposed and will be explored in conjunction with closure. Public uses such as an elevated vista, sled/ski slopes, and camping are possible. The nature of the waste material may also accommodate private development.

e. Cherry Farm: This 57-acre site is a beautiful and strategically located parcel which is undergoing remediation of the low level hazardous wastes deposited there (slag, cinders, foundry sand, sand casts). Cherry Farm affords excellent scenic views along its nearly one-half mile shoreline and also contains 18 acres of natural beauty wetlands. The Farm and the immediately adjacent parcels have long been identified for use as public parkland or for residential development (e.g., Upper Niagara River Study, Section A, above). The Town has worked with the site's owner, NMPC, and the NYS Department of Environmental Conservation (DEC) in completing the Remedial Investigation and Feasibility Study of the Remediation Program. The site is currently being redeveloped as a regional public park. DEC has issued the Record of Decision which incorporates provisions which are compatible with park construction.

Park features, identified in the park site master plan study funded by the Town and in the Waterfront Master Plan (1992), include wetland nature trails, outfitted active and passive recreational areas, interpretive center, bandshell and other recreational improvements. On-site trailways are linked with the Riverwalk to extend shoreline access.

Compatible development of the adjacent sites is important to obtain an integrated cohesive waterfront. Additional marina facilities and ancillary water-related businesses, such as sports fishing supply, boat storage/repair, as well as residential uses are considered viable.

f. River Road Corridor Improvements: Beautification of the Corridor through roadside landscape improvements will upgrade the waterfront identity and contribute as a major element to waterfront revitalization. It presents a unique opportunity to improve the appearance of the industrial area by the use of green space. The landscaping will be aesthetically pleasing, coordinated along the entire length of the road and integrated with the Riverwalk in the Southern Sector. The involvement of the private landowners is expected and several have already indicated their willingness to participate.

Complementary lighting and signage consistent with standard lighting and signage selected by the Horizons Waterfront Commission will be included.

3. Northern Sector

This subarea presents a most significant opportunity for change along the Tonawanda waterfront. The entire region, extending beyond the waterfront area, encompasses approximately 700 acres bounded by the northern Town boundary, the Niagara River's 6,200 foot shoreline, the Thruway/Youngmann Expressway and the Fire Tower Drive Industrial Park. The region is dominated by vacant and underutilized land.

The inland side of River Road, beginning at the south, contains a vacant Ashland site followed by the Seaway Landfill property which incorporates a waste transfer station and small trucking operation. The balance of this portion of the waterfront area, extending to the northern boundary of the Town, is made up of parcels which are mostly vacant, except for two small tank farm properties. This configuration suggests assembly for major development. A few non-conforming non-water-related uses continue in operation and are proposed to be phased out.

On the waterside, the Isle View Park has been extended about 4,000 feet southward into the Town and presents an attractive recreational site. The Riverwalk is very popular, seeing heavy usage and extends from the City of Tonawanda southward through the Isle View Park thence adjacent to River Road to the Grand Island Bridge. The southern portion of this segment is a 15-acre parcel principally occupied by Ashland/Agway, containing 6 acres of wooded unused land plus a dock and refinery waste treatment facility.

The scenic vistas available from River Road in this sector are unequaled along the Town's waterfront and suggests a high potential for redevelopment.

It is proposed to relocate River Road inland, thereby creating approximately 57.6 acres of premium water view property on the high bluffs overlooking the present Isle View Park and the Niagara River. This "found land" is to be used primarily for residential development. The roadway is to be a waterfront boulevard divided highway with central landscaped mall and verges.

The following recommendations pertain to key sites incorporating the inland routed Waterfront Boulevard (see Maps 17 and 18). Beginning at the northern boundary with the City of Tonawanda and going southerly:

a. Waterfront Boulevard Housing Complex: This segment of approximately 57.6 acres is proposed for residential use. It is a most attractive segment which is on the bluffs overlooking Isle View Park with beautiful sweeping views of the Niagara River. A wide public promenade is proposed at the crest with multi-family residence complexes inland consisting of, perhaps, condominiums, town houses, and apartments with supporting retail. The area inland from the boulevard is proposed for use as office, light industrial and/or commercial uses, typically flex-tech (See Maps 15 and 17).

b. Riverfront Park (Ashland/Agway Shoreline Tract): It is proposed to use this tract of approximately 16 acres for redevelopment as a Town harbor/boat basin incorporating park areas, temporary docking, and mixed use development such as restaurant, hotel/inn, specialty shops, all enjoying both water views and good visibility and access from I-190 at the Town's gateway.

   Consolidation of the underutilized Ashland docks at the NOCO location south of the bridge is proposed. The Ashland waste treatment facility would be removed and tank catch basin surface water from the tank farm inland from the waterfront area and pre-treated at a location within the tank farm, then transmitted to the Town's sewage treatment plant.

c. New York State Thruway Authority Parcel: The land directly beneath the Grand Island Bridge contains 6 acres, which is partially used for passive recreation, allowing access to the water's edge from the Riverwalk. The Waterfront Region Master Plan (1992) has proposed a landscaped parking area on the balance of the property for use by visitors to the proposed inn/hotel, boat basin, restaurant and interpretive center development at the Riverfront Park.

d. Ashland Refinery parcel east of River Road: This approximately 20-acre site within the waterfront area is a choice property with easy access and high visibility from I-190. It is proposed for commercial development and appears to be particularly well-suited for an attractive office complex.

e. Seaway Landfill/Waste Transfer Station: The portion in the waterfront area is not being used for waste disposal and is proposed to be used for the waterfront boulevard. Land area on the water side of the boulevard will be incorporated in the Riverfront Park discussed above.

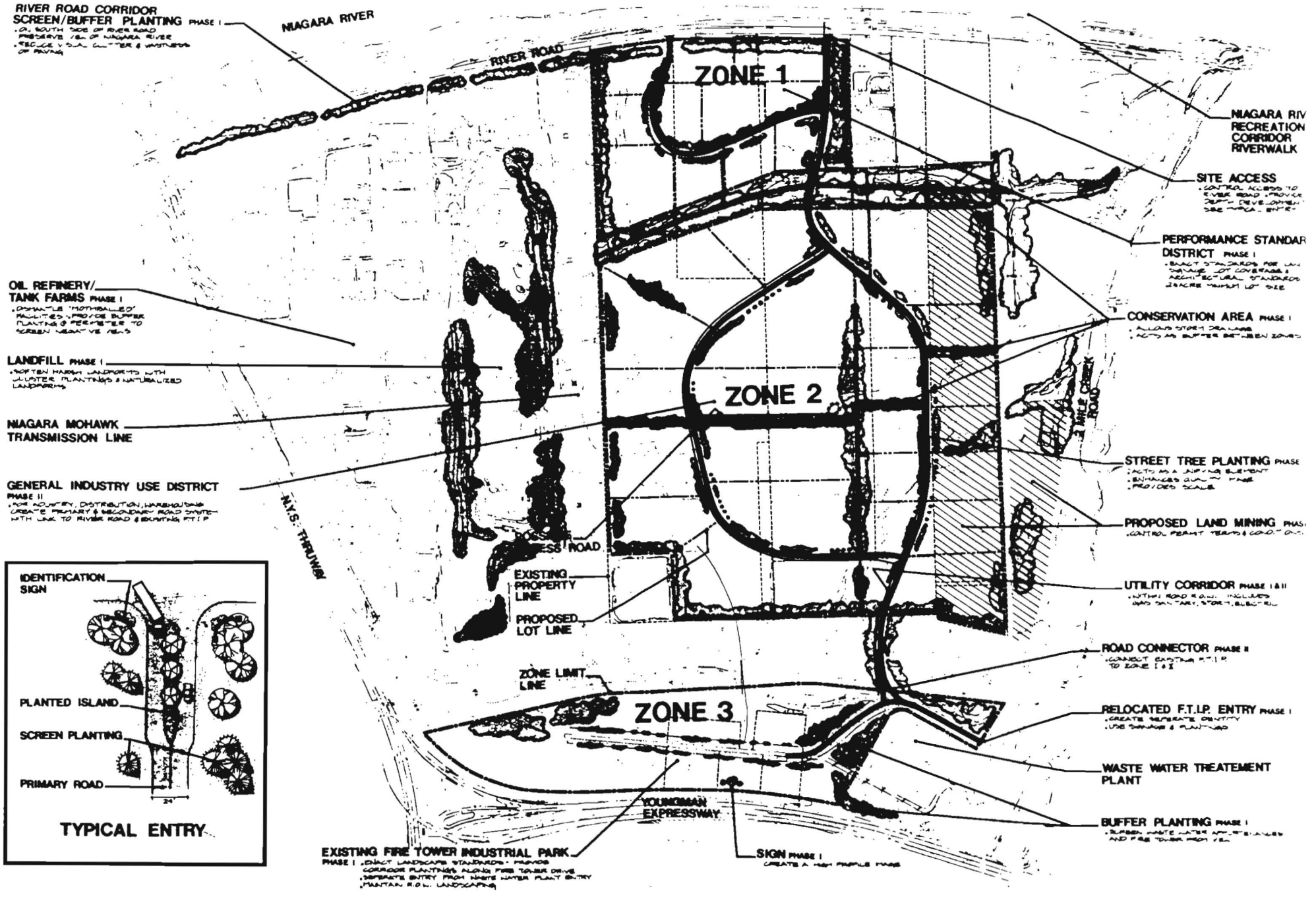
The landfill to the east is expected to close by 1994 at an elevation 170 feet above River Road with 3:1 shallow side slopes. Landscaping of the landfill slope will soften its visual impact. Assuming that the portion which contains low level radioactive waste is also remediated, as planned by DOE in that time period, a clay cap with earthen cover and grass will limit long term use opportunities. However, public access as a vista and possibly sledding/skiing and some recreational uses may be possible. The assistance of DEC in developing productive use is being sought.

A crucial factor to set developers and occupants of this sector at ease is the remediation of the three nearby radioactive sites, a priority DOE activity.

The City of Tonawanda plans to develop the Two Mile Creek Park immediately north of the Town boundary are in accord with the proposed uses, and an attractive carefully designed juncture of the waterfront boulevard with entrances to Isle View and Two Mile Creek Parks will benefit those facilities.

The recommendations presented above are not intended to preclude consideration of other more appropriate responses to market conditions. Rather, as the future of the waterfront evolves, development decisions must ultimately respond to the overall economic and environmental context in which they occur. Flexibility is required to permit a variety of land uses which can respond to market conditions, while at the same time prohibiting uses which detract from the visual potential of the area.

The proposed uses will present visually beautiful, environmentally attractive and economically sound uses for the Town waterfront.



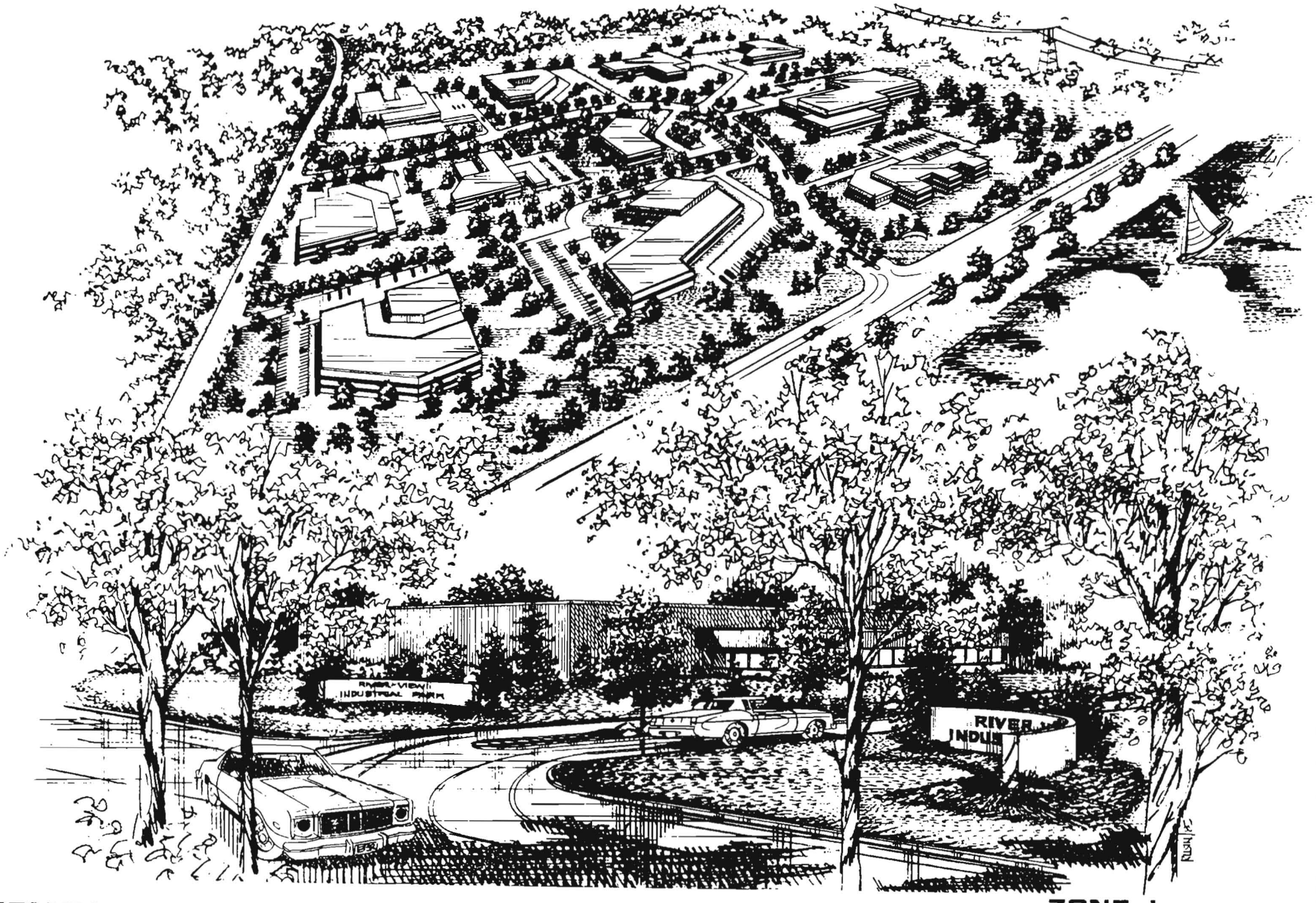
TOWN OF TONAWANDA

COMPREHENSIVE DEVELOPMENT PLAN
FIRE TOWER INDUSTRIAL PARK EXPANSION

THE SARATOGA ASSOCIATES
BRISTOL, LITYNSKI, WOJCIK P.C.
SCALE 1"=800'

MASTER DEVELOPMENT PLAN

MAP 14



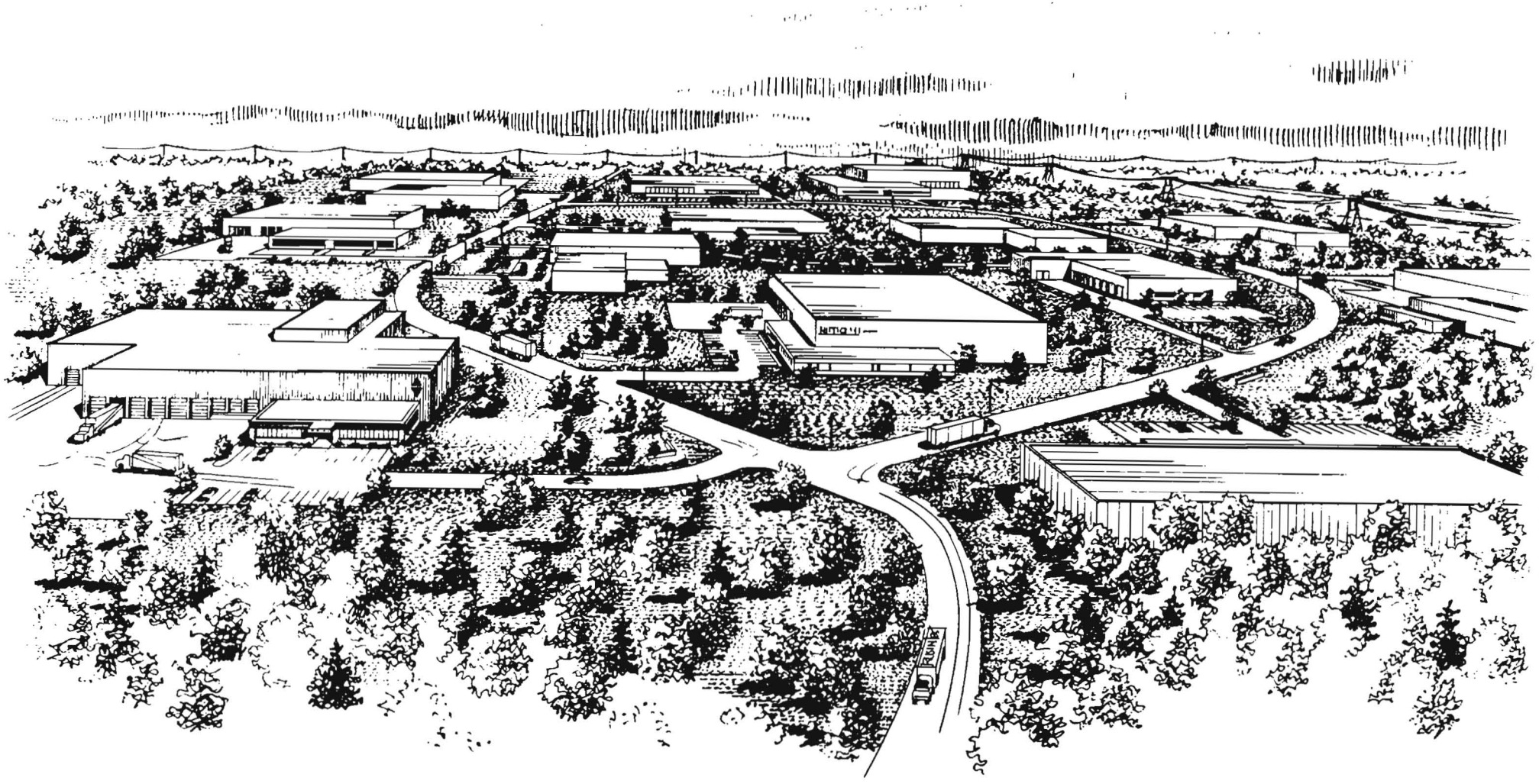
TOWN OF TONAWANDA

COMPREHENSIVE DEVELOPMENT PLAN
FIRE TOWER INDUSTRIAL PARK EXPANSION

THE SARATOGA ASSOCIATES
BRISTOL, LITYNSKI, WOJCIK P.C.

ZONE I AERIAL PERSPECTIVE

MAP 15



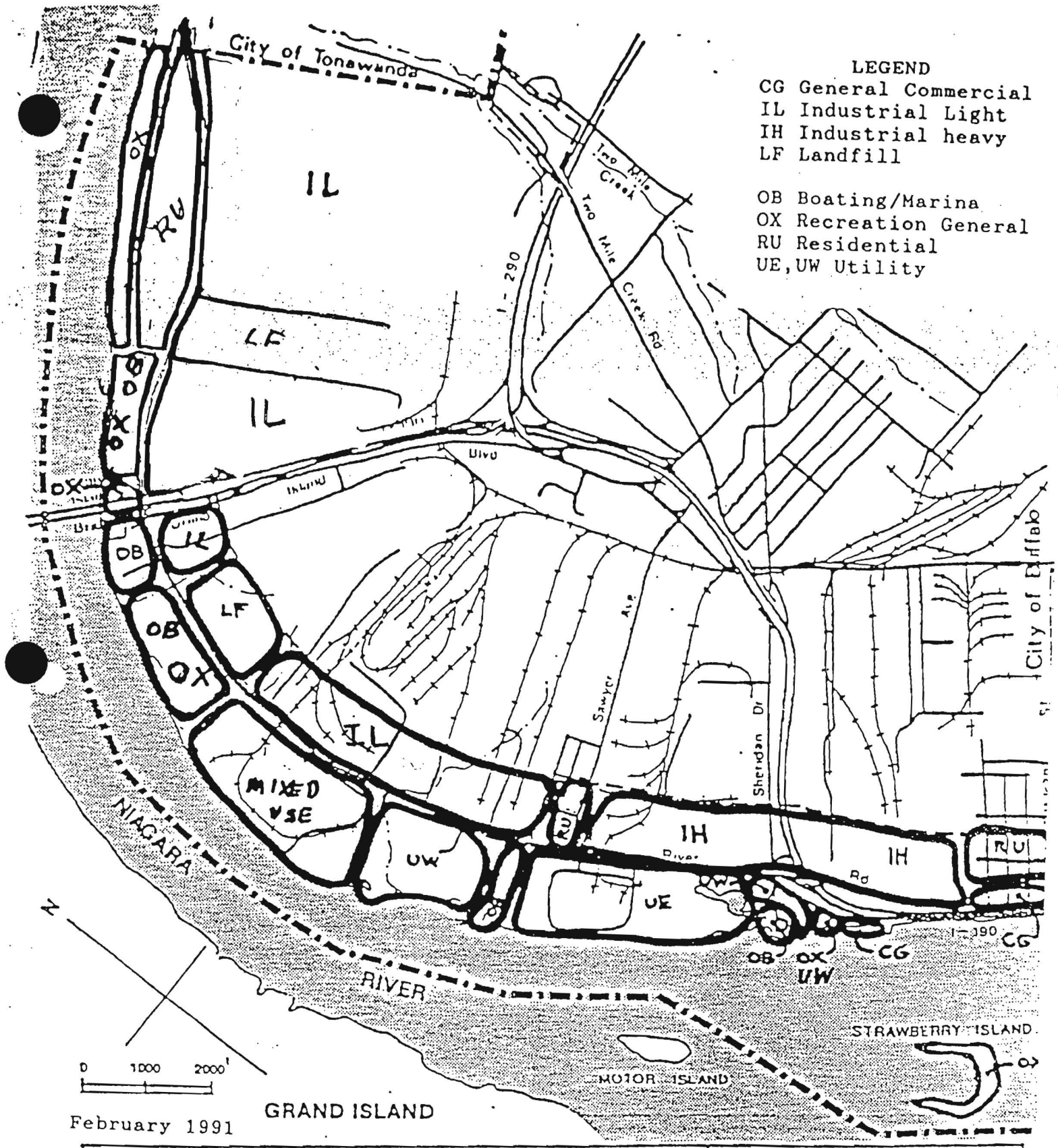
TOWN OF TONAWANDA

COMPREHENSIVE DEVELOPMENT PLAN
FIRE TOWER INDUSTRIAL PARK EXPANSION

THE SARATOGA ASSOCIATES
BRISTOL, LITYNSKI, WOJCIK P.C.

ZONE II AERIAL PERSPECTIVE

MAP 16



February 1991

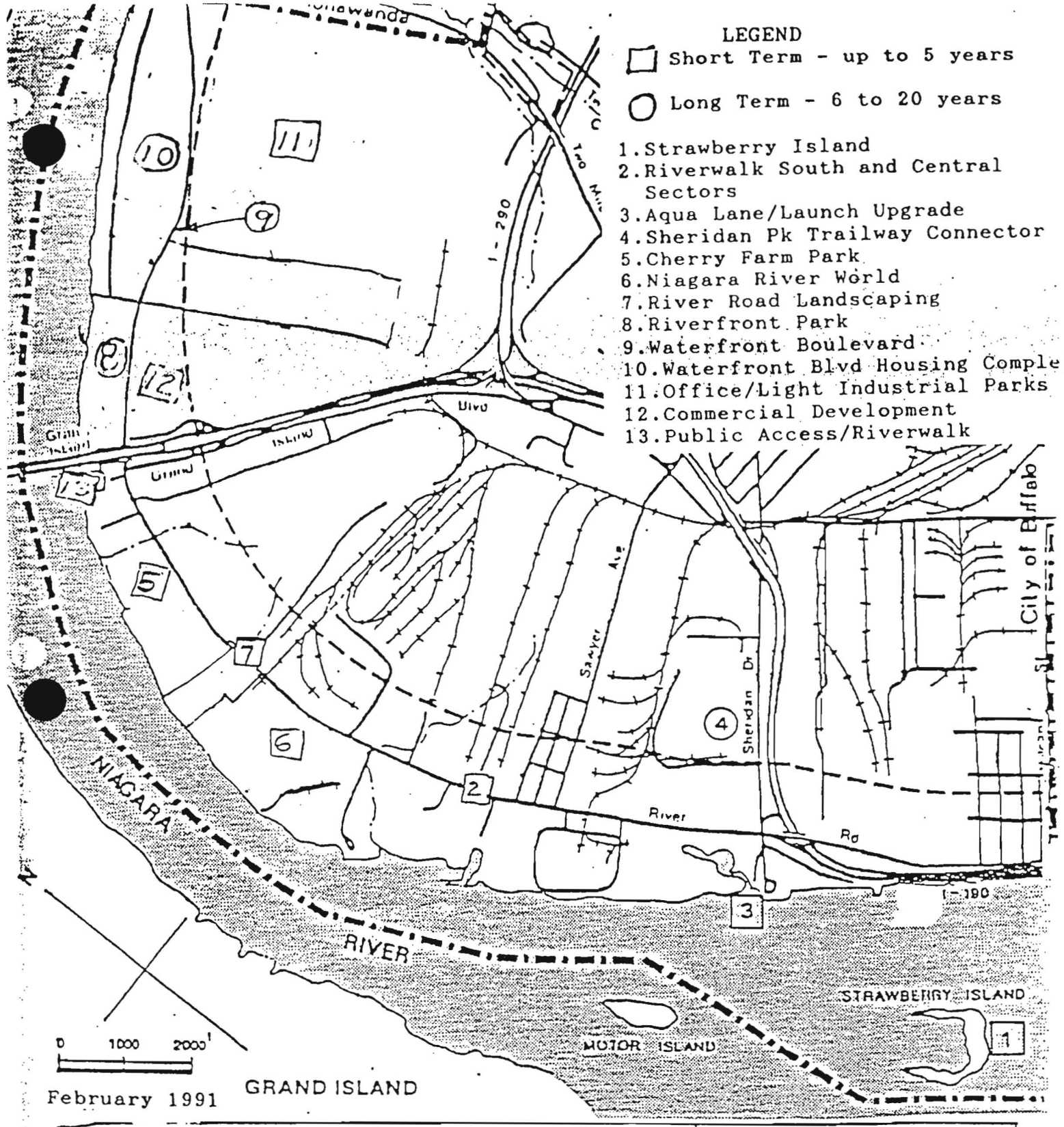
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 17

PROPOSED LAND & WATER USES

TOWN OF TONAWANDA



LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 18

SHORT & LONG TERM PROJECTS

TOWN OF TONAWANDA

SECTION V

TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

A. LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

The Town of Tonawanda has several mechanisms to implement the LWRP. The following pages briefly describe existing implementation mechanisms, and list additional mechanisms appropriate for realization of local waterfront policy objectives.

1. Flood Damage Prevention Law

a. This local law prohibits all development (except parks, flood protection structures and municipal facilities) in areas designated as 100-year floodplains. The law minimizes the likelihood of property damage due to flooding.

b. The law implements LWRP policies in the following manner:

(1) Policies 11 and 11A: Siting of buildings to minimize property and personal damage.

The Town ordinance virtually prohibits development thereby guaranteeing that property and personal damage would not occur.

(2) Policy 14: Construction of erosion protection structures in a manner which ensures no measurable increase in flooding.

The ordinance requires a permit for such activities and detailed review by the Town Engineer relative to its design ability.

(3) Policy 17: Use of non-structural flood control techniques.

See paragraph b.(1) above.

2. Sewer Ordinance

a. This law regulates wastewater disposal procedures in the Town. The law classifies and regulates industrial and non-industrial discharges, and establishes permit and pre-treatment requirements. Untreated sewage discharges into natural outlets are prohibited. Developments are required to connect to public sewers. Stormwater discharges into sanitary sewers are prohibited.

b. The Sewer Ordinance implements LWRP policies in the following manner:

(1) Policy 30: Conformity of pollutant discharges to State and national standards.

The law in Section 165-4 makes it unlawful to discharge sewage into any natural outlet except where "suitable treatment has been accorded... and except where a federal National Pollutant Discharge Elimination System permit has been issued and in force."

The law, in Section 165-20 - paragraph H, prohibits any discharge which "will cause the treatment works to violate its SPDES permit and/or the receiving water quality standards."

(2) Policy 38: Protection of the quality of surface water.

See paragraph b.(1) above.

3. **Zoning Law** (see Appendix A, Map 7)

a. The Waterfront Mixed Use District (W-1) is established on the shore of the Niagara River. District regulations permit a variety of public and private water-related park and recreational facilities. Additional specially permitted uses include marinas, boatyards, hotels, retail stores and restaurants, and other water-related commercial activities, as well as some residential uses.

Dimensional requirements call for a 75-foot setback from the high water mark of the Niagara River. Niagara River setbacks can be reduced to a minimum of 50 feet in exchange for improvements to public access. District regulations also provide for viewshed protection, and design standards for docks and marinas.

The district regulations also provide incentive zoning for development of water-dependent facilities accessory to permitted industrial development in the W-2, W-I or G-I Districts, and for increases in height or density that do not restrict visibility of the shoreline. Such uses may be permitted through incentive zoning when the applicant provides recreational opportunities or cash for such recreational uses.

b. The Waterfront Commercial Use District (W-2) is established on the land side of River Road. With site plan review, this district allows public and private water-related park and recreational facilities. All other uses, including boatyards, hotels, automotive service stations and other commercial and business uses, require a special permit.

Light industrial uses, and increases in height or density which do not degrade the character of the waterfront, may be permitted through incentive zoning. Such uses may be permitted in exchange for amenities.

b. The Waterfront Residential District (W-R) is established to allow medium to high density residential development along the river's edge. District regulations allow single family dwellings and public recreation with site plan review. Multi-family dwellings and townhouses are allowed by special permit. All structures must be setback a minimum of 75 feet from the crest overlooking the river shoreline. All uses should be designed to allow pedestrian access to and along the crest. Incentive zoning is available when public access is improved. District regulations also provide for viewshed protection.

c. The Waterfront Industrial District (W-I) is established on the east side of River Road. The only permitted use in the District is public and private parklands and trails. Specially permitted uses include boat storage, offices, light manufacturing wholesale and warehousing, and other business and professional uses. Heavy industry, junk yards, truck terminals, landfills, and a variety of other uses are prohibited. A minimum buffer of 25 feet from the average high water line is required on either side of Two Mile Creek. Performance standards are to be applied to any manufacturing, research or similar use, and any other use believed to violate any of the performance standards established for the district.

d. Approval for Special Uses for Waterfront Districts gives authority to the Town Board to grant or deny special uses in the W-1, W-2, W-R and W-I Waterfront Districts. It also establishes procedures and standards for the issuance of special permits within these districts.

e. Approval of Site Plans details the site plan review and approval process, the content of the site plan, and establishes review guidelines, standards and criteria for approving proposed development, including special criteria for the Waterfront Districts.

f. The Waterfront Zoning Districts implement the following policies:

(1) Policies 1 and 1A: Revitalizing underutilized waterfront areas.

The district prohibits industry and related uses from locating on the shore side of River Road. It also provides flexibility for the applicant in siting structures, and strong involvement by the Town Board and the Planning Board in reviewing overall site design.

(2) Policy 2 and 2A: Water-Dependent Uses.

The waterfront districts permit a variety of water-dependent and enhanced uses subject to special permit requirements including marinas, waterfront restaurants, parks, erosion control structures, boatyard, commercial docks, etc.

(3) Policy 25 and 25A: Scenic vistas of local significance.

The Waterfront District includes viewshed protection, sign regulations, building height limitations, landscaping standards, and setback requirements.

4. **Local Consistency Law** (see Appendix B)

a. The Local Consistency Law for the Town of Tonawanda requires all Type 1 and Unlisted actions (as defined by the SEQRA implementing regulations) that would be directly undertaken, approved, or funded, by the Town to be reviewed by the Town Board for consistency with the Town of Tonawanda LWRP. The law further prohibits such actions from being carried out, unless the Town Board finds and certifies that the action is consistent with the policies and purposes of LWRP. This applies equally to actions involving the Town Board and Town agencies. By adoption of this local law, the Town Board is legally committing itself and its agent, to comply with the provisions of the LWRP.

b. The Local Consistency Law implements all the local waterfront policies through Section 2.1.2 Certification of Consistency (see Appendix B). All major actions of Town agencies proposed within the waterfront area require certification by the Town Board of their consistency with waterfront policies prior to their approval. This is the major LWRP implementing tool for the Town.

B. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

1. Local Government Actions Necessary to Implement the LWRP

a. Land Disposition - Riverwalk

(1) The Town shall dispose of certain land rights to Erie County for Riverwalk construction. This will be required at Aqua Lane, Aqua Lane Park, Town Water Treatment Plant and Town Boat launch.

(2) The action will serve to implement Policy 22A and 22D which pertain to the encouragement of multiple use on appropriate waterfront sites. It will aid in implementing Policy 21A which pertains to encouraging development of the Erie County Riverwalk.

b. Easement Acquisition - Land Under the South Grand Island Bridges

(1) Following completion of the major bridge deck replacement by New York State Thruway Authority, the Town will seek to negotiate terms of an occupancy permit for waterfront access at this location.

(2) The above will serve to implement the following policies.

(a) Policy 19B: Increase public access to Niagara River.

(b) Policy 22B: Multiple use of land under South Grand Island Bridges.

An occupancy permit from the Thruway Authority will permit public access to this 480 linear ft. of shoreline, while ensuring the continued proper maintenance of the bridge structure.

c. Physical Improvements - Town Boat Launch

(1) Rehabilitation of the Town Boat Launch is necessary to ensure proper maintenance of boat access. This requires removal of underwater stone piles at an estimated cost of $40,000.

(2) The above action will serve to implement the following policies:

(a) Policy 21B: Facilitating water-dependent recreation at the Town Boat Launch.

(b) Policy 19A: Maintaining access at the Town Boat Launch.

As noted previously, improvements to the launch ramp will increase boater accessibility and enhance recreational boating opportunities.

d. Southern (Niagara View) Section of Riverwalk - Erie County

(1) Completion by Erie County will provide access to the Niagara River for Town residents and link the City of Buffalo waterfront to Aqua Lane Park in the Town.

(2) The above action will aid in implementing the following policies:

(a) Policy 9B: Expanding recreational use of fish resources in the Niagara View area. The Riverwalk will provide direct fishing access along .75 miles of shoreline.

(b) Policy 22A: Encouraging development of Erie County Riverwalk.

e. Two Mile Creek Corridor Improvements - Town of Tonawanda and Erie County

(1) As proposed in the 1987 Erie Waterfront Action Plan prepared by the Erie County Development Coordination Board, the $200,000 improvements will include extension of the Riverwalk and other passive recreation facilities.

(2) This action will serve to implement policy 19B: Increase access opportunities in the Two Mile Creek corridor.

C. PRIVATE SECTOR ACTIONS NECESSARY TO IMPLEMENT THE LWRP

1. Seaway Landfill Inc. - Long Term Revegetation

a. The Seaway landfill will reach capacity in 1994. Contents within the landfill prohibit its redevelopment to anything other than vacant fields/mounds. It is important that the owner re-vegetate the site to improve the visual quality and buffering effect between the 300 Acres Site and the Ashland property.

b. The above action will aid in implementing Policy 1A: revitalizing underutilized waterfront areas.

2. Niagara Mohawk Power Corporation - Cherry Farm Waste Cleanup

a. The New York State Department of Environmental Conservation has recently completed a Phase II remedial hazard area investigation of the

Cherry Farm site. Due to the site's location and long-term redevelopment potential it is essential that Niagara Mohawk commence site clean up as soon as possible.

b. The above action will aid in implementing the following policies

(1) Policy 1A: Revitalizing underutilized waterfront areas;

(2) Policy 2B: Water dependent uses;

(3) Policy 39: Disposal of hazardous wastes.

D. MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP

1. Official Overall LWRP Coordination

The Town Board shall be the lead agency for all LWRP activities, while the Town Supervisor is designated as the local official responsible for overall management and coordination of the LWRP. Successful implementation of the Local Waterfront Revitalization Program will require the participation of the Town Board, Planning Board, Environmental Review Committee, Engineering Department and Building Department (See page V-11).

2. LWRP Management Responsibilities

a. The Town Planning Board shall review waterfront district permits for consistency with the LWRP.

b. The Environmental Review Committee shall review all Type I and unlisted actions as defined by the SEQR regulations for consistency with the LWRP.

c. The Town Board shall certify all actions subject to SEQRA requirements within the coastal zone are consistent with the LWRP.

d. The Town Engineering Department shall disseminate waterfront assessment forms to applicants proposing activities within the coastal zone pursuant to SEQRA requirements.

e. The Town Building Department shall be responsible for disseminating Waterfront District permit applications to individuals desiring to undertake certain work within that district pursuant to Town Zoning Ordinance requirements.

3. Consistency Provision For Local Actions

All proposed Type I and Unlisted actions as defined by the State Environmental Quality Review Act within the Waterfront Revitalization Area will be subject to scrutiny by the town board for consistency with adopted waterfront policies.

4. Local Review of Proposed State and Federal Actions

Proposed State and federal waterfront actions will be reviewed in accordance with guidelines established by the New York State Department of State. Such guidelines are set forth in Appendix C.

Any State or federal actions within the Town's waterfront area will be submitted to the Town Supervisor for subsequent referral to the Town Planning Board for review against the local LWRP. The Town Supervisor will also distribute, if appropriate, the proposed action to other Town departments (e.g. engineering, law) for review. Upon receipt of comments the Town will forward a response back to the appropriate State or federal agency.

5. Project Implementation

The Town of Tonawanda, the Town of Tonawanda Development Corporation (TTDC) and the Horizons Waterfront Commission (HWC) have formed a 'Project Implementation Group' to coordinate implementation of key projects identified in the Waterfront Region Master Plan. The HWC will function as the primary catalyst for projects immediately adjacent to the shoreline (e.g. - River Road Relocation and housing, Riverfront Park), while the TTDC will function as the primary catalyst for projects in the balance of the Waterfront Revitalization Area. As the local governmental entity, the Town Board and its several departments will be responsible for the exercise of powers and contribution of resources (i.e. -staff and funding) in their respective jurisdictions (e.g. - community development, engineering, parks and recreation building).

6. <u>Financial Resources Necessary to Implement the LWRP:</u>

Table 7: IMPLEMENTATION BLUEPRINT			
ACTION	**IMPLEMENTOR**	**TIME FRAME**	**FUNDING SOURCE**
Two Mile Creek Corridor Improvement	Town, City of Ton., Erie County	1995-2000	Town, City of Ton., Erie County
300 Acres Site	TTDC	1994-1999	Public/private partnership
Riverfront Park	Town, TTDC	1995-2000	Town, Private
Thruway Commerce Ctr.	TTDC	1995-2000	Public/private partnership
Seaway Landfill Closure	Seaway Landfill Inc.	1995	Seaway
River Road Landscape Improvement District	TTDC	1993-1994	Private
Cherry Farm Clean-up	NIMO, DEC, PRPs	1993-1998	PRPs
Cherry Farm Regional Park	Town	1995-2000	State, County, Town
Riverworld (i.e.- Roblin)	Private	1995-2010	Private
Aqua Lane Park - Expand Recreation Facilities	Town	1993-1998	Town
Strawberry Island Preserve Designation	New York State	1993-1998	State
Strawberry Island Artificial Reef	New York State	1993-1998	State
Riverwalk Extension Buffalo	Erie County Dept of Environm. Planning	1993-1998	NYSTA, NYSDOT Erie County
Continuation of Existing Industrial Uses and redirection of vacant industrial land	Town	1993-	Private, TTDC, Town

SECTION VI

STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

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

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

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

A. State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

1. STATE AGENCIES

OFFICE FOR THE AGING

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

DEPARTMENT OF AGRICULTURE AND MARKETS

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

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY

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

DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of

such activities.

2.00 Permit and approval programs:

- 2.01 Certificate of approval (Substance Abuse Services Program)

3.00 Permit and approval:

- 3.01 Letter Approval for Certificate of Need
- 3.02 Operating Certificate (Alcoholism Facility)
- 3.03 Operating Certificate (Community Residence)
- 3.04 Operating Certificate (Outpatient Facility)
- 3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

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

2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

1.00 Permit and approval programs:

- 1.01 Authorization Certificate (Bank Branch)
- 1.02 Authorization Certificate (Bank Change of Location)
- 1.03 Authorization Certificate (Bank Charter)
- 1.04 Authorization Certificate (Credit Union Change of Location)
- 1.05 Authorization Certificate (Credit Union Charter)
- 1.06 Authorization Certificate (Credit Union Station)
- 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
- 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office
- 1.09 Authorization Certificate (Investment Company Branch)
- 1.10 Authorization Certificate (Investment Company Change of Location)
- 1.11 Authorization Certificate (Investment Company Charter)
- 1.12 Authorization Certificate (Licensed Lender Change of Location)
- 1.13 Authorization Certificate (Mutual Trust Company Charter)
- 1.14 Authorization Certificate (Private Banker Charter)
- 1.15 Authorization Certificate (Public Accommodation Office - Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Branch)
- 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
- 1.18 Authorization Certificate (Safe Deposit Company Charter)
- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)

1.29 Authorization Certificate (Trust Company Public Accommodations Office)
1.30 Authorization to Establish a Life Insurance Agency
1.31 License as a Licensed Lender
1.32 License for a Foreign Banking Corporation Branch

NEW YORK STATE BRIDGE AUTHORITY

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

DEPARTMENT OF CORRECTIONAL SERVICES

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

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

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

EDUCATION DEPARTMENT

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

EMPIRE STATE DEVELOPMENT/EMPIRE STATE DEVELOPMENT CORPORATION

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

ENERGY PLANNING BOARD AND ENERGY OFFICE

1.00 Preparation and revision of the State Energy Master Plan.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.

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

4.00 Financial assistance/grant programs:

- 4.01 Capital projects for limiting air pollution
- 4.02 Cleanup of toxic waste dumps
- 4.03 Flood control, beach erosion and other water resource projects
- 4.04 Operating aid to municipal wastewater treatment facilities
- 4.05 Resource recovery and solid waste management capital projects
- 4.06 Wastewater treatment facilities

5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).

6.00 Implementation of the Environmental Quality Bond Act of 1972, including:

- (a) Water Quality Improvement Projects
- (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.

7.00 Marine Finfish and Shellfish Programs.

8.00 New York Harbor Drift Removal Project.

9.00 Permit and approval programs:

Air Resources

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

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game

9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
9.17 Permit to Raise and Sell Trout
9.18 Private Bass Hatchery Permit
9.19 Shooting Preserve Licenses
9.20 Taxidermy License
9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
9.28 Floating Object Permit
9.29 Marine Regatta Permit
9.30 Navigation Aid Permit

Marine Resources

9.31 Digger's Permit (Shellfish)
9.32 License of Menhaden Fishing Vessel
9.33 License for Non-Resident Food Fishing Vessel
9.34 Non-Resident Lobster Permit
9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
9.36 Permits to Take Blue-Claw Crabs
9.37 Permit to Use Pond or Trap Net
9.38 Resident Commercial Lobster Permit
9.39 Shellfish Bed Permit
9.40 Shellfish Shipper's Permits
9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit
9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
9.45 Underground Storage Permit (Gas)
9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

9.49 Approval of Plans for Wastewater Disposal Systems

9.50 Certificate of Approval of Realty Subdivision Plans
9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
9.55 State Pollutant Discharge Elimination System (SPDES) Permit
9.56 Approval -Drainage Improvement District
9.57 Approval - Water (Diversions for) Power
9.58 Approval of Well System and Permit to Operate
9.59 Permit - Article 15, (Protection of Water) - Dam
9.60 Permit - Article 15, Title 15 (Water Supply)
9.61 River Improvement District Approvals
9.62 River Regulatory District Approvals
9.63 Well Drilling Certificate of Registration
9.64 401 Water Quality Certification

10.00 Preparation and revision of Air Pollution State Implementation Plan.

11.00 Preparation and revision of Continuous Executive Program Plan.
12.00 Preparation and revision of Statewide Environmental Plan.
13.00. Protection of Natural and Man-made Beauty Program.
14.00 Urban Fisheries Program.
15.00 Urban Forestry Program.
16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

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

FACILITIES DEVELOPMENT CORPORATION

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

OFFICE OF GENERAL SERVICES

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
3.00 Facilities construction, rehabilitation, expansion, or demolition.

DEPARTMENT OF HEALTH

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

2.00 Permit and approval programs:

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

DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

1.00 Facilities construction, rehabilitation, expansion, or demolition.

2.00 Financial assistance/grant programs:

- 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
- 2.02 Housing Development Fund Programs
- 2.03 Neighborhood Preservation Companies Program
- 2.04 Public Housing Programs
- 2.05 Rural Initiatives Grant Program
- 2.06 Rural Preservation Companies Program
- 2.07 Rural Rental Assistance Program
- 2.08 Special Needs Demonstration Projects
- 2.09 Urban Initiatives Grant Program
- 2.10 Urban Renewal Programs

3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.

2.00 Affordable Housing Corporation

JOB DEVELOPMENT AUTHORITY

1.00 Financing assistance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

1.00 Financing of medical care facilities.

OFFICE OF MENTAL HEALTH

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

2.00 Permit and approval programs:

- 2.01 Operating Certificate (Community Residence)
- 2.02 Operating Certificate (Family Care Homes)
- 2.03 Operating Certificate (Inpatient Facility)
- 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

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

2.00 Permit and approval programs:

- 2.01 Establishment and Construction Prior Approval
- 2.02 Operating Certificate Community Residence
- 2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

1.00 Funding program for natural heritage institutions.

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

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

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

3.00 Increases in special fares for transportation services to public water-related recreation resources.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)

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

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

3.00 Funding program for recreational boating, safety and enforcement.

4.00 Funding program for State and local historic preservation projects.

5.00 Land and Water Conservation Fund programs.
6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
7.00 Permit and approval programs:
- 7.01 Floating Objects Permit
- 7.02 Marine Regatta Permit
- 7.03 Navigation Aide Permit
- 7.04 Posting of Signs Outside State Parks

8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
9.00 Recreation services program.
10.00 Urban Cultural Parks Program.

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

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

POWER AUTHORITY OF THE STATE OF NEW YORK

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

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

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

DEPARTMENT OF STATE

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

STATE UNIVERSITY CONSTRUCTION FUND

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

STATE UNIVERSITY OF NEW YORK

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

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

THRUWAY AUTHORITY /CANAL CORPORATION/CANAL RECREATIONWAY COMMISSION (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land and other resources under the jurisdiction of the Thruway Authority, Canal Corporation, and Canal Recreationway Commission.

2.00 Facilities construction, rehabilitation, expansion, or demolition.

3.00 Permit and approval programs:

- 3.01 Advertising Device Permit
- 3.02 Approval to Transport Radioactive Waste
- 3.03 Occupancy Permit
- 3.04 Permits for use of Canal System lands and waters.

4.00 Statewide Canal Recreationway Plan

DEPARTMENT OF TRANSPORTATION

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

2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:

- (a) Highways and parkways
- (b) Bridges on the State highways system
- (c) Highway and parkway maintenance facilities
- (d) Rail facilities

3.00 Financial assistance/grant programs:

- 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
- 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
- 3.03 Funding programs for rehabilitation and replacement of municipal bridges
- 3.04 Subsidies program for marginal branchlines abandoned by Conrail
- 3.05 Subsidies program for passenger rail service

4.00 Permits and approval programs:

- 4.01 Approval of applications for airport improvements (construction projects)
- 4.02 Approval of municipal applications for Section 18 Rural and Small Urban

Transit Assistance Grants (construction projects)

4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities

4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities

4.05 Certificate of Convenience and Necessity to Operate a Railroad

4.06 Highway Work Permits

4.07 License to Operate Major Petroleum Facilities

4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)

4.09 Real Property Division Permit for Use of State-Owned Property

5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.

6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

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

2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:

(a) Tax-Exempt Financing Program

(b) Lease Collateral Program

(c) Lease Financial Program

(d) Targeted Investment Program

(e) Industrial Buildings Recycling Program

3.00 Administration of special projects.

4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

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

2. FEDERAL AGENCIES

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

1.00 Proposed authorizations for dredging, channel improvements, break-waters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.

2.00 Land acquisition for spoil disposal or other purposes.

3.00 Selection of open water disposal sites.

Army, Navy and Air Force

4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).

5.00 Plans, procedures and facilities for landing or storage use zones.

6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.

2.00 Disposition of Federal surplus lands and structures.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

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

National Park Service

3.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak, Conrail

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

Coast Guard

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

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

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

Federal Aviation Administration

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

Federal Highway Administration

6.00 Highway construction.

St. Lawrence Seaway Development Corporation

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

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).

2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).

3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).

4.00 Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).

5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).

6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

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

2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).

4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of

the Federal Power Act (15 U.S.C. 824a(b)).

5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).

6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).

2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.

3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).

4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

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

Mineral Management Service

2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.

3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

INTERSTATE COMMERCE COMMISSION

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

NUCLEAR REGULATORY COMMISSION

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

DEPARTMENT OF TRANSPORTATION

Coast Guard

1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.

2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C.

1501).

Federal Aviation Administration

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

FEDERAL ASSISTANCE*

DEPARTMENT OF AGRICULTURE

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

DEPARTMENT OF COMMERCE

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
14.117 Mortgage Insurance - Homes
14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
14.125 Mortgage Insurance - Land Development and New Communities
14.126 Mortgage Insurance - Management Type Cooperative Projects
14.127 Mortgage Insurance - Mobile Home Parks
14.218 Community Development Block Grants/Entitlement Grants
14.219 Community Development Block Grants/Small Cities Program
14.221 Urban Development Action Grants
14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

15.400 Outdoor Recreation - Acquisition, Development and Planning
15.402 Outdoor Recreation - Technical Assistance
15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
15.411 Historic Preservation Grants-in-Aid
15.417 Urban Park and Recreation Recovery Program
15.600 Anadromous Fish Conservation
15.605 Fish Restoration
15.611 Wildlife Restoration
15.613 Marine Mammal Grant Program
15.802 Minerals Discovery Loan Program
15.950 National Water Research and Development Program
15.951 Water Resources Research and Technology - Assistance to State Institutes
15.952 Water Research and Technology - Matching Funds to State Institutes

DEPARTMENT OF TRANSPORTATION

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

GENERAL SERVICES ADMINISTRATION

39.002 Disposal of Federal Surplus Real Property

COMMUNITY SERVICES ADMINISTRATION

49.002 Community Action
49.011 Community Economic Development

49.013 State Economic Opportunity Offices
49.017 Rural Development Loan Fund
49.018 Housing and Community Development (Rural Housing)

SMALL BUSINESS ADMINISTRATION

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

ENVIRONMENTAL PROTECTION AGENCY

66.001 Air Pollution Control Program Grants
66.418 Construction Grants for Wastewater Treatment Works
66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
66.451 Solid and Hazardous Waste Management Program Support Grants
66.452 Solid Waste Management Demonstration Grants
66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

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

B. STATE AND FEDERAL PROGRAMS NECESSARY TO FURTHER THE LWRP

State Actions and Programs Necessary to Further the LWRP

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

2. **New York State Department of Transportation**
   Development of the Riverwalk Extension into the City of Buffalo and development of the Strawberry Island artificial reef.

3. **New York State Thruway Authority**
   Development of the Riverwalk Extension into the City of Buffalo.

4. **New York State Department of Environmental Conservation**
   - Development of the Strawberry Island artificial reef.
   - Grants available through the Environmental Protection Fund and Clean Water Clean Air Bond Act for water quality priorities.

5. **Office of Parks, Recreation and Historic Preservation**
   - Development of the Strawberry Island artificial reef.
   - Grants available through the Environmental Protection Fund and Clean Water Clean Air Bond Act

6. **New York State Department of State**
   Waterfront Revitalization grants available through Title 11 of the Environmental Protection Fund.

APPENDIX A

WATERFRONT ZONING DISTRICTS

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
Town of Tonawanda, New York
~~Village~~

Local Law No. 8 of the year 19 96

A local law TO AMEND LOCAL LAW 4-82, AS THEREAFTER AMENDED, ENTITLED " A LOCAL LAW TO REGULATE ZONING" (Chapter 215 of the Code of the Town of Tonawanda, New York, as recodified by Local Law 3-83)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~
Town of Tonawanda, New York as follows:

SECTION 1. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
THE TITLE OF ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO PROVIDE AS FOLLOWS:

"ARTICLE IX
G-I GENERAL INDUSTRIAL DISTRICT
AND WATERFRONT DISTRICTS"

SECTION 2. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

ARTICLE IX-A
W-1 WATERFRONT MIXED USE DISTRICT

§ 215-70.0. Purpose and Intent.

A. In accordance with the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan, promote and accommodate the development of a mix of uses which are designed to recognize the unique and irreplaceable character of Niagara shoreline. The uses should be designed to promote public access and use of the river shoreline while protecting the unique features and vistas throughout the district.

B. To encourage appropriate waterfront-dependent or waterfront-enhanced recreational and commercial uses. These uses should include a mix of active and passive water oriented recreational uses along with water-enhanced commercial uses which take advantage of this unique location and the characteristics of the

C. To encourage flexibility in design and use of sites within the shoreline area while preserving the unique environmental features and maintaining or reviving the aesthetic qualities of the waterfront area. The flexibility of design will be accomplished by establishing minimal dimensional requirements for principal uses combined with site plan review and design standards which will ensure development which is compatible with the goals of the Waterfront Region Master Plan.

§ 215-70.1. Permitted Uses With Site Plan Approval.

The following uses only are permitted with site plan approval by the Town Building Department after having received comments from the Town Planning Board:

A. Public and private parklands, trails, docks, fishing facilities, car top boat launching facilities, picnic areas.

§ 215-70.2. Specially Permitted Uses.

The following uses only may be permitted with site plan approval and a special use permit issued by the Town Board after having received comments from the Town Planning Board:

A. Marinas, Yacht Clubs, and trailered boat launch facilities.

B. Boatyard and Storage Facility.

C. Commercial excursion and charter fishing boat facility.

D. Visitor center, exhibit and interpretive facility.

E. Hotel and hotel complex.

F. Retail stores, restaurants and other water enhanced uses, at a scale to be determined by the Town Planning Board, which are appropriate for the location of the site and surrounding land uses.

(1) Individual uses shall not exceed 25,000 square feet in total retail sales area.

(2) Stores and shops proposed to be connected in a plaza shall not be combined in excess of 100,000 square feet in an individual structure.

G. Private club, membership clubs, lodges or fraternal organizations, community centers or other similar uses.

H. Residential dwellings.

(1) Townhouses.
(2) Apartments.

I. Combinations of permitted uses, based upon a determination of the Town Building Department in consultation with the Town Planning Board, that such combinations are appropriate for the waterfront area.

J. Other uses not specifically listed above, but which, based on a determination by the Town Board in consultation with the Town Planning Board, are deemed appropriate for the waterfront area, are similar in nature to the other permitted uses, or are compatible with the purpose and intent of this district.

§ 215-70.3. Accessory Uses.

The following uses only are permitted with site plan approval by the Town Building Department, after having received comments form the Town Planning Board, when developed as an accessory use to a permitted or specially permitted use.

A. Storage structures for nonresidential uses subject to height screening conditions

B. Private garages, sheds or other normal accessory structures

§ 215-70.4. Incentive Zoning Within W-1 District.

Certain uses in the W-1 District which are identified below and which are of benefit to the Town and its residents but which are also viewed as requiring more intensive and varied site development to mitigate potential issues of compatibility with the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan are classified as incentive zoning uses pursuant to section two hundred sixty-one-b of the Town Law of the State of New York. These uses may be permitted by the Town Board in cases where the applicant provides parks, open space, active or passive recreation areas, trails, walkways or other public access amenities or a cash payment for a fund to provide any of the listed amenities in accordance with section two hundred sixty-one-b of Town Law of the State of New York and complies with the site plan review standards as outlined in Article XXIII of this local law. These amenities may be provided on or off site as appropriate.

A. Permitted Incentive Uses.

(1) Development of water dependent facilities, including docks and pipelines for transfer of materials between land and river, as an accessory to permitted industrial development within the W-2, W-I, or G-I Districts.

(2) Increases in height or density that do not restrict the visibility of the shoreline from surrounding vistas and which do not degrade the character of the waterfront area.

B. Criteria and procedure for approval of incentive requests.

(1) Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be provided by the applicant:

(a) The proposed amenity.

(b) The cash value of the proposed amenity.

(c) The requested incentive.

(d) A narrative describing the benefits to the community provided by the amenity, an indication that the incentive and amenity will not tax the available infrastructure and/or services of the area and an explanation of how the amenity helps in the implementation of the Waterfront Region Master Plan.

(2) The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration. If it is deemed consistent with the objectives of the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan then the applicant shall submit two sets of plans to the Town Building Department for review:

(a) The first set of plans shall show how the site will be developed, with the amenity, if it is on-site and the incentive. The plan shall meet the basic requirements of the preliminary site plan under the site plan review procedures of this local law. If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing, at a scale of one-fourth (1/4) inch equals one foot, which shows the height permitted by district regulations, the proposed additional height, the distance to other principal structures on-site and on adjacent properties and their heights as well as property line locations.

(b) The second plan shall only be required to meet sketch plan review standards but must show how the site would be developed exclusive of any amenity or incentive.

(c) The applicant shall submit such additional information and plans as may be required by the Town Building Department which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

(3) The Town Building Department will review the proposal and after obtaining comments from the Town Planning Board will then report to the Town Board with its evaluation of the proposal. The Town Building Department's review shall be limited to the planning design and layout considerations involved with project review or other such issues as may be specifically referred by the Town Board. The Town Building Department's report shall be submitted within sixty (60) days from the date of submission of the incentive application. This time period may be suspended or extended for good cause by the Town Board.

(4) The Town Board will review the Town Building Department's report and will notify the applicant as to whether it is willing to further consider the application and if so, a public hearing will be required. The Town Clerk shall give notice of the hearing in a newspaper having general circulation in the Town at least five (5) days in advance of the hearing.

(5) Following the hearing, and upon compliance with SEQR requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required for their review. In order to approve an amenity/incentive proposal, the Town Board must determine that the proposed amenity provides sufficient public benefit to justify the requested incentive. Thereafter, the Town Building Department is authorized to act on the application as per the required review standards of a conventional permit application.

§ 215-70.5. Dimensional Requirements and Density Standards.

A. Residential Uses.

(1) Density should not exceed 8 residential units per acre.

(2) Lot size and setback requirements.

Lot sizes, dimensions and locations thereon may be established at the

discretion of the applicant, however, buildings must be arranged in conformity with the overall density standards established in § 215-70.5A(1) of this local law. Minimum lot size or frontage are not specified herein. In acting on any application for a proposed development, during site plan review the Town Planning Board in making its recommendation and the Town Building Department in reaching its decision shall be guided by standards set elsewhere in this local law for comparable uses, by acceptable planning practice and by the guidelines listed below, to the extent that the resulting development shall achieve the purpose and intent as described in § 215-70.0 of this local law.

Setback Guidelines:

(a) Principal buildings, parking areas and accessory structures excluding such facilities as docks, piers, wharves, boat ramps and other water-dependent related structures, must be set back a minimum of seventy-five (75) feet from the high water mark of the Niagara River.

(b) Principal buildings, parking areas, and accessory structures shall be set back a minimum of thirty-five (35) feet from any property line, public pathway or road right-of-way except for River Road where a fifty (50) foot setback must be maintained.

(c) Setbacks shall be established with due consideration of provisions of fire protection services and adequate access for emergency equipment within and around the site and abutting sites.

(d) Setbacks shall be established with due consideration of the protection and preservation of the unique nature and character of the shoreline area, scenic views and vistas, and the specific goals of this district.

(3) Lot Coverage and Open Space.

For residential developments with multiple lots, a minimum of forty (40) percent of the total area within an individual proposed development must be maintained as vegetated open space. On individual lots within a development area coverage including all buildings, accessory structures, parking areas and other impervious surfaces shall not exceed seventy-five (75) percent of any individual lot, as long as the 40 percent of open space is maintained throughout the overall development.

Proposed single lot developments must meet the forty percent open space

criteria.

On any individual lot, developed singly or as part of a multi-unit development, the principal structure shall not exceed thirty (30) percent.

For multi-family or attached residences a maximum of six units shall be allowed to be attached in any one building group or incorporated within the same building.

(4) Height Restrictions.

(a) Maximum building height for residential structures shall not exceed thirty-five (35) feet.

(b) Maximum height for accessory buildings and structures shall not exceed twelve (12) feet except for a detached garage which may not exceed fifteen (15) feet.

(5) Required Minimum Unit Size.

(a) Any single family dwelling proposed in this district shall conform to the floor area requirements as outlined in § 215-21 of this local law.

(b) Townhouse or other multi-unit developments must have a minimum gross living area in accordance with the regulations outlined in § 215-25 of this local law.

B. Commercial and Recreational Uses.

(1) Minimum lot size.

The required minimum lot size for commercial and recreational uses shall be established by the Town Building Department with consultation of the Town Planning Board during the site plan review and approval process. The required minimum lot size shall be based on the amount of land necessary to adequately accommodate the proposed principal use as well as all parking, loading, landscaping, open space, setbacks, public access and traffic access. The required minimum lot size shall also be based on the relative intensity of the proposed use, the need to protect or buffer the proposed use and the need to protect or buffer the use from scenic views or vistas.

(2) Setback requirements.

Setbacks of buildings or structures from all other buildings and structures on the lot and from property lines for all principal structures and accessory uses shall be determined by the Town Building Department under consultation with the Town Planning Board during site plan review and approval and shall be based on the following guidelines:

(a) Principal buildings, parking areas and accessory structures excluding such facilities as docks, piers, wharves, boat ramps and other water-dependent related structures, must be set back a minimum of fifty (50) feet from the high water mark of the Niagara River.

(b) Principal buildings, parking areas, and accessory structures shall be set back a minimum of thirty-five (35) feet from any property line, public pathway or road right-of-way except for River Road where a fifty (50) foot setback must be maintained.

(c) Setbacks shall be established with due consideration of provisions of fire protection services and adequate access for emergency equipment within and around the site and abutting sites.

(d) Setbacks shall be established with due consideration of the protection and preservation of the unique nature and character of the shoreline area, scenic views and vistas, and the specific goals of this district.

(3) Maximum building and other structure heights.

(a) Maximum building heights for all permitted principal uses shall not exceed thirty-five (35) feet. The Town Building Department shall also have the power to establish maximum principal structure heights of less than thirty-five feet in such cases where a visual analysis of the site prepared and submitted by the applicant and reviewed by the Town Building Department, demonstrates that such height limitation is required to protect the scenic view or vistas or to maintain the overall aesthetic quality of the waterfront area.

(b) Accessory structures shall not exceed a maximum height of twenty (20) feet unless otherwise specified or regulated in this local law. These structures may be limited in their height dependent on a visual analysis as discussed above.

(4) Maximum lot coverage.

(a) The total overall ground coverage of all principal and accessory buildings and structures, parking areas and other impervious surfaces on any lot shall not exceed sixty-five (65) percent of the total lot area. The remainder shall be for open space and/or landscaped areas.

§ 215-70.6. Additional requirements.

A. Niagara River Setback and Potential Incentives.

All structures must be setback a minimum of seventy-five (75) feet from the river shoreline. All uses, premises, and structures should be designed to allow pedestrian access to and along the riverfront. An applicant who proposes to improve public access by any of the following methods including: construction of a permanent walkway for public use along the river's edge or connects the Riverwalk with a pedestrian path through the proposed development; observation areas, viewing platforms and other similar amenities may be eligible for an incentive bonus. If the proposed amenity is acceptable to the Town Board, the applicant may be eligible for a density bonus of up to ten (10) units per acre and/or a reduction in the required setback from the river's edge up to a minimum of fifty (50) feet. The walkway or other amenity shall be made available for public use under a mutually acceptable arrangement between the Town and the applicant or property owner. Public parkland, trails, docks, piers and boat launch facilities are exempt from this requirement but are subject to site plan review to determine the appropriate relationship to the water's edge.

B. Public Access to the Niagara River.

All projects within this district are encouraged to provide a public easement of at least ten feet in width along and to the river's edge in order to facilitate pedestrian and/or bicycle connections with existing and planned public open spaces along the river.

§ 215-70.7. Additional Site Plan Review Requirements and Standards for the W-1 District.

A. Landscaping, Screening and Buffering.

Significant existing vegetation shall be preserved, where practical, in any required waterfront or public access setback or buffer area. The applicant shall submit a landscape plan. The landscape plan should be prepared by a landscape architect or arborist and should contain a mix of understory and canopy of trees of native vegetation adequate to provide a visual buffer between the river or trail and the

proposed development. The landscaping should not fully screen the development or impede public views of the river, however, it should provide a visual break of the built environment. The landscape plan should also include adequate screening for all parking areas, loading docks and material or waste storage.

Existing uses within this district at time of adoption of these regulations will have 24 months to submit a plan to comply with the required screening and buffering as described above. A plan should be submitted for approval to the Town Building Department for any existing use that does not currently have adequate screening and buffering in place. After approval of the landscaping and buffering plan by the Town Building Department, the land owner shall have twelve months to complete the installation of the required screening or buffering materials.

B. Fencing.

The use of fencing is discouraged within this district. Where used the fencing shall be limited to four (4) feet in height and shall be designed to not visually screen views of the river. For purposes of outside storage of materials directly associated with the commercial enterprise on said lot, fencing of a limited area may be permitted.

C. Viewshed Protection.

The site shall be developed in such a way as to maximize view opportunities at the river's edge and view corridors throughout the development. Site layout and design shall consider view corridors from the Riverwalk and any adjacent public open space. Important views should be protected and enhanced to the maximum extent practicable. To ensure visual access to the water at least twenty-five (25) percent of the shoreline shall be contained within view corridors. The total width of the view corridor shall be measured by dividing the total width of the view corridors by the total shoreline in a single ownership.

The Town Building Department at its discretion or at the suggestion of the Town Planning Board may require the applicant provide information which will allow an adequate review of the potential impact of the development on the scenic resources of the area. Information that may be requested may include:

(1) Photographs of all existing scenic vistas at the site.

(2) Schematic plans and sections showing clearly the impact development will have on the scenic vistas.

(3) Elevations or perspective sketches showing the proposed development and its impact on views to the river from surrounding public open space

and/or public right-of-ways.

(4) Based on the findings of the visual assessment, the Town Building Department may limit the height or length of any proposed structure and may recommend changes in the arrangements of buildings if in its determination the proposed limitations or changes will protect or enhance the visual character.

D. Parking.

All permitted uses shall comply with the regulations outlined in Article XIII of this local law for number of parking spaces required and the standards for design of parking areas.

E. Utilities and Communication Facilities.

All utility and communication facilities shall be installed underground, if possible, in the manner prescribed by the regulations of the government agency or utility company having jurisdiction. Where facilities are provided, they shall be planned to anticipate future utility needs and shall be sited to reduce future capital costs.

F. Signage.

All signage proposed for permitted uses within this district shall comply with the signage regulations of Article XXII [be sure this is correct] of this local law and the following conditions:

(1) All graphics and signs shall be designed as an integral part of the whole for the entire development proposed for a given property within the district.

(2) Billboards, free standing pole signs, portable ground signs and roof signs are not permitted.

(3) A single ground identification sign or directory sign may be constructed a minimum of ten (10) feet from the front lot line which shall not exceed eight (8) feet in height, and have up to two faces with a maximum area of each face of sixty (60) square feet. The combined total face area for ground and wall mounted signs shall not exceed three hundred (300) square feet on a single property.

(4) Signs for any residential use within this district shall conform to § 215-145 of this local law.

(5) All signs visible from River Road shall be compatible with any public signage established by the Town for the Waterfront Region.

(6) Signs shall have the minimum of information necessary in order to avoid clutter and confusion. Whenever feasible, signs should be combined into a single sign in order to minimize clutter.

G. Docking Facility and Marina Design Standards.

(1) Fishing piers, docks, wharves, and boat launching ramps shall be subject to the following regulations, the policies outlined in the adopted Local Waterfront Revitalization Plan and shall comply with all applicable state regulations.

(2) All piers, docks, wharves, boat launching ramps and affiliated structures shall be subject to a building permit and to site plan review in accordance with Article XXIII of this local law. Affiliated structures shall include:

(a) facilities for the pumping out of marine holding tanks,

(b) facilities for waste oil collection,

(c) facilities for the sale and dispensing of fuel and lubricants for boats and boatyard equipment,

(d) facilities for the storage of fuel,

(e) facilities for unloading and loading of shipping cargo including transfer of materials to pipelines.

(3) The following additional requirements shall apply to all such structures and facilities:

(a) The construction of such structures and facilities shall be undertaken in such a way so as not to impair water quality, destroy the beauty of the shoreline, cause erosion or sedimentation problems, create hazards for navigation, interfere with the public use of the water surface or shoreline, infringe upon the riparian rights of other parcels, or otherwise threaten the public health and safety. They shall be located and designed to minimize adverse impacts on coastal fish and wildlife habitats of local and statewide significance, and upon regulated freshwater wetlands.

(b) All such structures and facilities shall only be constructed of

materials which are stable and chemically inert so as not to affect water quality. The materials shall be Coast Guard approved, where appropriate.

(c) No pier, dock, or wharf associated with a residential use shall be constructed to extend offshore for more than fifty (50) feet from the mean low water line unless it can be demonstrated that the additional length is necessary in order to reach adequate water depths for proposed boat docking. Only one dock, pier or wharf shall be permitted per residential lot.

(d) The number of piers, docks, or wharves permitted per each commercial waterfront lot shall not exceed three (3) such structures, unless it is determined by the Town Building Department with consultation of the Town Planning Board that such additional structures are needed to accommodate anticipated boat traffic and can be developed without adversely impacting the natural and aesthetic quality of the shoreline environment. The maximum length of piers, docks, and wharves permitted on non-single family residential lots shall be determined by the Town Building Department. The length of such structures shall not infringe upon the riparian rights of any adjacent property owners or affect the use of the river for safe boating.

(e) Every pier, dock, or wharf shall have a minimum clearance or setback of ten (10) feet from adjacent property lines as extended from the shoreline, to allow adequate vessel access to neighboring property.

(f) Piers, docks, or wharves shall during the hours of darkness be required to be lighted if required to eliminate any hazard to navigation. Lighting installed shall be provided in such a manner so as not to produce any offensive glare when viewed from the water or the land.

(g) The owner or operator of a marina or commercial docking facility in applying for a permit may be required to furnish information concerning intensities of expected boat activity, shoreline alterations, and any other conditions which may be altered by the proposed construction and operation of the facility.

(h) Marinas shall be located in areas where minimum physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required.

Such physical attributes include natural depths at or exceeding navigable depths, low rates of sediment transport, and sufficient water movement to promote flushing.

(i) Sites selected for new marinas shall contain adequate upland to accommodate associated facilities and accessory uses. Expansion of existing marinas is dependent upon the availability of adequate upland to accommodate the expansion.

(j) Marinas shall be adequately landscaped to provide a park-like setting.

(k) New marinas must be sited and/or designed with adequate protection against boat wakes caused by existing boat traffic.

(4) The following standards shall apply to facilities providing boat maintenance service:

Boat maintenance activities, including washing, sanding, painting, draining bilge water, and servicing motors, shall not discharge waste water or other substances into any waterbody, nor shall any waste materials be disposed of in such a manner that they run overground and into a waterbody.

(5) Boat storage buildings must be constructed with materials that can be shown to not significantly negatively impact the overall visual quality of the parcel and the waterfront area.

(6) At commercial docking facilities and private marina facilities which can accommodate twenty five or more boats or that have fueling facilities there shall be provisions for the collection and disposal of boat-generated wastes, including garbage, rubbish and sanitary wastes.

H. Storage of materials.

(1) Required service areas, required loading areas and outdoor storage areas shall be located so as to not be visible from public street, public pedestrian ways or public open space. Service, loading and storage facility should be architecturally incorporated into the building or architecturally treated with walks, fencing and landscaping. Where these facilities are visible from public or private pedestrian areas or public open space, they shall be screened with opaque materials.

(2) Outside storage that is located within one hundred fifty (150) feet of the district boundary shall not exceed eight (8) feet in height. Elsewhere in

the district outside storage shall be limited to twelve (12) feet in height.

(3) Existing outside storage use that does not comply with this code will have eighteen months form the time of adoption to comply with this provision. Failure to comply will result in an enforcement action by the Town Building Department.

I. Lighting.

(1) All lighting shall be located and designed as an integral part of the entire project of which it is a part and shall consider the architectural and landscape context of the site.

(2) Lighting shall be provided for visibility, security, and as an accent to architectural and/or landscape features.

(3) Pedestrian scale lighting shall be provided along major pedestrian paths and along the Niagara River edge.

(4) Lighting fixtures shall be used that appear and function as a compatible whole, including the designs of building mounted lighting.

(5) Lighting shall be located and designed to minimize glare and reflection on adjacent properties and shall not interfere with the use of neighboring premises.

(6) Lighting fixtures shall be used that direct light downwards in order to minimize interference with roadways and public use.

(7) All wiring for lighting shall be installed underground.

J. Circulation.

On-site circulation shall be designed to minimize conflicts between vehicles and pedestrians.

(1) Common driveways and interconnection of parking areas should be provided where practical in order to efficiently serve adjacent related or complimentary uses, to minimize the number of road cuts and to concentrate and control turning movements onto River Road and internal feeder roads.

(2) All bike and walking paths shall be clearly identified with striping and/or signage as necessary within parking areas, driveway crossings, and public

roadway crossings.

(3) Sidewalks or paths shall be placed parallel to all major roadways or driveways or shall form an interconnected network within a property or group of properties. Whenever practicable, pathways shall be connected to the existing local or regional pathway system.

SECTION 3. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

ARTICLE IX-B
W-2 WATERFRONT COMMERCIAL USE DISTRICT

§ 215-70.8. Purpose and Intent.

A. In accordance with the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan, promote and accommodate the development of a mix of uses which are designed to recognize the unique and irreplaceable character of Niagara shoreline. The uses should be designed to compliment those along the river shoreline while serving as a transition between shoreline uses and industrial uses.

B. To encourage appropriate riverfront-enhanced recreational and commercial uses. These uses should include a mix of uses which take advantage of this unique location and the characteristics of the waterfront region .

C. To encourage flexibility in design and use of sites within the shoreline area while preserving the unique environmental features and maintaining or reviving the aesthetic qualities of the waterfront area. The flexibility of design will be accomplished by establishing minimal dimensional requirements for principal uses combined with site plan review and design standards which will ensure development which is compatible with the goals of the Waterfront Region Master Plan.

§ 215-70.9. Permitted Uses With Site Plan Approval.

The following uses only are permitted with site plan approval by the Town Building Department after having received comments from the Town Planning Board:

A. Public and private parklands, trails, docks, fishing facilities, car top boat launching facilities, picnic areas

§ 215-70.10. Specially Permitted Uses.

The following uses only may be permitted with site plan approval and a special use

permit issued by the Town Board after having received comments from the Town Planning Board:

A. Boatyard and storage facility.

B. Visitor center, exhibit and interpretive facility.

C. Hotel and hotel complex.

D. General commercial.

E. Automotive service stations including minor repairs.

F. Travel plazas.

G. Business and professional offices.

H. Combinations of permitted uses, based upon a determination of the Town Building Department in consultation with the Town Planning Board, that such combinations are appropriate for the Waterfront Region.

I. Other uses not specifically listed above, but which, based on a determination by the Town Board in consultation with the Town Planning Board, are deemed appropriate for this region, are similar in nature to the other permitted uses, and are compatible with the purpose and intent of this district.

§ 215-70.11. Accessory Uses.

The following uses only are permitted with site plan review approval from the Town Building Department, after having received comments from the Town Planning Board, when developed as an accessory use to a permitted or specially permitted use.

A. Storage Structures for nonresidential uses subject to height screening conditions.

B. Other normal accessory structures.

§ 215-70.12. Incentive Zoning Within W-2 District.

Certain uses in the W-2 District which are identified in A(1) of this section and which are of benefit to the Town and its residents but which are also viewed as requiring more intensive and varied site development to mitigate potential issues of compatibility with the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan are classified as

incentive zoning uses pursuant to section two hundred sixty-one-b of the Town Law of the State of New York. These uses may be permitted by the Town Board in cases where the applicant provides parks, open space, active or passive recreation areas, trails, walkways or other public access amenities in a form acceptable to the Town Board or a cash payment for a fund to provide any of the listed amenities in accordance with section two hundred sixty-one-b of the Town Law of the State of New York and complies with the site plan review standards as outlined in Article XXIII of this local law. For uses already allowed in the W-2 District, the incentive for providing the foregoing amenities shall be specified in A(2) of this section. These amenities may be provided on or off site as appropriate.

A. Permitted Incentives.

The following uses only may be permitted as incentive uses with site plan approval of the Town Building Department, after having received comments from the Town Planning Board.

(1) Light Industrial Uses.

(2) Increases in height or density that do not degrade the character of the waterfront area.

B. Criteria and procedure for approval of incentive requests.

(1) Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be provided by the applicant:

(a) The proposed amenity.

(b) The cash value of the proposed amenity.

(c) The requested incentive.

(d) A narrative describing the benefits to the community provided by the amenity, an indication that the incentive and amenity will not tax the available infrastructure and/or services of the area and an explanation of how the amenity helps in the implementation of the Waterfront Region Master Plan.

(2) The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration. If it is deemed consistent with the objectives of the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan, then the applicant shall

submit two sets of plans to the Town Building Department:

(a) The first set of plans shall show how the site will be developed, with the amenity, if it is on-site and the incentive. The plan shall meet the basic requirements of the preliminary site plan under the site plan review procedures of this local law. If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing, at a scale of one-fourth (1/4) inch equals one foot, which shows the height permitted by district regulations, the proposed additional height, the distance to other principal structures on-site and on adjacent properties and their heights as well as property line locations.

(b) The second plan shall only be required to meet sketch plan review standards but must show how the site would be developed exclusive of any amenity or incentive.

(c) The applicant shall submit such additional information and plans as may be required by the Town Building Department which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

(3) The Town Building Department will review the proposal and after obtaining comments from the Town Planning Board will then report to the Town Board with its evaluation of the proposal. The Town Building Department's review shall be limited to the planning design and layout considerations involved with project review or other such issues as may be specifically referred by the Town Board. The Town Building Department's report shall be submitted within sixty (60) days from the date of submission of the incentive application. This time period may be suspended or extended for good cause by the Town Board.

(4) The Town Board will review the Town Building Department's report and will notify the applicant as to whether it is willing to further consider the application and if so, a public hearing will be required. The Town Clerk shall give notice of the hearing in a newspaper having general circulation in the Town at least five (5) days in advance of the hearing.

(5) Following the hearing, and upon compliance with all SEQR requirements, The Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required for their review. In order to approve an amenity/incentive proposal, the Town Board must determine that the proposed amenity provides sufficient public benefit to justify the requested incentive. Thereafter, the Town Building

Department is authorized to act on the application as per the required review standards of a conventional permit application.

§ 215-70.13. Dimensional Requirements and Density Standards.

A. Minimum lot size.

The required minimum lot size for permitted uses shall be established by the Town Building Department with consultation of the Town Planning Board during the site plan review and approval process. The required minimum lot size shall be based on the amount of land necessary to adequately accommodate the proposed principal use as well as all parking, loading, landscaping, open space, setbacks, public access and traffic access. The required minimum lot size shall also be based on the relative intensity of the proposed use, the need to protect or buffer the proposed use.

B. Setback requirements.

Setbacks of buildings or structures from all other buildings and structures on the lot and from property lines for all principal structures and accessory uses shall be determined by the Town Building Department under consultation with the Town Planning Board during site plan review and approval and shall be based on the following guidelines:

(1) Principal buildings shall be set back a minimum of thirty-five (35) feet from any property line, public pathway or road right-of-way except for River Road where a fifty (50) foot setback must be maintained.

(2) Parking areas and accessory structures shall be set back a minimum of twenty-five (25) feet from any property line, public pathway or road right-of-way except for River Road where a fifty (50) foot setback must be maintained.

(3) Setbacks shall be established with due consideration of provisions of fire protection services and adequate access for emergency equipment within and around the site and abutting sites.

(4) Setbacks shall be established with due consideration of the protection and preservation of the unique nature and character of the district and the specific goals of this district.

C. Maximum building and other structure heights.

(1) Maximum building heights for all permitted principal uses shall not exceed thirty-five (35) feet.

(2) Accessory structures shall not exceed a maximum height of twenty (20) feet unless otherwise specified or regulated in this local law.

D. Maximum lot coverage.

(1) The total overall ground coverage of all principal and accessory buildings and structures, parking areas and other impervious surfaces on any lot shall not exceed seventy-five (75) percent of the total lot area. The remainder shall be for open space and/or landscaped areas.

§ 215-70.14. Additional Site Plan Review Requirements and Standards for the W-2 District.

A. Landscaping, Screening and Buffering.

Significant existing vegetation shall be preserved, where practical, maintained in any required public access setback or buffer area. At the time of development of any parcel abutting the river or public trail or access, the applicant shall submit a landscape plan for the buffer area or a plan to maintain existing vegetation. The landscape plan should be prepared by a landscape architect or arborist and should contain a mix of understory and canopy of trees of native vegetation adequate to provide a visual buffer between the trail and the proposed development. The landscaping should provide a visual break of the built environment. The landscape plan should also include adequate screening for all parking areas, loading docks and material or waste storage.

Existing uses within this district at time of adoption of these regulations will have 24 months to submit a plan to comply with the required screening and buffering as described above. A plan should be submitted for approval to the Town Building Department for any existing use that does not currently have adequate screening and buffering in place. After approval of the landscaping and buffering plan by the Town Building Department, the land owner shall have twelve months to complete the installation of the required screening or buffering materials.

B. Fencing.

No fence shall be erected within any setback area. Fences shall be limited to six (6) feet in height.

C. Parking.

All permitted uses shall comply with the regulations outlined in Article XIII of this local law for number of parking spaces required and the standards for design of parking areas.

D. Utilities and Communication Facilities.

All utility and communication facilities shall be installed underground in the manner prescribed by the regulations of the government agency or utility company having jurisdiction. Where facilities are provided, they shall be planned to anticipate future utility needs and shall be sited to reduce future capital costs.

E. Signage.

All signage proposed for permitted uses within this district shall comply with the signage regulations of Article XXII of this local law and the following conditions:

(1) All graphics and signs shall be designed as an integral part of the whole for the entire development proposed for a given property within the district.

(2) Billboards, free standing pole signs, portable ground signs and roof signs are not permitted.

(3) A single ground identification sign or directory sign may be constructed a minimum of ten (10) feet from the front lot line which shall not exceed eight (8) feet in height, and have up to two faces with a maximum area of each face of 64 square feet. The combined total face area for ground and wall mounted signs shall not exceed three hundred (300) square feet on a single property.

(4) All signs visible from River Road shall be compatible with any public signage established by the Town for the Waterfront Region.

(5) Signs shall have the minimum of information necessary in order to avoid clutter and confusion. Whenever feasible, signs should be combined into a single sign in order to minimize clutter.

H. Storage of materials.

(1) Required service areas, required loading areas and outdoor storage areas shall be located so as to not be visible from public street, public pedestrian ways or public open space. To the extent possible, service, loading and storage facility should be architecturally incorporated into the building or architecturally treated with walks, fencing and landscaping.

Where these facilities are visible from public or private pedestrian areas or public open space, they shall be screened with opaque materials.

(2) Outside storage that is located within one hundred fifty (150) feet of the district boundary shall not exceed eight (8) feet in height. Elsewhere in the district outside storage shall be limited to twelve (12) feet in height.

(3) Existing outside storage use that does not comply with this code will have eighteen months form the time of adoption to comply with this provision. Failure to comply will result in an enforcement action by the Town Building Department.

I. Lighting.

(1) All lighting shall be located and designed as an integral part of the entire project of which it is a part and shall consider the architectural and landscape context of the site.

(2) Lighting shall be provided for visibility, security, and as an accent to architectural and/or landscape features.

(3) Pedestrian scale lighting shall be provided along major pedestrian paths and along the Niagara River edge.

(4) Lighting fixtures shall be used that appear and function as a compatible whole, including the designs of building mounted lighting.

(5) Lighting shall be located and designed to minimize glare and reflection on adjacent properties and shall not interfere with the use of neighboring premises.

(6) Lighting fixtures shall be used that direct light downwards in order to minimize interference with roadways and public use.

(7) All wiring for lighting shall be installed underground.

J. Circulation.

On-site circulation shall be designed to minimize conflicts between vehicles and pedestrians.

(1) Common driveways and interconnection of parking areas should be provided where practical in order to efficiently serve adjacent related or complimentary uses, to minimize the number of road cuts and to

concentrate and control turning movements onto River Road and internal feeder roads.

(2) All bike and walking paths shall be clearly identified with striping and/or signage as necessary within parking areas, driveway crossings, and public roadway crossings.

(3) Sidewalks or paths shall be placed parallel to all major roadways or driveways or shall form an interconnected network within a property or group of properties. Whenever practicable, pathways shall be connected to the existing local or regional pathway system.

SECTION 4. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

ARTICLE IX-C
(W-R) WATERFRONT RESIDENTIAL DISTRICT

§ 215-70.15. Purpose and Intent.

A. In accordance with the Waterfront Region Master Plan and the Local Waterfront Revitalization Plan, promote and accommodate the development of residential housing which is designed with suitable character and a respect for the waterfront environment. The district is also designed to protect the unique features and vistas available along the Niagara River.

B. The district will allow medium to high density residential development which does not limit public access or enjoyment of the river's edge and the unique open space resources of the Waterfront Region.

C. The purpose of this district is to promote a mixed density residential environment which is unique in the Town and which offers the opportunity to bring the vitality of an expanded residential population to the Waterfront Region.

D. The district uses should be focused on providing opportunities for a wide variety of housing options as long as they are in keeping with the waterfront character and are designed to protect public access and enjoyment of the waterfront.

§ 215-70.16. Permitted Uses with Site Plan Approval.

The following uses only are permitted with site plan approval by the Town Building Department after having received comments from the Town Planning board

A. Single family detached dwellings.

B. Public parks, playgrounds or similar public recreation areas.

§ 215-70.17. Specially Permitted Uses.

The following uses only may be permitted with site plan approval and a special use permit issued by the Town Board after having received comments from the Town Planning Board:

A. Multi-family dwellings, apartment buildings, or other similar uses.

B. Townhouses, row houses, or other similar uses.

C. Essential Public Services.

§ 215-70.18. Accessory Uses.

A. Accessory uses for any use within this district shall conform to the requirements of § 215-12 of this local law.

§ 215-70.19. Dimensional Requirements.

A. Allowable Density.

The overall density within an area proposed for development within this district shall be limited to six residential units per acre.

B. Development Guidelines.

(1) Lot size and setbacks.

Lot sizes, dimensions and locations thereon may be established at the discretion of the applicant, however, buildings must be arranged in conformity with the overall density standards established in § 215-70.19(A) of this local law. Minimum lot size or frontage are not specified of this local law. In acting on any application for a proposed development, the Town Planning Board in making its recommendation and the Town Building Department in reaching its decision shall be guided by standards set elsewhere in this local law for comparable uses and by acceptable planning practice, to the extent that the resulting development shall achieve the purpose and intent as described in this Article.

(2) Lot Coverage and Open Space.

For residential developments with multiple lots, a minimum of forty (40)

percent of the total area within an individual proposed development must be maintained as vegetated open space. On individual lots within a development, area coverage including all buildings, accessory structures, parking areas and other impervious surfaces may cover up to seventy-five (75) percent of the lot, as long as the 40 percent of open space is maintained throughout the overall development.

Proposed single lot developments must meet the forty percent open space criteria.

On any individual lot, developed singly or as part of a multi-unit development the principal structure shall not exceed thirty (30) percent of the lot coverage.

For multi-family or attached residences a maximum of six units shall be allowed to be attached in any one building group or incorporated within the same building.

(3) Height Restrictions.

(a) Maximum building height for residential structures shall not exceed thirty-five (35) feet.

(b) Maximum height for accessory buildings and structures shall not exceed twelve (12) feet except for a detached garage which may not exceed fifteen (15) feet.

(4) Required Minimum Unit Size.

(a) Any single family dwelling proposed in this district shall conform to the floor area requirements as outlined in § 215-21 of this local law.

(b) Townhouse or other multi-unit developments must have a minimum gross living area in accordance with the regulations outlined in § 215-25 of this local law.

§ 215-70.20. Additional Requirements and Incentives Permitted.

A. Niagara River Crest Setback and Potential Incentives.

All structures must be setback a minimum of seventy-five (75) feet from the crest overlooking the river shoreline. All uses, premises, and structures should be

designed to allow pedestrian access to and along the crest. An applicant who proposes to improve public access by any of the following methods: construction of a permanent walkway for public use along the crest edge or connects the Riverwalk with the a pedestrian path through the proposed development; observation areas, viewing platforms and other similar amenities may be eligible for an incentive bonus. If the proposed amenity is acceptable to the Town Board, the applicant may be eligible for a density bonus of up to 8 units per acre and/or a reduction in the required crest setback to fifty (50) feet. The walkway or other amenity shall be made available for public use under a mutually acceptable arrangement between the Town and the applicant or property owner. Public parkland, trails, docks, piers and boat launch facilities are exempt from this requirement but are subject to site plan review to determine the appropriate relationship to the water's edge.

§ 215-70.21. Additional Site Plan Review Standards and Requirements for W-R District.

A. Landscaping, Screening and Buffering.

Significant existing vegetation shall be preserved, where practical, in any required waterfront or public access setback or buffer area. The applicant shall submit a landscape plan. The landscape plan should be prepared by a landscape architect or arborist and should contain a mix of understory and canopy trees and/or vegetation adequate to provide a visual buffer between the river or trail and the proposed development. The landscaping should not fully screen the development or impede public views of the river, however, it should provide a visual break of the built environment.

B. Fencing.

The use of fencing is discouraged within this district. Where used the fencing shall be limited to four (4) feet in height and shall be designed to not visually screen views of the river.

C. Viewshed Protection.

The site shall be developed in such a way as to maximize view opportunities to the river and view corridors throughout the development. Site layout and design shall consider view corridors from River Road and any adjacent public open space. Important views should be protected and enhanced to the maximum extent practicable. To ensure visual access to the water at least twenty-five (25) percent of the river view shall be contained within view corridors. The total width of the view corridor shall be measured by dividing the total width of the view corridors by the total river view in a single ownership.

The Town Building Department at its discretion or at the suggestion of the Town Planning Board may require the applicant provide information which will allow an adequate review of the potential impact of the development on the scenic resources of the area. Information that may be requested may include:

(1) Photographs of all existing scenic vistas at the site.

(2) Schematic plans and sections showing clearly the impact development will have on the scenic vistas.

(3) Elevations or perspective sketches showing the proposed development and its impact on views to the river from surrounding public open space and/or public right-of-ways.

(4) Based on the findings of the visual assessment, the Town Building Department may limit the height or length of any proposed structure and may recommend changes in the arrangements of buildings if in its determination the proposed limitations or changes will protect or enhance the visual character.

D. Parking.

All permitted uses shall comply with the regulations outlined in Article XIII of this local law for number of parking spaces required and the standards for design of parking areas.

E. Utilities and Communication Facilities

All utility lines and communication facilities shall be installed underground, if possible, in the manner prescribed by the regulations of the government agency or utility company having jurisdiction. Where facilities are provided, they shall be planned to anticipate future utility needs and shall be sited to reduce future capital costs.

F. Signage.

All signage proposed for permitted uses within this district shall comply with the signage regulations of Article XXII of this local law and the following conditions:

(1) All graphics and signs shall be designed as an integral part of the whole for the entire development proposed for a given property within the district.

(2) Signs for any residential use within this district shall conform to § 215-

145 of this local law.

(3) All signs visible from River Road shall be compatible with any public signage established by the Town for the Waterfront Region.

G. Lighting.

(1) All lighting shall be located and designed as an integral part of the entire project of which it is a part and shall consider the architectural and landscape context of the site.

(2) Lighting shall be provided for visibility, security, and as an accent to architectural and/or landscape features.

(3) Pedestrian scale lighting shall be provided along major pedestrian paths and along the Niagara River crest.

(4) Lighting fixtures shall be used that appear and function as a compatible whole, including the designs of building mounted lighting.

(5) Lighting shall be located and designed to minimize glare and reflection on adjacent properties and shall not interfere with the use of neighboring premises.

(6) Lighting fixtures shall be used that direct light downwards in order to minimize interference with roadways and public use.

H. Circulation.

On-site circulation shall be designed to minimize conflicts between vehicles and pedestrians.

(1) The number of road cuts should be minimized to River Road. Traffic should be directed to internal feeder roads to concentrate and control turning movements onto River Road.

(2) All bike and walking paths shall be clearly identified with striping and/or signage as necessary within parking areas, driveway crossings, and public roadway crossings.

(3) Sidewalks or paths shall be placed parallel to all major roadways or driveways or shall form an interconnected network within a property or group of properties. Whenever practicable, pathways shall be connected to the existing local or regional pathway system.

§ 215-70.22. Access to Industrial Zoned Parcels from River Road.

Until such time as River Road is relocated to conform with the road layout as proposed in the Town of Tonawanda Waterfront Region Master Plan, temporary access to the industrial portion of properties which line River Road will be allowed. The temporary access road shall be abandoned upon completion of the road relocation at which time any portion of a parcel on the east side of relocated River Road shall be considered to be in the W-I District.

SECTION 5. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

ARTICLE IX-D
(W-I) WATERFRONT INDUSTRIAL DISTRICT

§ 215-70.23. Purpose and Intent.

A. In accordance with the Waterfront Region Master Plan, accommodate industrial development of a manufacturing, processing and/or assembly nature as well as wholesale and warehousing activities without having an unreasonable adverse impact on surrounding land uses and the waterfront region in general.

B. Promote uses that will provide job opportunities and strengthen the Town's tax base.

C. Maintain design objectives of the Waterfront region.

§ 215-70.24. Permitted Uses.

The following uses only may be permitted with site plan approval and without a special use permit.

A. Public and private parklands and trails.

§ 215-70.25. Specially Permitted Uses.

The following uses only may be permitted with site plan approval and with the issuance of a special use permit by the Town Board.

A. Boat storage facility.

B. Offices necessary to any business or industry operating within this district

C. Light manufacturing.

D. Assembly.

E. Wholesale business and storage.

F. Warehousing.

G. Truck terminals.

H. Service or repair of an industrial nature.

I. Public utilities.

J. Business offices, research facilities or medical professional buildings.

§ 215-70.26. Uses expressly prohibited.

The following uses shall not be permitted.

A. Residences.

B. Junkyard.

C. Hazardous/noxious uses.

D. Waste transfer or disposal.

E. Land mining.

F. Stockyards.

G. Any use which creates any dangerous, injurious, noxious or otherwise objectionable hazard, noise, vibration, smoke, dust, odor or other form of pollution; heat, cold, dampness, electromagnetic or other disturbance; glare; liquid or solid waste; or any other substance, condition or element, in such manner or in such amount as to in the opinion of the Town Building Department, adversely affect the use of surrounding area or property.

§ 215-70.27. Accessory Uses.

The following uses only are permitted with site plan approval when proposed as an accessory use to a permitted or specially permitted use.

A. Storage structures subject to height screening conditions.

B. Clinics, cafeterias and recreational facilities for the exclusive use of employees of the principal use. Exterior recreational facilities shall not be located closer than one hundred (100) feet to a boundary of a residential district.

C. Garages, pump houses, water towers, and storage tanks.

D. Any outdoor storage of equipment and/or material must be in a rear yard and fully screened by a fence or landscaping to shield the storage area from the waterfront area. No outdoor storage shall be allowed in any area designated as a setback. All equipment, stored outdoors, which is designed to lift, dump or tow must be stored in a manner where it achieves the lowest possible profile. Outdoor storage shall be located no closer than one hundred (100) feet to a residential district.

E. Any freestanding radio and television antennas. aerials, parabolic reflectors or similar communication devices, provided that they are located within the rear yard, not within ten (10) feet to any lot line and shall be so limited in height that if it were to fall, it would fall entirely within the property lines of the subject property.

F. Other normal accessory structures.

§ 215-70.28. Dimensional Requirements.

A. Minimum Lot Size - 1.5 acres.

B. Minimum Lot Width at the front - 100 feet.

C. Front yard - minimum of 50 feet measured from the nearest street right-of-way line.

D. Side Yard - minimum of 25 feet, except where a proposed use abuts a residential district the side yard shall be at least 50 feet.

E. Lot Coverage - building coverage shall be limited to 40 percent of the lot area, total coverage of the lot with impervious surfaces shall be limited to 75 percent.

F. Height Restriction - the maximum building height shall not exceed 50 feet.

§ 215-70.29. Additional requirements and standards.

A. Two Mile Creek Buffer - a minimum of twenty five (25) feet on either side of the creek or its tributaries should be maintained in its natural state. The setback distance shall be measured from the average high water line of the waterbody. The applicant is encouraged to protect the natural drainage elements within the project area and to provide a means of public access along any drainage element where it is appropriate or desired to integrate the preservation of the drainage features into the open space element of the project design.

B. Landscaping, Screening and Buffering.

All buildings, yards, sidewalks, open spaces, parking areas, storage areas and service areas shall be landscaped in a manner which will harmonize with the proposed buildings and the surrounding waterfront area.

The Town shall require buffer landscaping, fencing or screening, to separate land uses and to screen utility buildings, refuse collection areas, storage areas, cooling systems or other similar structures, and other similar installations and features.

All plants, trees and shrubs shall be planted in accordance with a planting schedule provided by the applicant and approved by the Town. Landscape materials selected shall be appropriate to the growing conditions of this climatic zone.

C. Parking.

Parking shall comply with Article XIII of this code and meet the following additional standards:

(1) Employee parking facilities developed as structures or surface lots shall not be located within any setback areas or in the front of any building.

(2) Employee parking areas shall be paved with an appropriate surface approved by the Town Building Department; shall have appropriate bumper guards where needed and except for driveways and other entrances shall be properly screened and drained.

(3) Parking areas for visitors, customers or clients may be located within a setback area; provided that at least 50 percent of the area is landscaped.

Such parking areas must be paved with an appropriate surface.

(4) Parking areas shall not exceed 14,000 square feet in area unless interrupted by a minimum 15 foot wide landscaped strip. Median requirements may be relaxed if the parking lot configuration is irregular shaped.

(5) No loading docks shall be permitted on any portion of a building which faces a street; provided however, that if two or more building walls face a street or public right-of-way, then loading docks may be permitted if adequate landscaped screening is provided.

D. Signage.

Signage shall comply with Article XXII of this local law.

E. Fencing.

No fence shall be erected within any setback area. Fences shall be limited to six feet in height.

F. Storage of materials.

Required service areas, required loading areas and outdoor storage areas shall be located so as to not be visible from public street, public pedestrian ways or public open space. To the extent possible, service, loading and storage facility should be architecturally incorporated into the building or architecturally treated with walks, fencing and landscaping. Where these facilities are visible from public or private pedestrian areas, public streets or public open space, they shall be screened with opaque materials.

Outside storage that is located within one hundred fifty (150) feet of the district boundary shall not exceed twelve (12) feet in height. Elsewhere in the district outside storage shall be limited to twenty (20) feet in height.

Existing outside storage use that does not comply with this code will have eighteen months from the time of adoption to comply with this provision. Failure to comply will result in an enforcement action by the Town Building Department.

G. Utilities and Communication Facilities.

No utilities or communication facilities shall be installed aboveground in front or side yards. All utility and communication facilities shall be installed underground, if possible, in a manner prescribed by the regulations of the

government agency or utility company having jurisdiction. All utilities shall be installed so as to anticipate future needs and shall be sited and sized to reduce future capital costs.

§ 215-70.30. Performance Standards.

A. General Requirements.

(1) All uses subject to the requirements of this section may be established and maintained if their operations are approved by the Town Building Department as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Town Building Department shall decide whether the proposed use will conform to these applicable performance standards or to any additional performance standards required by state or federal laws or which are generally recognized performance standards for a given industry.

(b) Uses subject to the performance standards procedure. Only manufacturing and research, experimental and testing laboratory uses and uses accessory thereto shall be subject to the performance standards procedure in obtaining a building permit. However, if the Building Inspector has reasonable grounds to believe that any other proposed use violates any of the performance standards then the applicant shall comply with the performance standards procedure.

(c) Enforcement provisions applicable to other uses. Initial and continued compliance with the performance standards is required of every use, including those already existing on the effective date of these regulations. Provisions for enforcement of continued compliance with performance standards shall be invoked by the Building Inspector against any uses if there is reasonable grounds to believe that the performance standards are being violated by such use.

B. Performance Standards Procedure.

(1) An application for a building permit or certificate of occupancy for a use subject to the performance standards procedure shall include a plan of the proposed construction and a description of the proposed machinery, operations and products and specifications for the mechanisms and techniques to be used in restricting the emission of any dangerous and objectionable elements. The applicant shall also file with any such plans and specifications an affidavit acknowledging his understanding of the

applicable performance standards and stating his agreement to conform to same at all times. During the course of site plan review, the Town Building Department will determine if the applicant's proposal falls within the performance standards.

(2) Expert consultants.

(a) The Town may require a report by one (1) or more expert consultants retained by the Town or retained by the applicant and approved by the Town, to advise as to whether the proposed use will conform to the applicable performance standards. The consultant shall report within twenty (20) days, and a copy of his report shall be promptly furnished to the applicant. The cost of any such special reports by expert consultants shall be paid by the applicant. The applicant shall submit a written report showing the manner in which the proposed use will comply with the performance standards. Any building permit or certificate of occupancy shall be conditioned on, among other things, the applicant's paying the fee for services of such expert consultants as the Town may call upon for advice as to whether or not the applicant's completed buildings and installations will conform in operation to the applicable performance standards.

(b) When the use of such consultant is required by the Town, the applicant shall deposit a fixed amount as determined by the Town Building Department to be applied to the fee for such consultant. Any proceeds of such deposit not used for said consultant shall be returned to the applicant, and any deficiency shall be made up by the applicant within fifteen (15) days following a request therefore and in any event prior to the issuance of a building permit or certificate of occupancy.

(c) The continued effectiveness of the certificate of occupancy shall be conditioned on the continuous conformance of the applicant's completed buildings, installations and uses with the applicable performance standards.

C. Performance Standards.

(1) Fire and explosive hazards.

All activities involving, and all storage of, flammable and explosive materials shall be protected at all times with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and

fire-suppression equipment and devices standard in industry. Burning of waste materials in open fires is prohibited at any time. The relevant provisions of state and local laws and regulations shall also apply.

(2) Vibration.

(a) No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed two-thousandths (0.002)g peak at up to a frequency of fifty (50) cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration-measuring equipment.

(b) Vibrations occurring at higher than a frequency of fifty (50) cycles per second or a periodic vibration shall not induce accelerations exceeding one-thousandth (0.001)g. Single-impulse periodic vibrations occurring at an average interval greater than five (5) minutes shall not induce accelerations exceeding one-hundredth (0.01)g measured at the lot line.

(3) Noise.

Noise levels at the proposed facility must be controlled to prevent sound levels beyond the property line exceeding the ambient sound levels as shown in Table I. If background sound levels excluding any contributions from the proposed new proposed facility exceed the limits in Table I, then the operations at the proposed facility must not cause a sound level exceeding the background.

Table I
Noise Level Limits*

	Receiving Land Use		
	Residential	Commercial	Industrial
Time Period		(decibels A)	
7 am - 11 pm	65	65	75
11 pm - 7 am	50	65	75

* Sound levels will be measured as Leq energy equivalent. The Leq is defined as the equivalent steady state sound level which contains the same acoustic energy as the time varying sound level during a one hour period exceeded no more than 10 percent of the time. The noise levels must comply with measurements taken using a Type I general purpose sound level meter, Type 2, or corresponding special sound meters Type S1A or S2A. All sound monitoring equipment shall comply with ANSI standard S1.4 - 1983, or the latest version thereof.

(4) Smoke.

The density emission of smoke or any other discharge into the atmosphere

during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringlemann Chart. (A Ringlemann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke.) These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity.

(5) Odor.

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one (1) volume of odorous air emitted to four (4) volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, in Table III, Odor Thresholds, in Chapter 5, the Air Pollution Abatement Manual, Copyright 1959, by the Manufacturing Chemical Association, Inc., Washington, D.C., as said manual and/or table is subsequently amended.

(6) Fly ash, dust, fumes, vapors, gases and other forms of air pollution.

No emissions shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed one-tenth (0.1) the maximum allowance concentration set forth in § 12-29 of the Industrial Code Rule No. 12, relating to the control of air contaminants, adopted by the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.

(7) Electromagnetic interference.

No use, activity, or process shall be conducted which produces electric and/or magnetic fields which adversely affect public health, safety, and welfare including but not limited to interference with normal radio, telephone, or television reception from off the premises where the activity is conducted.

It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation which does not comply

with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. It shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers; Institute of Radio Engineers; and Electronic Industries Association.

(8) Radioactive materials.

The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in conformance with all applicable federal and state regulations.

(9) Heat.

Heat emitted to any or all points shall not at any time cause a temperature increase on any adjacent property in excess of five degrees Fahrenheit (5° F.), whether such change is in the air or on the ground, in a natural stream or lake or in any structure on such adjacent property.

(10) Glare.

(a) Direct glare. No such direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be sixty degrees (60°) drawn perpendicular to the ground, and with the exception that such angle may be increased to ninety degrees (90°) if the luminary is less than three (3) feet above ground, such cone shall not extend beyond the property lines.

(b) Indirect glare. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed three-tenths (0.3) footcandle (maximum) and one-tenth (0.1) footcandle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes is specifically prohibited.

(11) Liquid, solid, gaseous or hazardous waste.

No discharge shall be permitted at any point into a public sewer or stream or into the ground except in accord with standards approved by the State and County Departments of Health, New York State Department of Environmental Conservation and local ordinances, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

SECTION 6. AMENDMENT TO ARTICLE IX OF LOCAL LAW 4-82.
ARTICLE IX OF LOCAL LAW 4-82 SHALL BE AMENDED TO INCLUDE THE FOLLOWING:

ARTICLE IX-E
APPROVAL OF SPECIAL USES
FOR
WATERFRONT DISTRICTS

§ 215-70.30. Purpose and Intent.

The purpose of special use approval is to allow the proper integration into the waterfront area of the Town, uses which may be suitable only under certain conditions and at appropriate locations. Because of their characteristics or the special characteristics of the area in which they are to be located, these uses require special consideration so that they may be properly located with respect to the objectives of this local law and the Town of Tonawanda Waterfront Region Master Plan, and their effect on surrounding properties and the Niagara Waterfront.

§ 215-70.31. Authorization to Grant or Deny Special Uses in the Waterfront District.

This local law is enacted pursuant to the authority granted to the Town Board of the Town of Tonawanda in Article 16 of the Town Law of the State of New York and section ten of the Municipal Home Rule Law of the State of New York. This local law now supersedes and modifies section two hundred seventy-four-b of the Town Law of the State of New York in that the functions and duties conferred upon the Planning Board in section two hundred seventy-four-b of the Town Law of the State of New York be performed by the Town Board of the Town of Tonawanda and the Town Board of the Town of Tonawanda shall be deemed the Planning Board

for such purposes. The special uses listed in this local law may be permitted, enlarged or otherwise altered upon authorization by the Town Board in accordance with the standards and procedures set forth in this Article. In permitting a special use in the Waterfront District or the modification of such use, the Town Board may impose those standards and requirements expressly specified by this local law and any additional conditions which the Town Board considers necessary and reasonable to serve the best interests of the surrounding property and the waterfront area as a whole. These conditions may include, but are not limited to, size or controlling the location and number of vehicle access points; increasing the street width; limiting the number, size and location of signs, limiting hours of operation; and requiring fencing, screening and landscaping or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this local law and classified in this local law as a special use, any change in use or in lot area or an alteration of structure shall conform to the requirements dealing with special uses.

§ 215-70.32. Applicability.

This Article is applicable to the issuance of special use permits for all uses in the Waterfront Districts: W-1, W-2, W-R, and W-I which require a special use permit.

§ 215-70.33. Uses Near Residential Districts.

In addition, in the case of any use located in, or directly adjacent to, a residential district:

A. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to existing streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood.

B. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the sit shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

§ 215-70.34. Procedures for a Special Use Permit in a Waterfront District.

A. An applicant shall initiate the special use permit in a Waterfront District procedure by filing an application addressed to the Town Board and delivered to the Town Clerk which includes:

(1) A general description of the proposed use.

(2) A legal description of the property.

(3) A proposed current site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas and all streets within two hundred (200) feet of the lot, as well as showing the property and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof.

(4) Plans and elevations necessary to show the proposed development.

(5) Other drawings or information shall be provided as requested by the Town Board or Town Planning Board.

(6) A written statement which demonstrates how the proposed project meets the required standards.

(7) A filing fee, the amount of which shall be fixed by the Town Board by resolution.

B. Review of the site plan shall take place concurrently with review of the special use permit application.

C. The Town Clerk shall refer the special use permit application to the Town Planning Board who shall determine its completeness. If further information is necessary, the application will be returned to the applicant together with a written notice specifying the additional information or documentation required.

D. Immediately upon determining that an application is complete, the Town Planning Board shall refer a completed application to the Building Department for coordination with the site plan review process.

E. The Building Department shall submit its written comments concerning the special permit application to the Town Board within forty-five (45) days of its receipt.

F. The Planning Board shall review the special permit application and submit a written report including its recommendations to the Town Board within forty-five (45) days of receiving a completed application.

G. Public hearing on special uses in the Waterfront District. Before a special use is permitted, the proposed use shall be subject to public notice and a public hearing conducted by the Town Board. Public notice of said hearing shall be published in a newspaper of general circulation in the Town at least five (5) days prior to

the date thereof. The public hearing shall be held within sixty-two (62) days of acceptance of the complete permit application by the Town Planning Board.

H. At least ten (10) days before such hearing, the Town Board shall mail notices thereof to the applicant and to the Erie County Department of Environment and Planning as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.

I. Compliance with state environmental quality review act. The Town Board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. Any time periods specified herein shall be extended as required so as to enable the Town Board to comply with the requirements of the state environmental quality review act.

J. The Town Board shall, within sixty-two (62) days of the public hearing on the complete special use permit application, render a decision on the permit. The time period may be extended by the mutual consent of the applicant and the Town Board. The decision of the Town Board on the application after the holding of the public hearing shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

K. In the case where a special use has been approved, a building permit shall be issued after the granting of the special use permit, and then only in accordance with the terms and conditions of the permit.

L. A special use in a Waterfront District permit shall become void one (1) year after approval unless, by conditions of the use permit, greater or lesser time is specified as a condition of approval or unless, prior to expiration of one (1) year, a building permit is issued. The permit shall be void if the use shall cease for more than six (6) months for any reason.

M. The Town Board, on its own motion, may revoke any special use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing. Written notice of such hearing shall be given the holder of the special use permit. Such notice shall be given by regular mail and also by certified mail, return receipt requested, addressed to the address of the special use permit holder specified in the special use permit and mailed at least ten (10) days prior to the scheduled hearing. The forgoing shall not be the exclusive remedy, and it shall be unlawful for any person to violate any condition imposed by said permit. Prior to the revocation

proceeding specified herein, the Town Board shall notify the holder of the special use permit in writing that he, she or it is not in compliance with the conditions specified in the said permit and shall give the holder of the special use permit sixty (60) days within which to comply. In cases where there is imminent danger to the public health, safety or welfare, the Town Board may revoke the permit immediately. In such cases, the Town Building Department is authorized to issue an immediate order to stop work or operations.

N. The Town Board may approve, disapprove or approve with modifications any special use permit. The Town Board approval may include recommendations for modifications that shall be included in the final site plan for the project if one is required or in the plans submitted during application for a building permit. Conformance with said modifications shall be considered a condition of approval. If the special use permit is disapproved, the Town Board shall provide written findings to the applicant listing the reasons for disapproval.

§ 215-70.35. Standards Governing Special Uses in Waterfront Districts.

A special use in a Waterfront District shall comply with the standards of the district in which it is located and meet the following:

A. In order to grant any special use, the Town Board shall find that the request is in harmony with the general purpose and intent of this local law, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with the use and the size of the site with respect to streets giving access thereto.

B. In order to grant any special use, the Town Board shall find that the establishment, maintenance or operation of the use applied for, under the circumstances of the particular case, will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.

C. The proposal will not result in the destruction, loss or damage of any natural, scenic or significant historical resource.

D. The proposal will not create excessive additional requirements of public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

E. The proposal will be served adequately by essential public facilities, such as highways, streets, police and fire protection, stormwater drainage. water and

sewer and schools, or that the applicant for the proposed special use shall otherwise provide that these services be adequately obtained.

F. The proposed structure or use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.

G. The proposed structure or use complies with all additional standards imposed on it by the particular provision of this local law which authorizes such use.

H. The proposal essentially conforms to the Town of Tonawanda Waterfront Region Master Plan.

SECTION 7. NEW ARTICLE XXIII OF LOCAL LAW 4-82.
ARTICLE XXIII OF LOCAL LAW 4-82 SHALL READ AS FOLLOWS:

ARTICLE XXIII
APPROVAL OF SITE PLANS

§ 215-150. Introductory Provisions.

A. Authority.

This local law is enacted pursuant to the authority granted to the Town Board of the Town of Tonawanda in Article 16 of the Town Law of the State of New York and section ten of the Municipal Home Rule Law of the State of New York. This local law now supersedes and modifies section two hundred seventy-four-a of the Town Law of the State of New York in that procedures are included herein for an optional sketch plan review process, a preliminary site plan review process and a final site plan review process.

B. Purpose and Intent.

The purpose of this Article is to define procedures for the Town Building Department review of development proposed throughout the Town to ensure that design elements are in compliance with the protection of the health, safety, and overall welfare of the community. The intent of site plan review is to evaluate site plans and require changes consistent with minimizing conflicts which may result between the site layout and design of proposed uses and natural site

conditions and features and/or existing or planned adjacent uses. Site plan review is also responsible for ensuring that development comply with clearly articulated planning goals and policies such as are provided in the Town 's Comprehensive Plan and other area specific planning documents.

Toward these ends these regulations provide site plan review submission requirements and evaluation criteria to allow the Town Building Department to make a fair and informed decision as to whether the development as proposed is in compliance with concern for the health, safety, and welfare of the environment, Town residents, and adjacent uses.

C. Town-Building Department Authority to Review Site Plans.

The Tonawanda Town Board authorizes the Town Building Department under the direction of the Supervising Building Inspector to review and approve, approve with modifications, or disapprove site plans on a Town -wide basis. In this regard, the Town Building Department, under the direction of the Supervising Building Inspector, is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable Town officials. In all waterfront districts the Town Planning Board is authorized to review and submit comments to the Town Building Department as part of the review process. Comments submitted by the Town Planning Board shall be of an advisory nature and shall be non-binding on the decisions on the Supervising Building Inspector.

§ 215-151. Applicability.

A. Uses Requiring Site Plan Approval.

Prior to the issuance of a building permit in any zoning district or a permit for a change in use or approval of a special use, the Supervising Building Inspector shall require site plan review in accordance with the provisions of this Article. Site plan review is required for all new land use activities, including new structures, new uses, expansions of existing structures, excavation operations, new special uses and legal conversions of existing buildings to other uses except those specifically exempted in the following section.

B. Exempted Uses.

The following land use activities are exempted from the site plan review requirements of this Article:

1. Construction of a single one- or two-family dwelling on an approved building lot, including residential subdivisions, meeting the dimensional requirements of this local law. This exemption does not apply to proposed residential projects in the W-R and W-1 districts.

2. Permitted accessory structures to one- and two-family dwellings.

3. Ordinary repair or maintenance or interior alterations to existing structures or uses. For industrial or commercial structures this exemption is limited to alterations that do not substantially change the nature or use including additions or alterations which will not increase the gross floor area of the existing structure by more than twenty-five (25) percent or 20,000 square feet, whichever is smaller, within any three (3) year period.

4. Exterior alterations or additions to one- and two-family dwellings.

5. Incidental landscaping or grading.

C. Existing Uses and Structures.

This Article does not apply to uses and structures that are lawfully in existence as of the date this Article is adopted. Any use that would otherwise be subject to this Article, which has been discontinued for a period of six months or more, shall be subject to review pursuant to the terms herein defined before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has started construction prior to the effective date of this Article and is fully constructed and completed within one year after the effective date of these regulations.

D. Uncertain Applicability.

Any person uncertain of the applicability of the provisions of this Article to a given land use activity may apply in writing to the Town Building Department for a written jurisdictional determination.

§ 215-152. Procedures.

A. Site Plan Review and Approval Process.

Site plan review shall follow a two-step approval process: preliminary site plan review and approval and final site plan review and approval. For significant or complex projects, there is an optional sketch plan step which precedes the review process and may be undertaken to expedite the site plan approval process.

B. Optional Sketch Plan Submission.

1. The applicant may request a sketch plan conference to be held between the Town Building Department and the applicant prior to the preparation and submission of a formal site plan. The conference provides the Town Building Department with an opportunity to review the basic site plan concept, to advise the applicant as to potential problems and concerns and to review with the applicant submission requirements to generally determine the information to be required with the site plan. The sketch plan conference is also an opportunity to discuss development plans for the applicant's entire holdings including phasing and to define the project and phases to be submitted for site plan review.

   At the sketch plan conference the Town Building Department will determine if the proposal is in conformity with the adopted Town Comprehensive Plan and any other approved plans. To the extent feasible, the Town Building Department shall provide the applicant with an indication of whether the proposal, in its major features is acceptable or should be modified before expenditures for more detailed plans are made.

2. In order to accomplish these objectives, the applicant shall provide 3 copies of the following information at a date specified by the Town prior to the date when the Town Building Department will discuss the sketch plan:

   (a) A sketch plan shall include the locations and dimensions of principal and accessory structures, locations of ingress and egress, parking areas, signs, existing and proposed vegetation and other existing or planned features; a narrative describing anticipated changes to existing topography and natural features; a description of environmentally sensitive features, including all regulated wetlands, and proposals for their protection; proposed water supply and sewage and waste disposal facilities; provisions for stormwater drainage, recreation and open space; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.

   (b) A map showing the applicant's entire holdings, the parcel under consideration for site plan review and a general description of all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within five hundred (500) feet of the boundaries of the parcel including property uses.

(c) Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or County Highway Superintendent at the sketch plan stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process.

3. Upon review of the sketch plan, the Town Building Department in conjunction with the Town Engineer, may waive requirements for submission of application materials. Submission requirements shall only be waived for developments for which, due to character, size, location or special circumstances, such information is not required in order for the Town Building Department to properly perform site plan review. In this regard, a finding must be made by the Supervising Building Inspector that such requirements are not requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

4. Within six (6) months of the optional sketch plan and/or the sketch plan conference, the applicant shall submit to the Town Building Department a copy of the preliminary site plan and any related information. This information shall be submitted to the Town Building Department ten (10) days prior to the meeting at which approval is requested. If six (6) months elapses between the original sketch plan submittal and the submission of the preliminary site plan, a resubmission of an updated sketch plan may be required.

C. Procedures for Preliminary Site Plan Review.

1. Preapplication Procedures.

Prior to the submission of the preliminary site plan, the applicant may meet with the Building Inspector or designated representative to discuss the proposal. The purpose of such a meeting is to make clear all Town requirements and subsequent steps necessary in the site plan approval process. The applicant will be informed of the optional sketch plan conference with the Town Building Department. Prior to submission of the preliminary site plan, the applicant shall meet with the Supervising Building Inspector or his designated representative to discuss specific concerns of the Town Building Department.

2. Application for Preliminary Site Plan Approval.

To apply for preliminary site plan approval, an applicant shall complete

a preliminary site plan application with contents in accordance with paragraph D of this section, which can be obtained from the Town Clerk or the Town Building Department. The application form shall specify the number of copies of each map and report that must be submitted for preliminary site plan approval. The application form shall be filed with the Town Clerk together with the non-refundable application fee. The application fee shall be set by the Town Board by resolution. The Town Clerk shall within five days notify the Town Building Department that such an application has been filed and the date thereof.

3. Acceptance of Preliminary Site Plan Application.

The Town Building Department shall, within thirty (30) days of a preliminary site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application's deficiencies.

4. Segmentation.

The preliminary site plan application and associated maps shall include all proposed phases of development. Preliminary site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Town Building Department shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Town Building Department shall return such application to the applicant together with a letter stating the basis for its determination.

5. Referral to Other Agencies and Boards.

(a) Coordinated Review. The Town Building Department may refer the preliminary site plan for review and comment to the Town Planning Board, local and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, the New York State Department of State, and the state or county Department of Health, whichever has jurisdiction.

(b) Required Referral. Prior to taking final action on the preliminary

site plan, and where applicable, the Town Building Department shall refer the plan to the Erie County Department of Environment and Planning for their review and approval, pursuant to section two hundred thirty-nine-m of the General Municipal Law of the State of New York.

(c) Required Referral. For applicable projects in any of the Town designated Waterfront Districts, copies of the preliminary site plan application, after it has been accepted as complete, shall be referred to the Town Planning Board by the Town Building Department for review and comment. The Planning Board shall submit comments to the Town Building Department within thirty (30) days of receipt unless a jointly agreed upon time extension is negotiated with the applicant.

(d) Where appropriate, in waterfront designated districts, the preliminary site plan information submitted for approval shall be sent to the New York State Department of State.

6. The Supervising Building Inspector shall certify on each preliminary site plan or amendment whether or not the plan meets the requirements of all zoning and subdivision regulations other than those of this Article regarding preliminary site plan approval.

7. The Supervising Building Inspector, upon completion of preliminary site plan review, shall impose any conditions which the applicant must meet prior to receiving preliminary site plan approval.

8. In the case of a proposed development which is phased over a number of years, the applicant shall submit an overall plan for the total development of the project, and a phasing plan. If the overall plan for this project is approved and the first phase of the project is approved, then the first phase of the project continues on to final site plan review and approval. If there is no substantial change in the overall plan or the phasing plan of the project, each succeeding phase of the development need only be reviewed for final site plan approval. If there are substantial changes to the overall plan or the phasing plan, the Supervising Building Inspector shall require subsequent phases to go through preliminary site plan review and approval.

9. The Town Building Department shall conduct a review of the preliminary site plan in accordance with Paragraph E of this section.

10. (a) The Town Building Department shall act on this application within

forty-five (45) days after the applicant has been notified that the preliminary site plan application has been accepted as complete by the Town Building Department, unless the deadline is extended by mutual consent or unless the deadlines of the State Environmental Quality Review (SEQR) Act do not allow for this decision by the Town Building Department because of the SEQR review process. The forty-five (45) day review period does not begin until such time that the Town Building Department notifies the applicant that the application is complete and the materials submitted are acceptable for review.

(b) The Supervising Building Inspector's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications.

(c) The Supervising Building Inspector's statement may include recommendations of modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Supervising Building Inspector's statement shall contain the reasons for such findings. In such a case, the Supervising Building Inspector may recommend further study of the site plan and resubmission to the Town Building Department after it has been revised or redesigned.

11. SEQR Compliance.

The applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval.

D. Content of the Preliminary Site Plan.

1. Any person, before applying for a building permit, change of use, or special use permit, or before undertaking any new land use activity at any location within the Town for which this Article requires preliminary site plan review, shall submit a preliminary site plan together with appropriate supporting information to the Town Building Department for review and approval in accordance with the requirements, standards, and procedures set forth in this Article.

2. All such preliminary site plan maps and accompanying reports shall be prepared by a civil engineer or surveyor licensed to practice in the State of New York. Such plans and information shall be of sufficient detail to

permit an adequate review by an architect, civil engineer, surveyor, land planner or other competent person. The preliminary site plan shall be drawn at a scale of fifty (50) feet to one inch or larger. The Town Building Department may at its discretion waive any preliminary site plan submission requirements which are not relevant to the proposed use and site. Generally, the preliminary site plan shall include the following information:

(a) Legal Data:

(1) The name and address of the owner of record.

(2) The name and address of the person, firm or organization preparing the map.

(3) The date, North point and written and graphic scale.

(4) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest ten (10) seconds or closer. The error of closure shall not exceed one (1) in ten thousand (10,000).

(5) The locations, names and existing widths of adjacent streets and curb lines.

(6) The locations and owners of all lands within two hundred (200) feet of the site boundaries, as shown on the latest tax records, and tax map identification numbers.

(7) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property. To include public infrastructure as well as parks, walkways, access ways and permanent open space.

(8) A complete outline of existing deed restrictions or covenants applying to the property.

(9) Existing zoning within five hundred (500) feet of the site's perimeter.

(10) Tape location map and the distance to nearest public street right-of-way intersection.

(b) Natural Features:

(1) Existing contours with intervals of two (2) feet or less, referred to a datum satisfactory to the Town Building Department.

(2) Approximate boundaries of any areas subject to flooding or stormwater overflows.

(3) The location of existing watercourses, New York State and Federal wetlands, wooded areas, rock outcrops, trees with a diameter of six (6) inches or more measured three (3) feet above the base of the trunk and other significant existing features.

(4) Grading plan including stabilization and erosion control measures to be used during and after construction.

(c) Existing Structures, Utilities, Communication Facilities and Other Features:

(1) The size and location of uses and outlines of all existing structures, drawn to scale, on and within one hundred (100) feet of the lot line.

(2) Paved areas, sidewalks and vehicular access between the site and public streets.

(3) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within two hundred (200) feet of the site boundary. The Town Building Department may at its discretion require a detailed traffic study for large developments or for those in heavy traffic areas to include:

a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic intervals;

b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;

c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities and intersection levels of service. Existing and proposed daily and peak hour traffic volume as well as road capacities and intersection levels of service shall also be given.

(4) Locations, dimensions, grades and flow direction of existing sewers, drainage ditches, culverts and water lines, as well as other communication facilities or underground and aboveground utilities within or adjacent to the property.

(5) Other existing development, including fences, retaining walls, landscaping and screening.

(6) Historic or archeological resources on or adjacent to the site.

(d) Proposed Development:

(1) The location, size (in acres or square feet), type of construction and exterior dimensions of proposed buildings or structural improvements. For residential uses information to include the number of units by type and the gross density per acre. For commercial and industrial structures, identify the amount of gross floor area proposed for retail sales, services, offices and other uses. In all cases, the relationship of various uses and buildings to one another and their scale must be clearly shown.

Note: Elevations and/or sections illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, may be required by the Town Building Department. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal and the height and dimension of all signs.

(2) The location and design of all uses not requiring structures, such as off-street parking and loading areas and solid waste storage areas.

(3) The location, direction, power and time of use for any

proposed outdoor lighting.

(4) The location, size design and materials for all proposed permanent outdoor signs.

(5) The location and arrangement of proposed means of access and egress and on-site circulation, including sidewalks and other pedestrian access, driveways, fire lanes and other emergency zones, or other paved areas. Profiles indicating grading and cross sections showing width of the roadways, location and width of sidewalks, and construction materials.

(6) A landscaping plan showing location, type and size of all proposed plantings including trees, shrubs and ground coverings as well as a planting schedule. The dimensions of any required landscaped screening or buffer areas shall be clearly marked.

(7) The description of the water supply system including: location and size of all proposed water lines, valves and hydrants, and of all sewer lines and alternate means of water supply, storm and sanitary sewer.

(8) An outline of any proposed easements, deed restrictions or covenants.

(9) Any contemplated public improvements on or adjoining the property.

(10) Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties.

(11) A drainage plan showing existing and proposed water courses, proposed detention/retention facilities and calculations of the impact to existing drainage created by the proposed development.

Note: Contour intervals of one or two feet may be required where appropriate for grading and drainage plans.

(12) Location of outdoor storage and waste receptacles and proposed screening for such.

(13) Location and construction materials of all existing or

proposed site improvements including drains, culverts, retaining walls and fences.

(14) Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas and solar energy.

(15) If the site plan indicates only a first stage, a supplementary plan shall indicate ultimate development.

(16) The percentage of the site dedicated to the provision of open space, the location and development of all proposed buffer areas, including indication of proposed vegetative cover.

(17) Any setbacks or other dimensional information required by this local law.

(18) Record of applications and approval status of all necessary permits from federal, state, county, and local agencies.

(19) Estimated project construction schedule.

(20) Estimate of the total cost of proposed site improvements which shall be confirmed by the Supervising Building Inspector or Town Engineer.

(e) The following additional submission requirements apply to preliminary site plans for projects within the W-R, W-1, W-2, and W-I Districts.

(1) Elevation plan and building material details for all buildings facades or structures visible from existing or proposed public streets or open spaces including the Niagara River.

(2) Location of existing and proposed pedestrian and bicycle public access ways on and within 200 feet of the site boundaries, including clear demarcation of striping and signage designed to maintain separation of passenger and commercial vehicles, pedestrian and bicycle circulation.

(3) For proposed projects in the W-R and W-1 District graphic representation of existing and proposed views across the site to the Niagara River from public streets and open

spaces.

(f) Any other information required by the most current checklist prepared by the Town Building Department in order to conduct their review or information requested at the sketch plan conference.

(g) Any other information deemed by the Town Building Department to be necessary to determine conformity of the site plan with the spirit and intent of this Article and the Town Comprehensive Plan or other adopted planning studies.

E. Preliminary Site Plan Review Guidelines.

1. Factors for Consideration During Preliminary Site Plan Review.

The Town Building Department's review of a preliminary site plan shall include but is not limited to the following considerations:

(a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.

(b) Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrians from vehicular traffic, sidewalks, linkages, control of intersections with vehicular traffic and pedestrian convenience.

(c) Location, arrangement, appearance and sufficiency of off-street parking and loading areas.

(d) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. Such consideration may include compatibility of construction materials, design, and theme relationship of uses by type and scale.

(e) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the proposed use and adjoining uses or properties or between uses on the site.

(f) In the case of an apartment complex or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.

(g) Adequacy of stormwater management and sanitary waste disposal facilities.

(h) Protection of adjacent properties from noise, glare, unsightliness or other objectionable features.

(i) Adequacy of water supply facilities.

(j) Adequacy of structures, roadways and landscaping in areas susceptible to flooding, ponding or erosion.

(k) Preservation of and compatibility with natural features and surrounding uses.

(l) Overall impact on the neighborhood, including compatibility of design and effect on the environment.

(m) Conformance with the Town Comprehensive Plan and other plans which the Town uses as a guide for appropriate development.

2. Standards for Review and Design.

The Town Building Department, in reviewing site plans, shall consider the standards set forth below.

(a) All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.

(b) Individual buildings shall be related to each other and to structures and open spaces in the surrounding area in architecture, design, mass, materials, placement, and connections to harmonize visually and physically.

(c) Treatment of the sides and rear of all buildings, where appropriate, based on visibility, shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.

(d) The design of buildings and the parking facilities shall take advantage of the natural topography of the project site where appropriate.

(e) All buildings shall be arranged to avoid undue exposure to concentrated loading or parking facilities wherever possible, and

shall be oriented to preserve visual and auditory privacy between adjacent buildings.

(f) All buildings shall be accessible to emergency vehicles.

(g) Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.

(h) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town's environment.

(i) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.

(j) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space. Such circulation activities should be segregated wherever possible.

(k) Roads, pedestrian walks, and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings, and be appropriately landscaped.

(l) Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

(m) Landscaped, paved, or appropriately surfaced and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.

(n) Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.

(o) Lighting shall be adequate to provide safety and security. Lighting shall generally illuminate only the site in question and shall definitely not negatively impact adjacent uses.

(p) Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.

(q) Parking facilities shall be designed with regard for orderly management, topography, landscaping, and ease of access, and shall be developed as an integral part of an overall site design.

(r) Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.

(s) Off-street parking and loading requirements required in this local law shall be satisfied.

(t) Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public roadways.

(u) All site improvements, where required, shall comply with the requirements of the Americans With Disabilities Act.

3. Criteria for Review of Design in Waterfront (W-R, W-1, W-2 and W-I) Districts only.

There are some additional aspects of development activities in the Waterfront Districts that are likely to impact the health, safety and general welfare of the community and the goals of the Waterfront Region Master Plan. Therefore, site plans in these districts are subject to the following additional review standards except where specifically limited to one or more of the districts. Such standards may be waived by the Town Building Department as part of its site plan review authority if the proposed development is in keeping with the intent of this local law and the Waterfront Region Master Plan and offers an innovative development/design solution for the site in question. In this regard, a finding must be made by the Supervising Building Inspector that any such requirements are not requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

(a) Buildings with long unbroken, unfenestrated walls should be avoided. Variation in building footprint, exteriors wall offsets, facade textures and treatments and roof lines are encouraged to create a visually interesting though cohesive design impact.

(b) All buildings shall have durable exterior finish materials that cover all exterior walls. Generally, buildings are expected to have brick

or other finish masonry, stone, precast concrete, finish grade wood (such as clapboard or shingle) or their equivalent or better for exterior finish.

In proposing other exterior building materials the applicant must show that the material is appropriate to the use proposed and will not significantly impact the overall visual quality of the waterfront experience. The most stringent quality standards will be applied to buildings in locations most visible to people in public spaces enjoying the waterfront experience.

(c) Facades of building that face public open space, public streets, and bicycle/pedestrian pathways shall include design features such as building entries, windows, arcades, overhangs, canopies and related elements that create visual interest. Such architectural elements, finish colors and building lighting shall be coordinated to create a coherent and visually pleasing impression. Extensive uninterrupted blank walls shall not be permitted.

(d) It is especially important in the Waterfront Districts to design on-site circulation to minimize conflicts between passenger and commercial vehicles, bicycles and pedestrians. Therefore, separated circulation should be provided to the extent practicable. Clear identification of biking and walking paths through striping and/or signage is required within parking areas and at driveways and road crossings.

Common driveways and interconnected parking areas should be provided whenever possible to minimize the number of curb cuts and to concentrate and control turning movements on to River Road or other collector roads.

(e) Bicycle and walking paths should be parallel to major roadways or driveways and shall form an interconnected network of path facilities within a property or group of properties. Wherever practicable every effort should be made to interconnect on-site pathways to the larger regional network of paths which include the Riverwalk and Isle View Park.

(f) Contour grading where both the horizontal and vertical slopes are varied to reflect naturally occurring land forms is preferred. Grading shall be minimized to the extent possible and all finished grades shall blend with existing off-site grades.

(g) Berming as a grading or visual buffer solution shall be avoided in the W-1 and W-R Districts to preserve the existing level or gently rolling topography along the river front.

(h) Buffering elements in the form of landscaping and plant materials are important to preserve the character and stability of adjacent uses of different types and to enhance the visual and aesthetic image of all Waterfront Districts. Buffer areas may be used for passive recreation activities and may contain bicycle or pedestrian pathways provided that such activities do not compromise the primary buffering function of such areas.

(i) The proposed development shall preserve visual access to the water to the maximum extent possible. Within the W-1 and W-R Districts a minimum of 30 percent of the shoreline shall be contained within view corridors visible from River Road or other travelled public ways. The minimum width of a view corridor shall be 25 feet. Satisfaction of this requirement shall be measured by dividing the number of linear feet of river view preserved in a view corridor by the total river view in a single ownership.

No buildings, walls, or other opaque structures shall be permitted within view corridors. Non-opaque structural elements such as gazebos, pergolas, bandshells, or open market or festival stalls are permitted within view corridors.

F. Final Site Plan Review and Approval.

1. Final application. After receiving approval from the Supervising Building Inspector on a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant shall prepare the final site plan and apply to the Town Clerk, who shall refer the application, when complete in all respects, to the Town Building Department for review and approval and to the Planning Board for its information. If more than one (1) year has elapsed since the Supervising Building Inspector issued preliminary approval, and if conditions have substantially changed, the Supervising Building Inspector may require resubmission of the preliminary site plan for possible revision prior to accepting the proposed final plan for review.

2. Procedure for Final Site Plan Approval.

(a) Within thirty (30) days of the receipt of the complete final site plan from the Town Clerk, the Supervising Building Inspector shall

render a decision on the final site plan. The time period in which the Supervising Building Inspector must render a decision on the site plan may be extended by mutual consent of the applicant and the Supervising Building Inspector.

(b) Approval. Upon approval, the Supervising Building Inspector shall endorse its approval on a copy of the final site plan and shall immediately file a copy of the final site plan in the Town Clerk's office. At this time a building permit may be issued if the project conforms to all other applicable requirements. A copy of the written statement of approval shall be mailed to the applicant by certified mail. The written statement shall contain a list of modifications or conditions if required.

(c) Disapproval. Upon disapproval of the site plan, the decision of the Supervising Building Inspector shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with a letter stating the reason's for disapproval.

(d) A final site plan, following approval by the Supervising Building Inspector, shall be valid for a period of one (1) year from the date of such approval. The applicant may request an extension of time to initiate the required site improvements, provided that the applicant can show reasonable cause for the inability to initiate such improvements within the one (1) year period. If the application for extension is not approved, the Supervising Building Inspector shall give reasons why this extension was not granted.

3. Content of the final site plan.

The final site plan shall include the site plan construction sheet and a drainage report. The site plan construction sheet shall include:

(a) All the information required for preliminary site plans.

(b) The lines of existing and proposed streets and sidewalks immediately adjoining and within the site, including geometric layout of proposed streets.

(c) The names of existing and proposed streets.

(d) Typical cross sections of proposed streets.

(e) Profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.

(f) The layout of proposed buildings, parking areas and any other proposed structures or uses.

(g) The location, size and profile of any existing and proposed sewers (stormwater or sanitary), manholes, drain inlets, catch basins, water mains and pipes on the property or into which any connection is proposed.

(h) Provisions for water supply and sewage disposal and evidence that such provisions have been reviewed and approved by the Erie County Department of Health, Erie County Department of Environment and Planning or New York State Department of Environmental Conservation, as necessary.

(i) Location of survey monuments. Before acceptance of the dedication of the highways or streets, a certificate by a licensed land surveyor must be filed certifying that the above monuments have been place where indicated on the map.

(j) Plans and typical cross sections of proposed sidewalks or other pedestrian linkages, if applicable.

(k) Development plan, including landscaping, for any proposed park or playground within the site.

(l) A landscaping plan consistent with the landscaping requirements of this local law.

(m) Specifications or references to Town standards for all facilities to be constructed or installed.

(n) Certification by a licensed professional engineer, licensed landscape architect and a licensed land surveyor as evidence of professional responsibility for the preparation of the construction sheet.

(o) The boundaries of the site and information to show the location of the site in relation to surrounding property and streets, including names and tax account numbers for adjacent sites. In whatever manner is practical, the site boundary shall be referenced from two (2) directions to established United States Coast and Geodetic

Survey monuments or New York State Plan Coordinate monuments. In the event that such monuments have been obliterated, the site boundary shall be referenced to the nearest highway intersections or previously established monuments. Any combination of types of reference points may be accepted which would fulfill the requirement of exact measurements from the boundary to reference points previously established for or by a public agency.

(p) The lines and purposes of existing and proposed easements immediately adjoining and within the site.

(q) The lines, dimensions and areas in square feet of all property that is proposed to be reserved by deed on the site.

(r) A legal description of all areas to be dedicated to the Town .

4. Final Site Plan Review.

The Town Building Department shall consider the factors, standards, and criteria of Paragraph E of this section in evaluating the final site plan for approval.

§ 215-153. Guarantee of Site Improvements.

A. General.

Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all infrastructure and improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for infrastructure and improvements not yet completed.

B. Performance Guarantee Options.

In order that the Town has the assurance that the construction and installation of infrastructure and improvements such as storm sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with Town standards and/or any site plan approval modifications, the Supervising Building Inspector may require that the applicant enter into one of the following agreements with the Town.

1. Furnish a bond executed by a surety company in a dollar amount equal to one hundred fifty (150) percent of the cost of construction of such

infrastructure and improvements as shown on the plans. Such bond shall be (1) based on an estimate furnished by the applicant, (2) confirmed by the Supervising Building Inspector or Town Engineer, and (3) approved by the Town Board.

2. Deposit a certified check payable to the Town in amount equal to one hundred and fifty (150) percent of the total cost of construction of such infrastructure and improvements as shown on the site plan and confirmed as in B(1) herein.

C. Conditions.

1. The performance guarantee shall be to the Town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this local law; and will faithfully perform and complete the work of constructing and installing such infrastructure or improvements in accordance with the approved site plan.

2. Any such performance guarantee shall require the approval of the Town Board.

3. Certified checks shall be made payable to the "Town of Tonawanda" and will be placed in an escrow account established by the Town for this purpose.

4. Letters of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.

D. Extension of Time.

The construction or installation of any infrastructure and improvements or facilities, (other than roads), for which a guarantee has been made by the applicant in the form of a bond or certified check, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request an extension of time to complete such improvements, provided the applicant can show reasonable cause for the inability to complete such improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the Town may use as much of the bond or check deposit to construct the improvements as necessary. The Supervising Building Inspector may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable

standards and specifications.

E. Schedule of Infrastructure and Improvements.

When a performance guarantee is issued pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of infrastructure and improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection by the Town of such improvement or installation. However, ten percent (10%) of the guarantee shall not be repaid to the applicant until one year following the completion and inspection by the Town of all construction and installation covered by the check deposit or performance bond.

F. Inspections.

Inspections during the installation of infrastructure and improvements shall be made by the Supervising Building Inspector or other assigns to insure conformity with the approved plans and specifications as contained in the contract and this local law. The applicant shall notify the Supervising Building Inspector or other assigned personnel when each phase of infrastructure and improvements is ready for inspection. Upon acceptance of infrastructure and improvements, the Supervising Building Inspector shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Town of the portion of the performance guarantee as designated in the contract to cover the cost of such completed work.

G. Phased Development.

The Supervising Building Inspector may further request, subject to Town Board approval, that the applicant deposit a separate performance guarantee for each phase of development proposed. In this event, five percent (5%) of the performance guarantee shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the Town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Supervising Building Inspector or other assigns.

H. Review Fees.

Costs incurred by the Town Building Department for consultation fees or other extraordinary expenses in connection with review of a proposed site plan shall be charged to the applicant, with prior notification.

SECTION 8. REPEALER.

ARTICLE IX, §215-70 (PURPOSE OF WATERFRONT DISTRICT), §215-70.1 (PERFORMANCE STANDARDS USE PERMIT REQUIRED IN WATERFRONT DISTRICT), §215-70.2 (WAIVER OF PERFORMANCE STANDARDS USE PERMIT IN WATERFRONT DISTRICT), §215-70.3 (DESIGN STANDARDS FOR WATERFRONT DISTRICT) OF THE CODE OF THE TOWN OF TONAWANDA, NEW YORK IS HEREBY REPEALED. THIS REPEAL SHALL NOT AFFECT OR IMPAIR ANY ACT DONE OR OFFENSE COMMITTED OR LIABILITY, PENALTY, FORFEITURE OR PUNISHMENT INCURRED PRIOR TO THE TIME SUCH REPEAL TAKES EFFECT, BUT THE SAME MAY BE ENFORCED OR PROSECUTED AS FULLY AND TO THE SAME EXTENT AS IF SUCH REPEAL HAD NOT BEEN EFFECTED. FURTHERMORE, ALL ACTIONS AND PROCEEDINGS COMMENCED UNDER OR BY VIRTUE OF THE SECTION REPEALED HEREBY AND PENDING IMMEDIATELY PRIOR TO THE TAKING EFFECT OF THE REPEAL OF SAID SECTION MAY BE PROSECUTED AND DEFENDED TO FINAL EFFECT IN THE SAME MANNER AS THEY MIGHT IF SUCH PROVISIONS WERE NOT SO REPEALED.

SECTION 9. SEVERABILITY.

IF ANY CLAUSE, SENTENCE, PARAGRAPH OR PART OF THIS LOCAL LAW OR APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE SHALL BE ADJUDGED BY ANY COURT TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF OR THE APPLICATION THEREOF TO OTHER PERSONS AND CIRCUMSTANCES BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH OR PART THEREOF AND THE PERSONS AND CIRCUMSTANCES DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

SECTION 10. ALL OTHER PROVISIONS REMAIN UNCHANGED.

IN ALL OTHER RESPECTS SAID LOCAL LAW 4-82 OF THE TOWN OF TONAWANDA AS THEREAFTER AMENDED, SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

SECTION 11. EFFECTIVE DATE.

THIS LOCAL LAW SHALL TAKE EFFECT IMMEDIATELY UPON FILING WITH THE SECRETARY OF STATE OF THE STATE OF NEW YORK.

APPENDIX B

LOCAL CONSISTENCY LAW

ARTICLE I
GENERAL PROVISIONS

Section 1. Title.

This local law shall be known, and may be cited, as the Town of Tonawanda LWRP Consistency Law.

Section 2. Purpose.

The purpose of this local law is to provide for the protection and beneficial use of the natural and man-made resources within the Town of Tonawanda coastal area by ensuring that actions to be undertaken, approved, or funded by Town agencies within the Town's coastal area will be undertaken in a manner consistent with the policies and purposes of the Town of Tonawanda Local Waterfront Revitalization Program.

Section 3. Authority.

This law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law).

Section 4. Applicability.

All agencies of the Town of Tonawanda must comply with this local law, prior to directly undertaking, approving, or funding any action within the coastal area when such action is classified as Type I or Unlisted under Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Section 5. Definitions.

A. Actions:
   1) Projects or physical activities such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure which are:
      a) directly undertaken by an agency, or
      b) involve funding by an agency, or
      c) require one or more permits or approvals from an agency or agencies.
   2) Agency planning and policy making activities that may affect the environment and commit the agency to a course of future conduct or decisions.
   3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment.
   4) Any combinations of the above.

B. Agency:
   Any board, agency, department, office, other body or official or officer of the Town of Tonawanda.

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

D. Coastal Area:
The New York State coastal waters and adjacent shorelines as defined in Article 42 of the Executive Law which are located within the boundaries of the Town of Tonawanda as shown on the coastal area map on file in the Office of the Secretary of State and as delineated in the Town of Tonawanda LWRP.

E. Consistent:
That the action will fully comply with and not hinder any of the Town of Tonawanda LWRP standards and conditions and, whenever practicable, will advance one or more of such policies.

F. Direct Action or Directly Undertaken:
An action planned and proposed for implementation by an agency or the Town. Direct actions include, but are not limited to capital projects, promulgation of agency rules, regulations, local laws, codes or ordinances and policy making which commits an agency to a course of action.

G. Environmental Assessment Form:
(EAF) means the long form appearing at 6 NYCRR Part 617 used by an agency to assist it in determining the environmental significance or non-significance of actions. A properly completed EAF shall contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment.

H. Environmental Impact Statement:
(EIS) means a written document prepared in accordance with 6 NYCRR Part 617. An environmental impact statement may either be "draft" or "final" form. A draft EIS is the initial statement prepare by either the applicant or the lead agency and circulated for review and comment. A "generic" EIS may also be prepared in accordance with 6 NYCRR Part 617.

I. Funding:
Any financial support given by an agency including contracts, grants, subsidies, loans or other forms of direct or indirect financial assistance in connection with the proposed action.

J. Local Waterfront Revitalization Program:
(LWRP) means the local waterfront revitalization program of the Town of Tonawanda as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal

Resources Act (Executive law, Article 42), a copy of which is on file in the office of the Town Clerk of the Town of Tonawanda.

K. Permit:
Permit, lease, license, certificate or other entitlement for use or permission to act that may be granted or issued by an agency.

L. Person:
Any agency, individual, corporation, government entity, partnership, association, trustee or other legal entity.

M. State Environmental Quality Review Act:
(SEQRA) means Article 8 of the Environmental Conservation Law of the State of New York.

N. State Environmental Quality Review Regulations:
(Part 617) means 6 NYCRR Part 617.

O. Town:
The Town of Tonawanda.

P. Town Board:
The Town Board of the Town of Tonawanda.

Q. Type I Action:
Shall include all those actions listed in 6 NYCRR Part 617 and any critical areas of environmental concern as the Town Board shall have designated pursuant to the authority and procedure of 6 NYCRR Part 617.

R. Type II Action:
Shall include all those listed in 6 NYCRR Part 617, except as otherwise noted in this local law.

S. Unlisted Action:
All actions not listed as a Type I or Type II Action and not an Exempt or Excluded Action as those terms are defined in 6 NYCRR Part 617.

T. Waterfront Assessment Form:
(WAF) means the form used by the Town Board to assist it in determining the consistency of an action with the LWRP.

ARTICLE II
CONSISTENCY REVIEW PROCEDURES

Section 1. Initial Review.

The Town Board or a Town agency, when proposing to undertake, approve, or fund a Type I or Unlisted Action within the coastal area, shall prepare or cause to be prepared a Waterfront Assessment Form (WAF) for the proposed action.

Section 2. Certification of Consistency.

A. The Town Board is authorized to review and make determinations regarding the consistency of proposed actions with the LWRP policy standards and conditions set forth in paragraph (F) of this section.

Whenever a proposed action is located in the Town's coastal area, the Town Board shall make a written determination of consistency in accordance with the LWRP policy standards and conditions. No agency shall undertake, approve or fund any Type I Action or Unlisted Action in the coastal area without first obtaining this determination.

No action which is reviewed under this section shall be undertaken until a determination of consistency has been made by the Town Board.

B. Whenever an agency receives an application for approval or funding of an action to be located within the coastal area, the applicant shall prepare a Waterfront Assessment Form (WAF) to assist the Town Board with its consistency review. The agency shall refer a copy of the completed WAF and all accompanying maps, plans and application to the Town Board within ten (10) days of its submission for the determination of consistency.

C. As early as possible in an agency's formulation of a direct action which is proposed to be located within the coastal area, the agency shall prepare a Waterfront Assessment Form (WAF) to assist the Town Board with the consistency review.

D. After receipt of a completed WAF and all documentation the Town agency or the Town Board requires for an action, the Town Board shall determine whether the proposed action is consistent with the LWRP policy standards and conditions set forth in paragraph (F) of this section. The Town Board or the appropriate Town agency shall require the applicant to submit any completed applications, EAFs and any other information deemed to be necessary to its consistency determination.

E. The Town Board shall render its written determination and reasons therefor within thirty (30) days following the referral of the WAF and all required documentation from the application or the Town agency, unless either an EIS is

being prepared or is under review in accordance with the requirements of 6 NYCRR Part 617, or the time period is extended by the Town Board for good cause. The time period for a Town Board determination of consistency shall be suspended pending receipt by the Town Board of any EIS and any explicit findings related to a proposed project as may be required pursuant to SEQRA.

The Town Board shall have the authority in its findings of consistency to impose practicable and reasonable conditions on any action to insure that it is carried out in accordance with this local law.

F. Actions to be undertaken within the coastal area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions which are derived from and further explained and described in Section II of the Town of Tonawanda LWRP, a copy of which is on file in the Town Clerk's Office and available for inspection during normal business hours. Actions which are directly undertaken shall also be evaluated for consistency with Section IV of the LWRP.

The action shall be consistent with the policy to:

1) Revitalize and redevelop deteriorating industrial, commercial and residential structures (Policies 1, 1A, 1B, and 1C).
2) Retain and promote water dependent uses (Policies 1A, 1B and 2).
3) Insure that development occurs where adequate public infrastructure is available to reduce health or pollution hazards (Policy 5).
4) Protect significant fish and wildlife habitats from human disruption and chemical contamination (Policies 7 and 8).
5) Maintain and expand fish populations for recreational use (Policies 9 and 9A).
6) Minimize flooding and erosion hazards through non-structural means and carefully selected long-term structural measures (Policies 11, 11A, 12, 12A, 13, 13A, 14, 15, 16, 17 and 17A).
7) Maintain and improve public access to the shoreline and to water related recreational facilities while protecting the environment (Policies 19, 19A, 19B, 20, 20A, 21, 21A, 21B, 22, 22A, 22B, 22C and 22D).
8) Protect and restore archeological resources (Policies 23 and 23A).
9) Protect and upgrade scenic resources (Policies 25, 25A and 25B).
10) Operate existing power plants in an environmentally sound manner and expand them only if compatible with public energy needs, the environment, and waterfront (Policy 27 and 27A).

11) Undertake ice management practices in a manner that protects habitats and prevents shoreline erosion, and does not interfere with hydroelectric production (Policies 7, 28 and 28A).
12) Protect surface and ground waters from direct and indirect discharge of pollutants and from other overuse (Policies 30, 31, 33, 34, 36, 37 and 38).
13) Perform dredging and dredge soil disposal in a manner protective of natural resources (Policies 15 and 35).
14) Eliminate non-water dependent handling of petroleum and hazardous materials from the waterfront (Policy 36).
15) Handle and dispose of hazardous waste in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).
16) Discharge of effluent from energy or industrial facilities shall not be unduly injurious to fish and wildlife, and shall conform to State water quality standards (Policies 40 and 40A).
17) Protect air quality (Policies 41, 41A, 42 and 43).
18) Protect fresh water wetlands (Policies 44 and 44A).

G. If the Town Board determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Town Board determines with respect to the proposed action that:
1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions; and
2) The action would be undertaken in a manner which would minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable; and
3) The action will advance one or more of the other LWRP policy standards and conditions; and
4) The action will result in overriding Town, regional or statewide public benefit.

Such finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

H. The Town Board shall maintain a file for each action made the subject of the consistency determination and shall include in that file any findings made pursuant to this local law. Such files may be made available for public inspection upon a properly completed Freedom of Information request.

Section 3. Enforcement.

The Supervising Building Inspector and his designees shall be responsible for enforcing this local law. No work or activity on a project within the coastal area which is subject to review

under this local law shall be commenced or undertaken until the Building Department has been presented with a written determination from an applicant or agency that the action is consistent with the Town's LWRP policy standards and conditions. In the event that work or any activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Supervising Building Inspector shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on a project so long as a stop order is in effect.

Section 4. Penalties and Prosecution of Violations.

A. Penalties for offenses.
   1) Any person convicted of a violation of this local law shall be deemed to have committed a violation and shall be subject to a fine not exceeding two hundred fifty ($250.00) or to imprisonment for a period not exceeding fifteen (15) days.
   2) Any person taking part in or assisting in any violation of this local law shall also be subject to the penalties herein.
   3) Each day that a violation of this local law is committed or is permitted to exist shall constitute a separate offense.

B. Violations.
   1) The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. The Town Attorney is also authorized to seek damages and any civil penalties in any civil action and such penalties shall be in addition to and not in lieu of any criminal prosecution and penalty.
   2) In the event of any actual or pending violation of this local law, the Town Attorney may, in addition to other remedies, institute any appropriate action or proceedings to prevent, restrain, correct or abate such violation.
   3) In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
   4) In addition to any fine or penalty imposed, the defendant shall pay all costs and expenses incurred by the Town in determining such violation.

Section 5. Severability.

If any clause, sentence, paragraph, or part of this local law or application thereof to any person or circumstances shall be adjudged by any court to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof or the application thereof to other persons and circumstances but shall be confined in its operation to the clause, sentence, paragraph, or part thereof and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

Section 6. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

APPENDIX C

CONSISTENCY REVIEW PROCEDURES FOR STATE AND FEDERAL ACTIONS

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

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

I. PURPOSES OF GUIDELINES

A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitaliza-tion Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.

B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.

C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

A. Action means:

1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);

2. Occurring within the boundaries of an approved LWRP; and

3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such

policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;

2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and

3. That will result in an overriding regional or statewide public benefit.

C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.

B. Notification of a proposed action by a state agency:

1. Shall fully describe the nature and location of the action;

2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;

3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)

C. If the proposed action will require the preparation of a draft environ-mental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

A. Upon receipt of notification from a state agency, the situs local govern-ment will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.

B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.

D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consi-deration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:

1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government repre-sentatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.

5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.

6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE (DOS) & LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.

2. This notification will indicate the date by which all comments and recommenda-tions must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.

3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.

4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.

5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator an will identify the Department's principal reviewer for the proposed action.

2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.

3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.

4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.

5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.

7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.

2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.

3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.

4. The program coordinator must submit the municipality's comments and recom-mendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

APPENDIX D

STRAWBERRY ISLAND-MOTOR ISLAND HABITAT DESCRIPTION

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: Strawberry Island - Motor Island Shallows

Designated: October 15, 1987

County: Erie

Town(s): Tonawanda, Grand Island

7½' Quadrangle(s): Buffalo NW, NY

Score	Criterion
25	Ecosystem Rarity (ER) This is the largest area of riverine littoral zone and wetland in the Niagara River, a rare ecosystem type in the Great Lakes Plain ecological region.
0	Species Vulnerability (SV) No endangered, threatened or special concern species reside in the area.
9	Human Use (HU) Recreational uses (i.e., waterfowl hunting and fishing) are important to residents of the Niagara region of New York and adjoining portions of Canada.
20	Population Level (PL) An important area used by one of the largest concentrations of wintering waterfowl in the northeastern US; also a major muskellunge spawning area in the Great Lakes region. Geometric mean: $(16 \times 25)^{½}$
1.2	Replaceability (R) Irreplaceable

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

= 65

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

BACKGROUND

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

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

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

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

DESIGNATED HABITAT: STRAWBERRY ISLAND - MOTOR ISLAND SHALLOWS

LOCATION AND DESCRIPTION OF HABITAT:

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

FISH AND WILDLIFE VALUES:

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

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

Strawberry Island - Motor Island Shallows is part of one of the most important waterfowl wintering areas (November-March) in the northeastern United States, especially for diving ducks. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1976-1985 indicate average concentrations of over 14,000 birds in the upper Niagara River each year (25,371 in peak year), including approximately 8,500 common and red-breasted mergansers (17,470 in peak year),

2,600 common goldeneye (8,520 in peak year), 1,900 canvasbacks (5,000 in peak year), and 1,200 scaup (2,306 in peak year), along with lesser numbers of black duck, mallard, bufflehead and oldsquaw. Strawberry Island - Motor Island Shallows serves as one of the major feeding and resting areas for these birds. The habitat is located in one of the few major wintering areas for canvasbacks in New York State. Waterfowl use of the area during winter each years is influenced in part by the extent of ice cover throughout the region. Concentrations of waterfowl also occur in the area during spring and fall migrations (March-April and October-November, respectively). Consequently this is one of the most popular waterfowl hunting areas in the Buffalo area, especially for diving ducks during the late season. There was a moratorium on canvasback duck hunting during 1986/1987. Summer use of the area by wildlife is not known to be significant, but common terns (T) may feed in the area, but the extent of their use has not been documented.

IMPACT ASSESSMENT:

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

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

> In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:
>
> - destroy the habitat; or,
> - significantly impair the viability of a habitat.

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

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

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

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

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

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;

2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,

3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

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

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

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

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