



## **APPENDIX 3-A**

# **Town of Somerset Comprehensive Plan 2016 Update**

**TOWN OF SOMERSET**  
**2016 COMPREHENSIVE PLAN UPDATE**



**Adopted – 12/21/16**



Town of Somerset Town Board

# 2016 TOWN OF SOMERSET COMPREHENSIVE PLAN UPDATE

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### **Somerset Town Board**

Daniel M. Engert - Supervisor  
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**And the Citizens and Public Officials of the Town of Somerset**

## SECTION I

### INTRODUCTION

Somerset prepared its first Comprehensive Plan for the Town in 1972. In 2003, the Town adopted an Update to the Comprehensive Plan that incorporated previous planning efforts while integrating more current planning concepts. The 2003 document was useful for the Town for nearly a decade. However, at that time, a number of changes to the community necessitated a fresh look at planning for the Town. One of the most critical issues was the pending bankruptcy of the AES Somerset power plant. The power plant is the largest tax payer in the Town and County, and a major source of employment and economic development for the region. These factors and others required a 2012 update (started in 2011) to refine the 2003 plan. The 2012 update addressed new issues, such as economic development, that were and still are important to the Town.

The 2012 revised Comprehensive Plan provided general direction to guide future growth and development in the Town of Somerset. It also provided an update of information and data relevant to planning the future of the Town of Somerset. The effort of preparing the 2012 update entailed a hard look at the Town's goals and objectives. The goals were modified, including the addition of a new goal addressing economic development. The 2012 revised Comprehensive Plan should be viewed as a summary of the policies and priorities of the people of the community as of 2012. The guide was intended to help guide decision-making, especially regarding land use in the Town. Critically, the 2012 plan stated that its first goal was to "Maintain the Rural and Agricultural Character of the Town".

To keep a Comprehensive Plan up-to-date, it is recommended that the plans be updated approximately every five (5) years or if major events warrant them to be re-evaluated. In the Implementation Section of the 2012 Plan, it states that, "Every five years the Town should evaluate the need for any major updates to the Plan".

It has been approximately five years since the 2012 Update was started. Since that time, the Town has seen potential users interested in developing the western end of the Power Plant site. The Town has also become aware of a proposal for a large scale Wind Energy Conversion System (Wind Turbines) project. The footprint of the proposed Industrial Wind Energy Facility would span from the Town of Somerset into the Town of Yates. Both the power plant proposals and the Industrial Wind proposal have prompted another hard look at the Comprehensive plan. Like the previous update, the Town has received multi-faceted input from its citizens (including a specific survey of the residents, public meeting input, e-mails, letters, etc.). Based on citizen input, the Town has decided to again update the Plan in order to strengthen and clarify the goals and objectives already stated in the 2012 plan, and to better reflect the concerns and priorities of the Town's residents.

This document is an update to the 2012 Plan and will serve as a guidebook for achieving the community's visions. This update does not alter the fundamental vision of Somerset as a primarily agricultural, residential, and rural community. This update merely clarifies the goals and objectives already stated in the 2012 Plan. Although some land uses were implicitly inconsistent with the 2012 Plan, this revision is intended to clarify the 2012 Plan by expressly stating that some land uses are not in keeping with the goals and objectives of the Town, and its vision. This revision provides a variety of tools and options that can be used immediately or in the future. Implementation of the revised comprehensive plan is the responsibility of elected officials and

appointed boards serving the Town of Somerset. The Implementation Section provides a range of recommended actions that the Town could undertake, including zoning and other land use codes; capital improvements; economic development activities and other actions.

## PURPOSES OF PLANNING

A comprehensive plan carefully assesses strengths and opportunities inherent in the community in order to develop a rational basis for proposed policies, codes and other activities. In New York State, the right to zone land is premised on having a comprehensive plan for the community. Land development is strongly influenced by zoning, public investment, and availability of infrastructure and transportation access. A comprehensive plan addresses all of these issues.

In order to develop a meaningful and useful comprehensive plan, many sources of background information must be provided. This strong basis in data helps local legislative and administrative boards determine where growth should take place and how it should be phased. These background elements comprise an updated inventory of planning data and mapping of various features, followed by careful analysis of trends and issues. Based upon the findings of these basic elements, along with significant input from Town residents, goals and objectives are developed to guide future development. Then specific recommendations are made intended to help the Town make progress toward achieving those goals. As appropriate, these policies are presented on the Vision Plan (Map 11). The Vision Plan does **not** represent proposed land use patterns or zoning, but is intended to visually depict a vision for the community. It illustrates the general principles that should guide growth and development in the Town.

The revised Comprehensive Plan is the community's message to its residents, to developers, to industry, and to other levels of government, that the Town of Somerset has given consideration to its environs and has proposed a program of development based upon sound planning principles and direction, with public input and support. It is important for the Town to have such a statement of policy, with supporting documentation that led to that policy. This ensures that the Town's interests are clearly stated, and provides guidance for the Town in evaluating proposals that come before it. Adoption of a Comprehensive Plan also lends weight to the Town's position when conflicts arise, because this position is based on sound planning and has public consensus behind its findings.

Policies, plans and capital improvement programs instituted by higher levels of government -- at the national, state, regional and county levels-- often play a significant role in shaping the future of local communities. The Town's Comprehensive Plan clearly communicates the Town's consensus in regard to its future. This Plan has been prepared with an understanding of regional and State trends and policies. Where appropriate, it is consistent with these higher government programs; where there are variations, it explains the rational basis for any differences.

The recommendations and policies in this comprehensive plan grew out of existing land use patterns, its strategic waterfront location, future vision, and practical considerations of access to infrastructure and transportation, with an eye to preservation of important natural features. Business and industrial firms and, to some extent, individual homeowners are all engaged in looking into the future from time to time in order to provide some direction to their day-to-day activities. Most businesses, for instance, project their anticipated needs and goals for at least a five-year period. A community likewise must have some direction to its day-to-day activities. In fact, it is even more important for a community to think ahead, due to its size and complexity; the environmental importance of its assets; and the enduring and long-reaching nature of its decisions, particularly in regard to land use. A comprehensive plan can provide insight and

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direction for the future of the community, to protect its resources; plan for prosperity and provide improved local quality of life.

It should be noted that Somerset, as a waterfront community, has a separate Plan for its waterfront area, the Local Waterfront Revitalization Program (LWRP). In completing this Comprehensive Plan Update, the LWRP was referenced extensively. This Plan includes a recommendation for minor updates to the LWRP to better reflect the overall vision of the Town established during this Update. Please refer to the Town's LWRP for more information on the Town's important waterfront initiatives.

A comprehensive plan provides a number of benefits:

- Dealing with minor problems so that they do not become major problems in the future.
- Limiting the impact of changes which can be foreseen and which will occur in the future.
- Shaping new development to the community's needs and preferences.
- Guiding both public and private action to save money, time and effort.
- Providing continuity of future programs for community improvement.
- Improving coordination between municipalities, especially between the Town of Somerset and the Village of Barker.
- Providing a unifying focal point for the efforts of all community interests.

## SECTION II

### BACKGROUND ANALYSES/EXISTING CONDITIONS

#### A. THE REGIONAL SETTING

With the current focus on regional planning, it is important to look at how the Town of Somerset fits within the context of the wider region. Somerset is a rural waterfront Town located on Lake Ontario, at the outer limits of the Buffalo-Niagara metropolitan area. (See Map 1: Regional Setting). Much of the Town's labor force works outside of Somerset but within the two-county metropolitan area. As such, local development policies must recognize Somerset's dependence on the metropolitan economy and transportation networks.

The Town's waterfront location is also an extremely important asset to the Town and the region. It has drawn people to live and recreate in the Town, and businesses, such as the power plant, have chosen to locate in the Town to take advantage of the waterfront attributes.

The metropolitan area, which consists of Erie and Niagara Counties, has experienced significant population declines over the past decades. Between 1970 and 2010, the total population of the two county region decreased from 1,349,211 to 1,135,509, a drop of 15.8 percent over the past forty years. Population decline has been leveling off, with a two-region decrease of just 3.0 percent between 2000 and 2010. Much of the decline is focused in Erie County, particularly the City of Buffalo and its inner ring of suburbs. Population in Niagara County has experienced more modest population loss. Between 2000 and 2010, the population of Niagara County decreased just 1.5 percent, compared to 3.3 percent in Erie County, and between 2000 and 2010, the population of Niagara County essentially remained unchanged, with a decrease of only 0.4 percent. Population projections prepared by the Greater Buffalo-Niagara Regional Transportation Council) suggest that population declines may be reversing, although the projections are conservative for transportation planning purposes, and tend to be optimistic. The projections indicate that Niagara County will increase in population to 245,930 by the year 2030, an increase of 13.6 percent, or approximately 29,500 persons.

The *Regional Framework for Erie and Niagara Counties*, a regional policy plan for the two counties, promotes the concept of Somerset remaining rural. The regional document sets forth preferred development patterns, which focus growth on urban and rural centers while preserving the rural character of outlying areas. The Town of Somerset is identified as a rural area, which is defined as an area that is less intensely developed with large, contiguous blocks of farmland and forested areas, with more compact residential, commercial and public uses concentrated in Villages, such as Barker. The document identifies Barker as a "Rural Center" – an area that serves as "the social, cultural, economic and often historic heart of the region's rural communities." Strategies for rural areas promote limited development, encourage reinvestment in the rural centers and discourage the development of rural and agricultural lands. This emphasis on preserving rural character is consistent with the Town's vision for its own future.

The Town is also part of the 5-county Western New York Region. The Western New York region is a State designation prompted by the State's new approach to economic development. Increasingly, State activities will be organized and distributed on the regional level, particularly in regard to economic development, grants and financing. To be competitive for these funds, municipalities need to examine how they are integrated into the region and its priorities. The recently completed regional economic development strategic plan, "*A Strategy for Prosperity*" (and its yearly updates), addresses the region's economic vitality and viability. It outlines a

regional agenda intended to promote “a more dynamic and sustainable economy” for the region. The Regional Strategy emphasizes job readiness, smart growth and entrepreneurship, factors that resonate with the Town’s needs and assets. It targets 8 industry sectors, including advanced manufacturing, agriculture, energy and tourism, which are sectors that could be compatible with the Town of Somerset’s assets. It should be noted, as discussed later in the Plan, that neither regional document mentions the Somerset power plant, which represents a multi-billion dollar investment in the region, and is the largest tax payer in Niagara County.

## **B. THE NATURAL ENVIRONMENT**

The Town’s natural environment consists of the physical characteristics of the land and ecology of the Town of Somerset. This section of the plan considers the natural environment, focusing on the sensitive environmental features that require some degree of protection from development.

### ***Topographic Features - Steep Slopes***

Topography is one of the prime physical characteristics determining an area's development potential. Relief and grade levels often dictate the extent and character of land development. Land that is nearly flat or has gentle slopes (0-5 percent), lends itself more advantageously to development than land characterized by greater slopes or variation in elevation. The Town of Somerset is generally characterized by gently sloping topography and has only a few limited areas where there are steeper slopes. Topography, therefore, sets very few limits to the prospective pattern of development in the Town. It also lends itself to long lines of visibility and impacts to view sheds from large scale development, such as Wind Turbines. The exceptions are the steep slopes along the Lake Ontario shoreline. These slopes present some serious concerns, which must be addressed through planning policy. The problems will be discussed later in the section on the coastal zone.

Somerset is typical of towns found within the Iroquois Plain, which extends from the south shore of Lake Ontario, southerly to the Niagara Escarpment. The Escarpment traverses, in an east-west direction, the Towns of Lewiston, Cambria, Lockport, and the northern part of Royalton. South of the Escarpment, elevations of 500-600 feet are typical. North of the Escarpment, elevations of below 500 feet are most common. Lake Ontario itself is at an elevation of approximately 250 feet above sea level. The Town of Somerset, which lies between the Escarpment and the Lake, ranges in elevation from a high of approximately 370 feet above sea level at the south town line, near Johnson Creek Road, to a low of 250 feet at lake level, a drop of 120 feet.

The Town, overall, has a change in elevation difference of approximately one-foot per thousand feet (0.1 percent) throughout its north-south length, to approximately Lower Lake Road. From Lower Lake Road northward, topography recedes toward the Lake at a rate of 50 feet per 1000 feet, or 5 percent slope. Areas to the west of Quaker Road have steeper topography up to 6 to 8 percent slopes on the northern extension of Hartland Road and Lower Lake Road. Immediately adjacent to the Lake, there are bluffs of 20 to 40 feet for approximately 80 percent of the Town's lakefront. These bluffs have inhibited denser lakefront development. The majority of lakefront residential and recreational development has encroached on the lakefront bluffs north of Lakeview Drive in an area from Quaker Road, easterly to the west edge of Golden Hill State Park.

### ***Natural Drainage, Floodplains and Wetlands***

Natural drainage refers to how surface water travels across a watershed. An understanding of the natural drainage system is important in understanding watersheds, the management

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of storm water, protection of water quality, and also the design and development of constructed sanitary sewer and natural storm water run-off systems.

Topographically, the entire northeastern part of Niagara County is drained toward Lake Ontario by several major drainage courses including Johnson and Marsh Creeks. These creeks extend easterly into Orleans County. Fish and Golden Hill Creeks and their tributaries are also important creek corridors through the Town of Somerset. (See Map 2: Environmental Features)

Natural drainage within the Town of Somerset is provided by two separate drainage basins: the Golden Hill Creek basin and the Johnson Creek basin. The Golden Hill Creek divides the Town in half, running from the extreme southwest corner of the Town to the northeast corner through Golden Hill State Park. All land south of Golden Hill Creek and land for a parallel distance of approximately 1,000 feet north drains toward Golden Hill Creek. All land lying generally north of a line 1,000 feet north of Golden Hill Creek, and below an elevation of 330 feet, drains to the north into Fish Creek or one of its tributaries, or a small west branch of Golden Hill Creek. There are two small exceptions. An area on the AES Somerset property drains directly into Lake Ontario and a portion of the southeast corner of the Town drained by Marsh Creek lies within the Johnson Creek basin. The upstream area of the Johnson Creek basin lies in the Town of Hartland, and its downstream basin area is in Orleans County.

As the Town of Somerset shares its drainage basins with other towns, it does not have complete control over its drainage problems. The Town itself may develop and put into effect sound policies to prevent drainage problems, only to have such problems arise through inappropriate regulation by upstream towns. The importance of this situation is such that it should be the basic policy of the Town to coordinate its drainage system planning efforts with those of other towns which share its drainage basins.

As noted above, the Town of Somerset is crossed by a number of creeks, the most significant one being Golden Hill Creek. These creeks not only serve an important drainage function, but also provide attractive natural settings and offer opportunities for recreation. Golden Hill Creek and Fish Creek have experienced some salmon runs, and may have the potential to become an attraction for sport fishing. The goals and policies section of the comprehensive plan suggests specific policies to guide local decision making in order to protect the creek from the adverse effects of development. The implementation of these policies would allow these waterways to maintain their important natural purposes, their environmental attractiveness, and their recreational potential.

The Federal Emergency Management Agency (FEMA) issued new Flood Insurance Rate Maps (FIRM) for the Town of Somerset in 2010, replacing the maps from 1982. The FIRMs delineate flood hazard boundaries which provide the basis for the implementation of the regular program phase of the National Flood Insurance Program within the Town. The flood hazard areas (100 year floodplains) are depicted in general form on Map 2 and include the Lake Ontario shoreline, much of the land along Golden Hill Creek and land near the outlet of Fish Creek. Map 2 should be used only for general planning purposes. Persons interested in determining the exact locations of the flood hazard boundary areas should refer to the official map on file at the Town Clerk's office, particularly in regard to the need for flood insurance for a property.

In order for property owners to take advantage of the National Flood Insurance Program, the Town Board is required to adopt federally approved floodplain management regulations to manage land use and development within the designated flood hazard areas. Flood hazard regulations were developed as part of the Town's Coastal Energy Impact Program

and incorporated into the Town's zoning ordinance. Had the Town failed to enact such provisions, property owners within designated flood hazard areas would lose their eligibility to receive federal flood insurance. No federally insured mortgage money would be available to buyers within the Town and federal funds would be withheld.

Under the New York State Freshwater Wetlands Act, DEC has prepared a wetlands map for Niagara County. A wetlands map for the Town of Somerset is on file and the Town has adopted a wetlands law. There are large areas of wetlands in the southern portion of the Town near the Town of Hartland. All mapped state-regulated wetlands are in the southern part of Somerset. Additional areas of wetlands under federal jurisdiction are located throughout the Town, as depicted on Map 2. Map 2 illustrates federal and state wetlands that have been mapped. There may be additional areas of unmapped wetlands located in the Town of Somerset.

This Comprehensive Plan sets basic Town policies for protecting the Town's important drainage features: the creeks, the floodplains and the wetlands. The policies, carried out through effective regulation, are intended to protect the public interest from the adverse effects of development that disregards the drainage system. There are many benefits associated with protecting drainage features. By acting as a natural sponge to trap stormwater, snowmelt and other surface waters, they reduce the volume and speed of runoff. This protects areas from negative impacts associated with flooding and helps reduce risk of erosion. They add natural beauty to the Town, and provide important habitats for wildlife. Avoiding development in floodplains prevents risks associated with serious flood damages. Too often the public at large bears the cost of development which disregards the drainage system by having to pay for engineering and public works measures to reduce the risk of flood damages. These costs and potential damages can be minimized by establishing proper natural resource policies to guide local development actions. These policies may best be utilized by providing the basis for establishing a master plan for drainage.

### ***Generalized Soil Characteristics***

The study of soil characteristics constitutes another important determinant of future development potentials. The ability of local soils to sustain development greatly affects the nature and intensity of development in the Town. Of primary importance is the ability of soils to facilitate surface water runoff. To an extent, this capability is related to and dependent upon local topographic conditions. Surface water drainage is more difficult to manage in areas that are relatively flat. In these areas, soil composition must accommodate a greater percentage of this surface water through seepage, or the cost of storm water drainage becomes extremely expensive. In areas where septic tanks are utilized, residential development must be kept at a density that permits the proper percolation of septic tank effluent. The ability of soils to accept sanitary sewage effluent is very important if an area is to remain free from health problems.

The majority of land within the Town of Somerset will continue to be utilized for agriculture and rural uses over the next 20 years. Therefore, the land's suitability for agricultural use is of continuing and perhaps increased importance. As other areas are consumed for development, fewer areas remain for agricultural production. Any area that is well suited to food production from a soil, climatic, and available land standpoint, should be considered as much for its inherent agricultural qualities as for its capability to support what may be unnecessary urban sprawl.

The primary source of information for soil data is the publication "Uses of Soils for Community Development and Recreation Use," prepared by the U.S. Department of Agriculture at the Niagara County Soil Conservation Service. The soil types within Somerset and Barker have

been grouped into categories and simplified for presentation purposes. The basis for these classifications is drainage conditions and topography. It should be understood that the soil description which follows is general in nature, and if any questions arise for a specific area, a more detailed on-site soil survey would be required. Table 1 summarizes this information on soils in Somerset. In addition, Map 3: Agriculture District and Generalized Soils, provides information on the soil types within the Town.

Soils within the Town vary greatly because of their initial creation as glacial drift deposits mixed with alluvium from the prehistoric recession of Lake Ontario. Although deposits of gravel are common in glacial formations, most of the soils in Somerset are alluvial deposits of silt and are heavy textured. Silts in particular have a soil composition in which moisture cannot be retained and a tight structure through which water cannot pass. This impervious soil structure, which inhibits the absorption of moisture, can be found in many areas of the Town, but is particularly evident in the swampy area in the southeast section, in the vicinity of Carmen, Johnson Creek and the Hartland-Somerset Town Line Roads.

The majority of soils in the Town can be productive if they have good natural drainage or can be mechanically drained by tile lines or ditches. With adequate drainage, only one of the numerous soil types found within the Town is of limited agricultural value. High soil suitability for grain crops, fruits, and some vegetables coupled with late springs and long falls (typical along Lake Ontario) combine to provide better growing conditions than in most other areas within the state. These two natural phenomena help to explain the relative stability that farming has had in the Town of Somerset. According to the U.S. Census of Agriculture, in 2007, the most recent year available, there were 59 farms in operation in the 14012 zip code, which corresponds roughly to the Town of Somerset. There were 865 farms across Niagara County in that year, and increase of 8 percent since 2002, when there were 687 farms in the county.

While there has been a national trend toward larger and larger farms, the trend in Niagara County is toward moderate sized farms (this may be misleading as more acreage is being rented and separate parcels may all be rented by a single farmer) In Niagara County, the average number of acres per farm was 185 acres in both 1997 and 2002. In 2007, it dropped to 165 acres. Most farms in the county are 10 to 48 acres (37 percent) or 50 to 179 acres (37 percent) in size. In 2007, the value per farm was \$351,933, and the value per acre was \$2,134.

As can be seen in Table 1, most of the soils in the Town will not readily accept dense urban development patterns without the extensions of water and sewer lines, because of high water tables and impermeable soils. The existing sewer-served areas of the Village and Town contain sufficient capacity to more than accommodate the needs for future growth during the next ten to twenty years. Growth will benefit the public investments in sewer and water lines costs if it is concentrated within the existing sewer and water district areas. Not only will adding customers within the districts help permit less costly district charges and maintenance costs for landowners, it will indirectly stabilize and enhance the area's agricultural economy by reducing the potential of scattered residential development throughout farming areas. Concentrating residential development largely within the sewer district will also help promote a sense of community and stronger neighborhood ties that cannot be created by scattered sprawl development along major highways.

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**Table 1  
Generalized Soil Limitations  
Town of Somerset, Niagara County, NY**

Predominant Soil Types	Slope	Erosion	Capabilities for Septic	Capabilities: Home Sites	Capability for Agricultural Production
<b>Total Town Area</b>					
Type 44	0-2% 2-6%	Little to none Slight	Severe- a, d	Moderate- a	Highly suitable with drainage
Type 86	0-2%	Little to none	Severe- d	Moderate- a	Suitable, most crops
Type 46	A	Little to none	Severe- a, d	Severe- a	Suitable with drainage
Type 93	0-2% 2-6%	Little to none Slight	Severe- a, d	Severe- a	Suitable with drainage
Type 85	0-2%	Little to none	Severe- d	Moderate- a	Suitable, most crops
Type 71	0-2% 2-6%	Little to none Slight	Moderate- a, b	Moderate- a	Highly suitable, most crops
Type 112	0-2%	Little to none	Severe- a, c, d	Severe- a, c	Limited suitability
Type 88	0-2%	Little to none	Severe- a, d	Severe- a	
<b>Lakeshore Area</b>					
Type 93	0-2% 2-6%	Little to none Slight	Severe- a, d	Severe- a	Suitable with drainage
Type 44	2-6%	Slight	Severe- a, d	Moderate- a	Highly suitable with drainage
Type 86	2-6%	Slight	Severe- d	Moderate- a	Suitable, most crops
Type 63	0-2%	Little to none	Severe- a, d	Severe- a	Suitability, with drainage
<b>Along Creeks</b>					
Type 2	0-2%	Little to none			Highly suitable, most crops

**NOTES:**

- a. Seasonal high water table, generally 1½ to 2 feet below the surface
- b. Severe pollution hazard
- c. Shallow bedrock: 1 to 3 feet
- d. Slow permeability at depths of 8" to 2 feet

Source: *Uses of Soils for Community Development of Recreational Use, Soil Conservation Service, U.S. Department of Agriculture, Niagara County, NY—taken from Comprehensive Plan-Town of Somerset and Village of Barker, 1972.*

## Woodlands

Woodlands are important environmental features of the Town of Somerset that merit some degree of protection from development. Woodlands provide attractive natural settings, offer important habitats for wildlife and contribute to the rural character of the Town.

According to an inventory by the Niagara County Environmental Management Council (EMC), the Town of Somerset had 6,091 acres of woodlands in 1978, covering about one-fourth of the total land areas of the Town. Some 4,400 of these acres were in brushland,

while the remaining acres were in mature woodland. There are areas of “old growth” forest with trees dating back to the 19<sup>th</sup> century in the Town. One such location is the 5.3 acre area behind the Town Hall (see appendix for a NYSDEC report on this site). Much of the brush land will eventually mature, adding to the forest resources of the Town. A comparison of the EMC inventory with a comparable inventory by the State of New York in 1968 indicates that the area of brush land in the Town increased by about 1,200 acres between 1968 and 1978. This trend could be due to the retirement of land from farm production, or may be due to differences in methodologies. The 1978 inventory of woodland has never been updated, and the current status of woodlots in the Town must be estimated. Based on aerial photographs of the Town, it is estimated that the amount of land coverage in woodlands has decreased since 1978, to an estimated 15 to 20 percent of the Town. Map 4: Aerial Imagery is an aerial photograph of the Town of Somerset. Wooded areas can be seen as dark green on this map. As can be seen on the aerial, this loss of woodlands is not due to residential or commercial development. A current acreage of woodlands has not been calculated.

### **Coastal Zone/Waterfront Areas**

One of the most important environmental features in the Town of Somerset is its coastal zone, the Lake Ontario shoreline. This area is regulated through the New York State Coastal Zone Management Program. In 2005, the Town completed a Local Waterfront Revitalization Program (LWRP), which enabled stronger local control over development in the coastal zone. The LWRP provides a complete inventory of Somerset’s coastal area and its assets. It establishes local policies and programs to guide development in this important area, and identifies preferred future land uses and project for the waterfront area.

The 2005 LWRP identified a number of issues affecting the coastal zone in the Town of Somerset:

- Industrial and commercial properties account for a significant amount of the land area within the Local Waterfront Revitalization Area (LWRA). The AES power plant is a major property owner, with control over ¼ of the Town’s shoreline.
- There are a number of vacant or undeveloped properties that could be subject to development pressures.
- There is public sewer along the western end of the LWRA, but there are dense areas of residential development with no public sewer.
- Shoreline erosion is a major problem. The coastal area is characterized by steep bluffs that are highly susceptible to erosion. Existing shoreline protection structures are in various states of disrepair.
- Waterfront access is limited to Golden Hill State Park. The Village’s Barker Bicentennial Park offers views of the lake, but topography precludes access to the water.

Since the LWRP was prepared, the former AES power plant has experienced economic difficulties. It entered bankruptcy in 2012 and was sold. The power plant is a major property owner in the Town and along the lakeshore, as well as the largest taxpayer in Somerset and Niagara County, and the future of the former AES property is of major concern to the Town. The primary concern is the potential economic impacts of the potential loss of this industry. The Town is also interested in preserving the future potential of the “Multiple Use Plan” for waterfront lands owned by AES. As part of the Coastal Energy Impact Program many years ago, the Erie and Niagara Counties Regional Planning Board prepared a multiple use plan for a portion of the Somerset power plant site. The development program included a variety of recreation activities, such as active play areas, picnic grounds, water based recreation, and a nature trail, that were designed to take advantage of the lakefront, its scenic vistas and associated resources. Although there are no immediate plans to implement this multiple

use plan, the Town wants to retain these concepts for potential future implementation. The development of the multiple use concepts would expand public access to the shoreline and increase recreational options in the Town.

The waterfront area also includes important stream corridors, fishing habitats and is an important International Bird corridor and area for migrating birds. With regards to this important bird corridor and migratory area, a recent US Fish and Wildlife Service study utilizing radar has developed a tremendous amount of information about the bird populations in the Great Lakes area. Based on this study, the US Fish and Wildlife Service has recommended that no wind turbines be built within three (3) miles of a Great Lakes shoreline. Other organizations, based on this study have recommended greater setbacks; five (5) to ten (10) miles.

Another extremely important and unique component of the Town's "Recreation/Tourism" opportunities and of the Town's Waterfront is the location of the Great Lakes Seaway Trail in the Town. This scenic driving route connects Lake Erie, the Niagara River, Lake Ontario and the St. Lawrence River in New York and Pennsylvania. It is a National Scenic Byway that includes unique historical locations and cultural heritage sites in addition to outstanding views and scenic vistas.

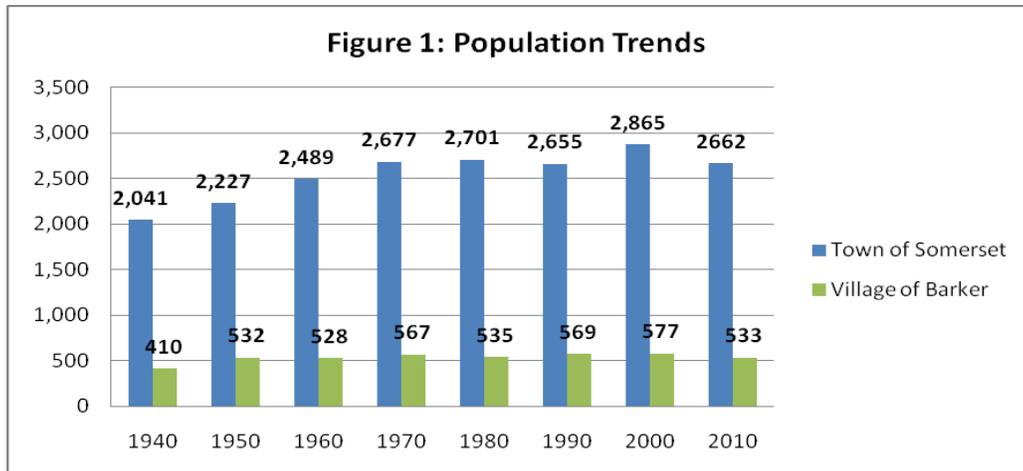
### C. THE CULTURAL ENVIRONMENT

The cultural environment of the Town of Somerset is made up of its people, its land uses, and its public facilities. This section of the document addresses these issues.

#### Population and Housing

The metropolitan area, which consists of Erie and Niagara Counties, has experienced a decline in population over the past decades. Between 1990 and 2010, the total population of the two county region decreased from 1,189,288 to 1,135,509, a drop of 4.5 percent over the past twenty years. Much of the decline resulted from losses in Erie County, which lost 5.1 percent of its population, compared to Niagara County, which lost 1.9 percent. While the region is still losing population, the steep decreases experienced in the 1970's have moderated. Between 2000 and 2010, Niagara County lost 1.5 percent of its population, and Erie County lost 3.3 percent. Population projections prepared by the Greater Buffalo-Niagara Regional Transportation Council indicate that Niagara County will increase in population to 245,930 by the year 2030, an increase of 13.6 percent, or approximately 29,500 persons. These figures, prepared to assure adequate capacity for transportation planning purposes, are generally considered optimistic.

Population trends for the Town of Somerset are depicted in Figure 1 and Table 2. The Town grew steadily between 1940 and 1980, increasing from 2,041 to 2,701 (32 percent). In the 1980s, the population dropped slightly (-1.7 percent), followed by strong growth between 1990 and 2000, when the population increased by 7.0 percent. These increases were essentially erased in the past decade (2000 to 2010). The population in 2010 (2,662) is essentially the same as it was in 1990 (2,655). The American Community Survey's 2010-2014 estimate shows the Town's population increasing to 2,718, but the margin of error is +/- 165. For the purposes of this update, it is assumed that population has remained stable. In contrast, the Village of Barker has maintained a relatively stable population. In 2010, the Village had nearly the exact same population as in 1950.



The number of households in the Town of Somerset decreased slightly over the past 10 years. There are currently 988 households in the Town, compared to 1000 in 2000. This represents a decrease of 1.2 percent over the past decade. In Barker, the number of households remained essentially unchanged, with the loss of one household between 2000 and 2010, to a total of 210 households in 2010.

Table 2  
Population Trends

Population	Town of Somerset		Village of Barker		Town outside Village	
1940	2,041		410		1,631	
1950	2,227		532		1,695	
1960	2,489		528		1,961	
1970	2,677		567		2,110	
1980	2,701		535		2,166	
1990	2,655		569		2,086	
2000	2,865		577		2,288	
2010	2,662		533		2,129	
<b>Change/Trends:</b>						
	Town of Somerset		Village of Barker		Town outside Village	
	Number	Percent	Number	Percent	Number	Percent
1940-1950	186	9.1%	122	29.8%	64	3.9%
1950-1960	262	11.8%	-4	-0.8%	266	15.7%
1960-1970	188	7.6%	39	7.4%	149	7.6%
1970-1980	24	0.9%	-32	-5.6%	56	2.7%
1980-1990	-46	-1.7%	34	6.4%	-80	-3.7%
1990-2000	210	7.9%	8	1.4%	202	9.7%
2000-2010	-203	-7.1%	-44	-7.6%	-159	-6.9%

Source: US Bureau of the Census

	1990	2000	2010	Change: 1990-2010		Change: 2000-2010	
<b>Households</b>							
Somerset (all)	940	1,000	988	48	5.1%	-12	-1.2%
Barker	218	211	210	-8	-3.7%	-1	-0.5%
Somerset (part)	722	789	778	56	7.8%	-11	-1.4%

Source: US Bureau of the Census

As the table above illustrates, population decline exceeds household loss. This is due to the fact that average household size has been declining throughout the country, and Somerset has also experienced this trend. The decline has been due to a reduction in the birth rate, combined with an increase in single person households, separations and divorces. The effect of this trend has been to create a demand for new housing, even in communities that have experienced a stable population. As the population ages and the number of single person households continues to increase, this trend is expected to continue. In Somerset, the average size of a household in 2010 was 2.68 persons, which is significantly lower than it was in 2000. Village patterns parallel Town trends: in Barker, the average size of households increased from 2.62 persons in 1990 to 2.85 persons in 2000, then fell back down to 2.54 in 2010.

**Table 3  
Household Size Trends**

	<b>Town of Somerset</b>	<b>Village of Barker</b>
1990	2.84 persons per hh	2.62 persons per hh
2000	2.85	2.85
2010	2.68	2.54

In addition, the number of housing units has been steadily increasing. In 1970, there were 927 housing units in the Town. By 2010, the number had increased to 1,141, representing a growth of 23.1 percent over the past forty years. This is partly due to increased numbers of second homes, and a larger proportion of unoccupied units in the Town. This growth continued modestly in the past decade (9 net new units), even while population and household numbers decreased.

### **Existing Land Use Analysis**

The study and analysis of existing land uses within a community is one of the fundamental elements of a comprehensive planning program. A comprehensive plan will assess the patterns and relationships of existing land use, providing guidance for making decisions on how to address zoning, potential future growth and how land is developed. Land use can be classified into several generalized categories. The categories include:

Agricultural/Active Farmland - Land which is currently under cultivation or producing a crop directly related to sustaining farming operations. Included are pasture land, hay fields, field crops (wheat, oats, etc.), wood lots, and associated lands that are part of an active operation, including fallow fields.

Residential- Land containing one or more dwelling units, including seasonal housing and mobile homes. (A dwelling unit is a group of rooms in which a family lives, independent of any other unit.) Residential land use can be further categorized as single family, multi-family, multiple residential (e.g. institutions), or rural residential (very low density).

Commercial/Business - Land where goods or services are offered for sale to the public. Examples include grocery stores, offices, gasoline stations, etc.

Industrial - Land where a product is manufactured, fabricated, constructed, stored or assembled, or any combination of industrial activities including product or material handling, storage or treatment including the extraction of natural resources from their parent site, and research related activities that lead to the development or refinement of industrial products.

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Government/Public Facilities - Land with or without structures, which is used or maintained by a governmental or institutional organization for the benefit of the residents of the community. Included are schools, churches, fire stations and libraries.

Parks/Outdoor Recreation - Land with or without structures, which is used for both active and passive recreational purposes by the public. Included are state and local parklands.

Vacant and Other Underdeveloped Land - Land which is currently not being used or is not suitable for active farming operations. Included are wooded areas, freshwater wetlands, forests, outlands and water bodies.

Utilities/Infrastructure - Land used for various utilities uses, such as pipelines, rail and electric transmission lines.

There have been some changes in land use in the Town of Somerset over the past decades, but generally, the Town remains predominately a rural and agricultural community. The construction of the Somerset Power Plant entailed the purchase of 1800 acres in the 1970s. More recently, there have been modest increases in residential development. Most of the residential development has been low densities, although there are areas of more concentrated residential development in the Village of Barker, in the hamlet of Somerset at the intersection of Lake Road and Quaker Road, and in some areas along the lakeshore. Certain streets, such as Quaker Road between the Village of Barker and the hamlet of Somerset, have experienced strip frontage development for residential uses. Elsewhere, residential development is scattered at a fairly low density along the frontage of highways. Other large land users include the Somerset power plant, which occupies nearly 1,100 acres of land, representing the vast majority of industrial land in the Town. Golden Hill State Park is another large parcel.

Much of the Town of Somerset is included in state-designated agricultural districts, as shown in Map 3: Agricultural District and General Soils. The exception is the southeast portion of the Town, which is characterized by woodlands and wetlands. The agricultural district boundary is set by the Niagara County Legislature and the State Department of Agriculture and Markets pursuant to the provisions of Article 25 AA of the State Agriculture and Markets Law, and represents lands that consist primarily of viable farming soils. By being located within a designated agricultural district these lands receive an extra layer of protection from development. The district was created as a means of stabilizing farming in the county, to protect agricultural investments and to encourage expansion of farmland wherever possible. Local land use policies should complement the objectives of the agricultural districting program in order to support farmland preservation. Current land uses based on assessment data are shown on Map 5: Existing Land Use.

## **Land Use Controls**

Two of the major tools in controlling land use in a community are zoning and subdivision regulations. The Town of Somerset has regulations for both; Chapter 171 - Subdivision of Land, and Chapter 205 - Zoning. Both are found in the Code of the Town of Somerset, which have been codified with all the codes of the Town.

### Subdivision Regulations

The Town's subdivision regulations are fairly standard regulations, with procedures for both minor subdivisions (4 or less lots, not involving public infrastructure improvements or extensions), and major subdivisions (more than 4 lots). A minor subdivision approval is a two

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step process: sketch plan and minor subdivision plat review. A major subdivision requires three steps: sketch plan, preliminary plan review, and final plat review.

The remainder of the subdivision code sets forth plan specifications, development standards, required improvements and penalties. The regulations do not include any creative subdivision techniques such as rural cluster development (see zoning code for cluster development regulations) or other rural development regulations.

## Zoning

The zoning code of the Town is also a fairly standard code, including sections on the following: nonconforming uses, the zoning districts, supplemental regulations (including cluster developments and planned unit developments), parking regulations, site plan review, administration and enforcement, and Board of Appeals.

Zoning in the Town includes four residential categories (agricultural, single-family, single and two family, and a lake shore residential district), one business, two industrial zones (industrial and general industrial), and a mixed use floating zone, PUD. The R-2 district allows medical centers or clinics by special use permit, and the "planned business areas" of the code encourages PUD's in the R-2 district.

The Town has kept its zoning map in general conformance with the goals and objectives of the community. In 2001, several zoning revisions were enacted in keeping with this vision. These zoning map amendments included the following:

- Making all lands within 500' of the high bank of Lake Ontario either "residential lake shore" or agricultural (excluding the power plant site).
- Removal of some isolated commercial zonings in areas no longer commercial in nature.
- Removal of some industrial zoning in areas that are agricultural in nature, and making them agricultural zoning.
- Adding consistency in the industrial zoned areas by adding some railroad property back into the industrial zone.
- Adding a PUD designation over the AES power plant site, acknowledging the present uses on the property. The PUD allows many types of uses, but any changes to the property would require a zoning amendment (new PUD designation). The western portion of the AES property was not zoned PUD, and it was stated that it would not be rezoned to PUD until a plan for the property was submitted and accepted.

A copy of the Town's zoning map is included in this report as Map 6: Existing Zoning.

In general the Town's zoning map represents that land use vision of the community, and the code only needs minor updates to provide better direction to developers in the Town. The code was updated in 2000 with improvements made to the "I" and "GI" districts, site plan review regulations, parking regulations, and the PUD category.

## Other Codes

Other codes in the Town of Somerset that affect land use in the Town are as follows: "Bed and Breakfast establishments", "Campgrounds and Vehicle Parks", "Environmental Quality Review", "Excavations", and "Mobile/Manufactured Homes". The Town also updated the Wind Energy Law in 2016 and is presently working on a Solar Law.

- "Bed and Breakfast establishments" are allowed by special use permits throughout the Town.
- "Campgrounds and Vehicle Parks" establishes a yearly permit requirement for these uses that are allowed in an agricultural district by special use permit.
- "Environmental Quality Review" is the SEQR (State Environmental Quality Review) requirement for all development projects in the Town (this code is outdated).
- "Excavations" regulates excavation activities in the Town.
- "Mobile/Manufactured Homes" establishes standards for these types of uses which are allowed by special use permit in agricultural districts (controlled by yearly license).
- The updated Wind Energy Law (§205.43.5 of the Code of the Town of Somerset) was enacted in 2016 to regulate the placement of commercial and industrial wind energy conversion systems in accordance with the goals and objectives of the 2012 Comprehensive Plan and the Goals and Objectives of the Town.

In addition, the Town has adopted a "Right to Farm" law intended to support agricultural use in the Town, and protect agricultural operations from nuisance complaints.

### **Transportation**

As a predominantly rural town, the Town of Somerset has a relatively simple roadway system. Route 18 is the principal east-west route in the Town, and Route 148 is the main north-south route. Both are state highways, as is County Line Road south of Route 18. All other roadways in Somerset are under local or county jurisdiction. Primary east-west roadways include Lower Lake Road, Haight Road, West Somerset/Coleman Roads and Town Line Road. North-south routes include Hosmer Road, Hartland Road, Quaker Road, Johnson Creek Road and Carmen Road. During the construction of the power plant, Hartland Road was rebuilt as a heavy haul road.

Traffic counts indicate that Route 18 (Lake Road) and Hartland Road (CR 108) experience the most traffic in the Town. According to statistics provided by the Greater Buffalo-Niagara Regional Transportation Council (GBNRTC), the average daily traffic along Lake Road is in the range of 1,200 to 1,400 vehicles per day. On Hartland Road, the most recent traffic counts indicate volumes of 1,200 vehicles per day. Traffic counts have been declining slightly: in 2001, traffic counts along ranged from around 1,400 to 1,500 vehicles daily on these two roadways. Traffic volumes are very low on other roadways in Town. On roadways where traffic counts were taken, average annual daily traffic (AADT) is 700 vehicles per day or less.

An active rail line runs through the western end of the Town, providing access to the Somerset power plant. The railroad right-of-way continues eastward through the Town, but this portion of the rail line is in private ownership and is not in operation. There is no public transportation service in Somerset. According to the Buffalo-Niagara bicycle route map (2010) prepared by the GBNRTC, Lake Road and Hartland Road are designated on-road bicycle routes. They are rated as in "acceptable" condition. Quaker Road north of Lake Road and Lower Lake Road are designated as a "Local Bicycle Connector", tying the Village to the State Park.

Major transportation features, including available traffic counts, are shown on Map 7: Transportation. The AADT figures on the major roadways of this map show the average annual daily traffic, or the typical number of vehicles using these roadways on a daily basis. The year that each traffic count was taken, which ranges from 1993 to 2010, is also shown on the map.

## **Community Facilities**

The availability of efficient municipal services contributes to quality of life and can be seen as an essential component of a successful community. This portion of the comprehensive plan analyzes existing community facilities in Somerset and their physical condition to determine what deficiencies may exist. The following facilities and services were studied:

1. Parks and Recreation
2. Fire Protection
3. Police Protection
4. Administrative Facilities
5. Public Library
6. Educational Facilities
7. Water Supply & Distribution
8. Sanitary Sewerage System
9. Storm Water
10. Refuse Disposal System

These features are illustrated on Map 8: Community Features and Infrastructure.

### **1. Parks and Recreation**

The need for recreation space is an important component of any community. Space for people of all age levels to enjoy recreational pursuits is an important part of our daily life. The Town of Somerset has a number of recreational lands within its borders.

There is one Town-owned Park and recreation facility in the Town of Somerset, located on the Town Hall and Town highway garage complex at 8700 Haight Road. The site contains 17.5 acres of land, with approximately 15 acres in active recreation use. The park has softball diamonds, playground equipment areas, a basketball court, volleyball court, shuffleboard court, a horseshoe court and a multi-purpose building with a lunch stand and rest rooms used primarily for the baseball events on the site. There are also some nature trails.

The largest park facility in the Town is the Golden Hill State Park. This park is a 511-acre state-owned facility that contains a campground, nature trails, picnic areas and shelters, and playgrounds. The park is located on the Lake Ontario shoreline. The park's facilities include a state-operated boat launch, and the park offers public access to the lake for fishing, boating and other water-related recreational uses. A unique feature of this park is the Thirty-Mile Point Lighthouse, a historic lighthouse built in 1875. The lighthouse, which is listed on the National and State Registers of Historic Places, is a popular tourist attraction, and was featured on a US Postal Service postage stamp in 1995 as the representative for Lake Ontario in a series of lighthouse stamps. Excellent views of the Lake Ontario shoreline are available from this site.

There is potential for future park facilities. As part of the approval of the Siting Board in the mid-1970's granting NYSEG permission to build what is now known as the Somerset power plant, the power company was directed to work with local officials to prepare a multiple use plan for the site. The intent of the multiple use plan was to provide for the recreational needs of the community and to replace land previously designated by the Town for future recreation use. The staff of the Erie and Niagara Counties Regional Planning Board prepared a plan for approximately 30 acres of the power plant site. This plan, which was adopted by the Town Board, the Town Planning Board, the power company, and various regulatory agencies, provided for continued access to the lake and a combination of active and passive recreation uses to be implemented over a long term period.

The Town recognizes that the current status of the power plant is a barrier to implementation of the multiple use plan, and there is no immediate pressure for

additional recreational facilities in the Town. Also, in the event that the proposal was to move forward, the plan was prepared over thirty years ago and would need to be updated to reflect current needs. However, the Town wishes to retain its rights for the future in the event that conditions change. With the change in ownership of that property, it is important to preserve the vision of a portion of the power plant site being used for recreation and public access to the waterfront at some point in the future. The Village of Barker owns two park sites of approximately one acre each. One is at the intersection of Quaker Road and Main Street, and the other is at the north end of Quaker Road, on the lakefront. The sites are used primarily for passive recreation purposes, but include a seasonal ice skating rink. Also partially within the Village, the Barker Central School facilities provide active recreational lands and playground facilities, used extensively for school sport programs. There is also a nature trail on the school property. The school facilities are available to the residents of the entire community.

## **2. Fire Protection**

The Town and Village are served by one volunteer Fire Company, the Barker Fire Department. One fire station, located on Quaker Road in the Village of Barker, serves the Town and Village. This station is conveniently accessible to most areas of the Town. It is especially well located in relation to the central business area of the Village.

As with most fire departments throughout the state, the Barker Fire Department is part of a countywide mutual aid fire protection plan. Under the mutual aid system other outside fire departments can be called in to fight fires in Barker and Somerset or cover for the Barker Fire Department, from throughout Niagara County. At present time, Olcott in Niagara County and Lyndonville in Orleans County are the most immediately available fire companies to provide equipment with travel times of approximately fifteen minutes to the Village.

Due to the remoteness of the Town, Mercy Flight is an important component of emergency services in the Town.

There are two major concerns in regard to fire protection in the Town. There is the need to continue to recruit volunteers to serve as fire fighters. A number of incentives have been developed to encourage new members to join. There is also a concern about an area of the lakefront where development is characterized by densely developed, wood-frame private cottages. The combination of limited accessibility, remoteness from the fire station and susceptible construction raises concerns regarding fire hazards in this area. The problem is particularly hazardous in the winter since many cottages are on private roadways which are not plowed in the winter. With this exclusion, the Town has good fire coverage. The Village and all Town roads have a public water system adequate for sustained fire defense. Other areas are protected by water available in farm ponds and creeks or by the fire department's pumper trucks and tank truck.

## **3. Police Protection**

In the past, the town of Somerset contracted for police services from the Village of Barker. In 2012, the town voted to establish its own police department, which became operational in April 2012. The town of Somerset Police department provides law enforcement services throughout the entire Town, including the Village. The police force is not full-time but police constables are assigned strategically to patrol during the late afternoon and through early morning hours when call volume for police services is

typically greatest. Patrol is assigned each night of the week during the year and typically responds to approximately sixty percent of entire calls for service in the Town. The primary focus of the Town of Somerset Police Department is to protect life and property for Town residents and businesses. A heavy emphasis is placed upon physical areas, business, private property and house checks. The supplementary focus of the agency is to promote safe roadways for vehicular, bicycle and pedestrian traffic by enforcing vehicle and traffic law and conducting safety checks.

Additional police patrols within the Town and Village are provided on a twenty-four hour basis by the Niagara County Sheriff's Department and the New York State Police, either by routine road patrol or by telephoned requests from residents of the community. Through the cooperative efforts of these law enforcement agencies, the Town enjoys good quality police protection.

#### **4. *Administrative Facilities***

The Town of Somerset Office Complex at 8700 Haight Road was opened in 1978 and enlarged in 1986. It is located on 17.5 acres of land, which also contains the Town's Highway Garage and Town Park facilities described earlier. The site is centrally located in the Town and is adjacent to the Village. The Town Hall complex represents a strong commitment by the Town to provide improved governmental services to its residents.

The Village's offices are located in the former railroad station with the Barker Library, on Main Street in the Village. The building is sound, the interior lighting and space is adequate and the patron parking immediately accessible. The building also houses other Village functions. The renovation has been tastefully designed and is a tribute to the residents of the Village and Town.

#### **5. *Public Library***

The Barker Free Library is located on Main Street, sharing the former railroad station with the Village offices since 1969. A new addition to the building was constructed in 1990 to house the library's expanding collection. The addition of a children's library, completed in 2001, has further expanded the available space for the library and made it possible to offer a wider range of programming, including children's programs. In addition to books, the library provides reference materials, books-on-tape, magazines, videos, and public Internet access. It also houses a local history collection. The Friends of the Barker Free Library sponsors events and helps raise funds for the library.

In addition to its own collection, the Barker Free Library offers access to interlibrary service to all libraries in the Nioga Library System. The Nioga Library system includes all public libraries in Niagara, Orleans, and Genesee Counties, and has access to other reference data throughout the state. Participation in the Nioga Library system increases accessibility to a wider range of materials for residents of Barker.

#### **6. *Educational Facilities***

Barker Central School, located at the intersection of Haight and Quaker Roads, provides public school facilities for the children in the Towns of Somerset, Hartland, Yates, Ridgeway, and a portion of the Town of Newfane. The school originally covered less than one-quarter its present physical plant size, and considerably less than the present site. Enrollment has been dropping. In 2004, it was approximately 1200 students, while in 2010-2011 there were 937 students. Current year enrollment (2012/2013 school year) is 885

students, with 50 students in the entering Kindergarten class. The school district has 150 employees, including 86 teachers.

The Barker Central School site has been developed into a central campus school, with all grades, K-12, attending at one location. The school has adequate space to accommodate its students and programs. The school site presently extends from Haight Road southward to the Penn Central railroad right-of-way then easterly to Golden Hill Creek and the rear property of houses facing Quaker Road. The site includes the old Trade School Airport. There is adequate space for any future expansion that may be needed. Current enrollments are below the district's rated capacity. It is anticipated that any future increase in enrollment of school students from Somerset and adjacent areas could be assimilated into the existing facilities without major renovations or new construction.

### **7. Water Supply And Distribution**

At the present time, all of the Village of Barker and all of the Town of Somerset are served by public water from the Niagara County Water District. Service is provided to Barker through a 10-inch line located on Quaker Road, which connects to a 24-inch line coming easterly on NYS Route 31 from the direction of Lockport. There are also two 10-inch water mains located along Route 18 and West Somerset Road that tie into the Town of Newfane, which are part of the Niagara County Water District. In general, the Town is well interconnected to the Towns of Newfane and Hartland, and the water system is up-to-date and in good condition. Water is now supplied to the Town of Yates through interconnection off of County Line Road. Areas of the Town served by public water lines are depicted in Map 8: Community Facilities and Infrastructure.

### **8. Sanitary Sewer Service**

The Somerset-Barker Sewer District was created in 1977, with construction commencing in 1978. The system, serving the central area of Somerset and the entirety of the Village of Barker, extends north to Lake Ontario and west, north of the Lake Road as depicted in Map 8. The Sewer District was extended around 1980 to provide domestic sewerage treatment to the power plant.

The sewage treatment system has sufficient surplus capacity to meet projected population growth. The sewage treatment plant is located on a 40-acre tract of land on the southwest corner of the intersection of Lower Lake Road and Quaker Road, with an outfall into Lake Ontario east of Camp Kenan.

### **9. Storm Sewers**

The Village of Barker, storm water sewer system contains four independent tile systems, which deliver the surface water either directly to Golden Hill Creek, or to open drainage ways that empty into Golden Hill Creek. There are no public mechanical drainage systems in the Town of Somerset. However, storm runoff has not become a major problem because of proper highway construction and an annual program to maintain and clean ditches. This program has successfully minimized flood conditions and has helped to maintain the viability of active farmland.

Efforts must be continued to keep roadside ditches and culverts open and free from growth and debris. Further, drainage considerations must be included in all development proposals.

### **10. Refuse Collection And Disposal**

Modern Disposal currently provides refuse collection and recycling services in the Town. Weekly curbside collection of household trash and recyclables is offered to Town residents. Residents may also put out one large item for pickup weekly. Electronic waste and tires can be disposed of at drop-off events at the wastewater treatment plant.

## SECTION III

### GOALS AND OBJECTIVES

The goals and objectives of a Comprehensive Plan articulate priorities for the Town of Somerset. These goals and objectives express the Town's Vision for its future, and as such, they provide guidance for policy makers regarding the preferred direction for development and other activities in the Town.

The goals and objectives delineated here represent a written statement of the manner in which the Town desires to see development directed. The goals are numbered in order of general importance and should be provided relative weight accordingly in any decision making process. In addition to assisting in the creation of laws, policies, rules, regulations and other Town actions, the statements provide a blueprint for the investment of public dollars for community facilities and services.

#### **1. Maintain the Rural and Agricultural Character of the Town**

- a. Foster agriculture through the adoption of land use regulations which encourage farming operations within the Town's agricultural areas.
- b. Promote policies and activities that foster the growth of farming and farming related activities and businesses.
- c. Concentrate future development within the existing sewer district and other targeted areas; protecting farmland from encroachment of non-agricultural uses.
- d. Strive to protect important features, such as woodlots. Wetlands and important views and features that contribute to the rural character and visual appeal of the Town.
- e. Protect the Town from Land Uses that do not support and maintain the Rural Character of the Town and the Vision expressed in this Plan.
- f. Promote standards for roadways and other infrastructure that are compatible with the character of the surrounding area, such as rural, agricultural, Village or lakefront areas.

#### **2. Protect Important Environmental Resources from Adverse Effects**

- a. The Town of Somerset encompasses a shoreline on Lake Ontario of unique natural beauty. Wherever feasible the shoreline should be preserved for the benefit of all Town residents, present and future. Where public preservation is not practical, private development must be carefully controlled and limited to specific areas.
- b. The Town's shoreline and areas surrounding this important waterfront area also include important environmental features including bluffs, wetlands, stream corridors and wildlife habitats including significant bird habitats and migratory bird areas. These features must also be protected and preserved.
- c. Coordinate drainage activities with those of neighboring towns that include the same drainage basins as the Town of Somerset, and carefully evaluate the effects on drainage of all proposals for development.
- d. Develop actions to protect the important natural systems identified in the Erie and Niagara Counties' Framework for Regional Growth document, other Regional Planning

documents and this Plan.

- e. Encourage the dedication of easements along creeks and other major drainage ways to protect their character, enhance environmental sustainability, allow for their maintenance and reduce the risk of flood damages.
- f. Maintain wetland areas in their natural state by controlling draining, filling, and development in these areas.
- g. Regulate development within flood hazard areas so as to minimize potential property damage from flooding.
- h. Strive to protect significant woodland areas.
- i. Support the policies and programs identified in the Town's Local Waterfront Revitalization Program, which regulate development in the coastal zone so as to minimize potential property damage from shoreline erosion and to afford increased public access to the shoreline.
- j. Protect the environment from pollution by carefully controlling waste disposal policies.

### **3. Create a vital and sustainable economy for the Town of Somerset that provides a strong tax base and jobs for our citizens.**

- a. Promote rural economic development.
- b. In support of the Western New York Regional Strategy for Prosperity, target the appropriate industrial sectors for the Town of Somerset.
- c. Support, expand and diversify the agricultural economy in the Town.
- d. Promote the vitality and viability of existing businesses and industries in the Town and support their expansion efforts.
- e. Encourage entrepreneurship and local new business development.
- f. Identify underutilized sites and areas within the sewer district where economic development is appropriate and identify appropriate industrial sectors for those locations.
- g. Prioritize economic development opportunities in and around the Village of Barker and within the existing sewer district, supporting a seamless expansion of the Barker Rural Center.
- h. Evaluate strategic expansions to the sewer district to accommodate economic development opportunities consistent with the community's vision.
- i. Identify opportunities to foster and support agricultural support enterprises.
- j. Promote Agri-tourism in the Town and target the northeastern end of the Town for an area that will accommodate Agricultural uses, Agri-tourism uses and expansion of tourism opportunities (capitalizing on the existing State Park, the Seaway Trail and other waterfront features).

- k. Identify areas surrounding the Village appropriate for economic development opportunities that can promote connections between the Village and the Town, and encourage an expanded Rural Center.

#### **4. Achieve a Pattern of Development which Minimizes Travel Time, Adheres to Smart Growth Principles and Establishes a High Standard of Design**

- a. Concentrate residential development in areas that are highly accessible to employment opportunities, commercial services, and the Barker Central School.
- b. Concentrate commercial and industrial development within well-defined nodes.
- c. Support efforts to improve and build upon the commercial center of Barker where feasible.
- d. Require adequate landscape screening and separation between residential areas and non-residential uses to minimize land use conflicts and achieve high visual appeal.
- e. Achieve a high quality of design in residential subdivisions through such measures as cluster development, conservation subdivisions and rural design guidelines to protect natural features, conserve energy and reduce public service costs.
- f. Strive to have a variety of goods, services and facilities readily accessible to the residents of Somerset.

#### **5. Meet the Housing Needs of the Community by providing for a Variety of Choices in New Housing and by Encouraging the Improvement of Existing Housing**

- a. Provide sufficient land area in appropriate areas of the Town to meet the prospective demand for an appropriate variety of housing styles, including garden apartments, townhouses and other alternative forms of housing. Such development should be located in areas which provide active settings for such uses and be required to meet high standards of design and construction.
- b. In an effort to provide affordable housing and housing for seniors, encourage developers to take advantage of federal and state housing assistance programs, including programs which provide assistance for the construction of new single family and multi-family housing and rental assistance programs for existing housing.
- c. Maintain the integrity of residential areas by allowing only those uses which are compatible with the nature and intensity of neighboring residential use. Protect these residential areas from incompatible uses.
- d. Maintain and enhance the quality of the residential environment through programs to improve the existing housing stock.

#### **6. Provide High Quality Community Facilities and Services at an Acceptable Cost to the Local Taxpayer**

- a. Carefully plan capital improvements so as to avoid significant increases or fluctuations in the Town tax rate.
- b. Provide for adequate maintenance, repair and replacement of existing Town facilities,

including sewer and waterlines, Town buildings and cemeteries, parks, roads and drainage facilities.

- c. Expand the opportunities for recreation on the Lake Ontario shoreline.
- d. Improve and expand existing Town recreation facilities adjacent to the Town Hall consistent with local needs.
- e. Address drainage needs and issues in the Town.
- f. Work closely with County and State officials and advise them of local concerns, particularly with regard to improvements to Golden Hill State Park and County and State highways within the Town.
- g. Coordinate activities with the School District and assist them with providing education and other community services in a cost effective manner.
- h. Pursue intermunicipal agreements so as to provide community facilities and services in an efficient and cost effective manner.
- i. Support local efforts at economic development and grantsmanship in cooperation with the Regional Economic Development Council strategies.

### **7. Provide for the Future Movement of Traffic through the Town in a Safe and Efficient Manner**

- a. Promote a safe system that reduces hazardous curves, misaligned intersections or other highway safety problems.
- b. Discourage "strip" development (road frontage development) that hinders the smooth flow of traffic.
- c. Support safe alternatives to vehicular traffic by encouraging the development of facilities and trails for pedestrians and bicyclists, particularly in the vicinity of the Village, the Barker-Somerset residential corridor and along the lakefront.
- d. Minimize, to the extent feasible, the number of individual access drives to highways in order to maintain their safety and carrying capacity.
- e. Encourage rural public transportation and other options.
- f. Connect the rural center of Barker to "developed area" destinations identified in the Framework for Regional Growth document.
- g. Help to minimize conflicts with agricultural use of the roadways and use for residential and business purposes.

## SECTION IV FINDINGS AND RECOMMENDATIONS

This Section presents observations and findings for the Town of Somerset, based on an assessment of existing conditions, compared to the Town's preferred future as articulated in the Goals and Objectives. It has also been informed by input received from the public (including a survey of the Town residents on the issue of Wind Turbine development and a public hearing on 11/30/16 and 12/21/16), the 2012 Plan steering committee, the Town Board, and regional planning documents.

Following the observations are initial recommendations for each category. These recommendations represent the ideas for the direction that the community should take to move toward achieving its goals, based on input from the public the Town Board and the previous Comprehensive Planning efforts. This listing of "recommendations" has not been prioritized, but prioritization of goals is expressed in Section III of this document. This listing can be utilized as a "tool box" by the Town in establishing actions in the coming years. Some ideas may be long term or never utilized to implement the Plan.

The next section of this Comprehensive Planning document focuses on Implementation and Action Items that present specific activities that have been prioritized in the 2012 Plan and the 2016 Update. The Town can undertake these activities to help move toward achieving their Goals and Objectives. This section has been organized to parallel the goals for the Town. Because there is significant overlap and interrelationship among the goals, many issues could fall into more than one category. They have been cited in the section that seems most consistent with the intent, but clearly, findings and recommendations Items under one category may also be relevant for other categories.

### Maintain the Rural and Agricultural Character of the Town

#### **Observations:**

- Agriculture remains a strong industry in Somerset and a major local employer. Between 2002 and 2007 (most recent year available), the number of farms in Niagara County grew from 801 to 865 (8 percent increase) according to the Census of Agriculture. Over the same time frame, the market value of agricultural products sold increased from \$59.9 million to \$103.6 million.
- The average size of a farm in Niagara County is 165 acres. The majority of farms fall between 10 acres and 179 acres in size, although there are some farms over 1,000 acres in size (It has been verbally reported and observed that the farms tend to be smaller in the Town of Somerset).
- Sales per farm in the County have been increasing. The average market value of products sold in 2007 was \$119,820 per farm, an increase of 60 percent over 2002 figures. Even after adjusting for inflation, the increase was significant: 50 percent.
- The amount of land in agricultural use in the County decreased by 4 percent. Approximately 80 percent of land in farms in the county is in cropland. Just under 10 percent is woodlands and 11 percent are other uses.
- There is a variety of farming in the Town. Information from the Town identifies 30 active farms in the Town, with specialties in livestock/beef (7); orchards/fruit trees (7); dairy (6); various vegetables (4); corn/ soybeans (3); and field crops/hay (3). Other types of farms represented in the Town include a cidery, a nursery and cash crops. Many farms are producing more than one type of product.

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- In the Town of Somerset, land use analysis confirms that the largest land use by acreage is agricultural and/or rural uses.
- While maintaining rural and agricultural character is a priority, there has been relatively minimal development pressure in the Town. Since 2005 (through 2011), the Town has issued building permits for 17 new residences, or an average of less than 3 homes per year.
- A large proportion of the Town falls within a State-designated Agricultural District (see map).
- Much of the active agricultural uses are in the northeast and southwest quadrants of the Town. The southeast quadrant is rural, with significant areas of wetlands and wooded areas, but it tends not to be in productive agricultural use.
- The Rural and Agricultural Character of the Town is primarily achieved through large acreages of farm fields, wooded areas and low density residential development patterns. The addition of large Industrial uses outside of targeted areas, such as Industrial Grade Wind Turbines, in inappropriate areas would be inconsistent with the rural character of the Town.
- Some have argued that the leasing of agricultural lands for wind turbines is good for farming as it offers another opportunity for improving farm incomes. Others have stated that this leasing of land only benefits the income of a few farmers, does not help actual farming, and has too many negative impacts on surrounding property owners and reduces other economic opportunities for the Town. Industrial Grade wind turbines are not protected under Agricultural laws as they are not agricultural uses.
- High energy costs are a factor for farms. Natural gas is not available everywhere in the Town. If more natural gas becomes available, energy costs may be significantly reduced. It would also be important to have three phase power and high speed internet available to more farmers and Town residents. The Town is working on a solar energy ordinance that would assist farmers with trying to offset power costs through the installation of solar panels.
- Agricultural support industries, such as Mayer Brothers, are also significant employers in the Town.
- While there is much talk about “Shovel Ready” in communities like Somerset, it is as important to consider how to be “Plow Ready”.
- Road and Bridge Infrastructure: Local roads must have adequate width and shoulders to accommodate large farm machinery and bridges must be able to support the weight of this equipment.
- Drainage: Ditches and swales need to be operational and maintained, particularly in areas where soils are poorly drained.
- Utilities: in general, the sewer district falls outside areas within the Agricultural Districts.
- The current agricultural zoning district in the Town allows a wide range of uses by special use permit.
- Agricultural operations are currently supported by agencies such as the Niagara County Soil and Water District and the Cooperative Extension of Niagara County.

### **Recommendations:**

- There needs to be adequate infrastructure in support of farming and farming related activities. This includes adequate roads, shoulders and bridges for large farm machinery as well as utilities required such as water, sewer (only in agricultural business areas), three phase power, natural gas and high speed internet access.
- More creative approaches to Agricultural zoning could allow other small businesses at farms (e.g. small engine repair). The Town should update the zoning code to allow a greater variety of appropriate uses on active farms. These non-agricultural uses should not have adverse impacts on adjoining properties or the Goals and Objectives of the Town.
- The Town should help find assistance to farmers to help make them profitable through efforts such as grants, advice, etc.
- The Town should investigate ways to help develop agricultural support industries.

- The Town should consider revisions to the Town's Agricultural zoning district to more carefully control uses on non-agricultural properties.
- The Town should consider adopting rural design guidelines.
- The Town's new wind law (enacted in 2016) is consistent with both the 2012 Comprehensive plan and this Update, and only new wind turbines meeting the substantive and procedural siting requirements of the law should be allowed (the law and any proposed projects requires conformance with the Town's Comprehensive Plan. See the Vision map and related sections of this Plan to see where these type facilities may or may not meet the Goals and Objectives of the Town).
- If any portion of the new wind law is found to be preempted by state or federal law, the remaining substantive requirements of the wind law should be followed to the greatest extent possible, to safeguard the Goals and Objectives of the Comprehensive Plan, including, most importantly, the protection of the character of the Town.
- The Town should amend its zoning map and code to reflect the Vision Map and the discussion of allowed uses in Section V, Paragraph D – Vision Plan.
- The Town needs to finalize and adopt a solar ordinance that will help to site solar installations (all forms) in appropriate areas of the Town and not impact its character or environmental resources.
- The Town should promote policies and activities that foster the growth of farming and farming related businesses, such as farm stands, farmers' markets, pick-your-own farms, wineries, etc.
- The Town should continue to support and fund the Niagara County Soil and Water District and the Cooperative Extension of Niagara County.

### **Achieve a Pattern and Quality of Development which Minimizes Travel Time, Adheres to Smart Growth Principles and Creates a High Standard of Design**

#### **Observations:**

- The Town could use more local shopping opportunities, particularly for local convenience goods such as a local grocery store and a hardware store.
- New retail development should be focused primarily in Barker.
- Barker- Somerset Corners could be developed as a walkable/ bikeable Community.
- School enrollment is down and the local population is aging. Efforts should be made to find ways to keep people in town.
- The primary constraint for youths is the lack of job and business opportunities.
- A primary factor for elderly residents is the need for local health care; a shortage of appropriate housing for the elderly is another concern.
- The "Framework for Regional Growth" document strongly emphasizes Smart Growth principles, which are now required for major projects under State Law. The Framework:
  - ✓ Encourages re-using existing buildings and/or developing land in or around the Village.
  - ✓ Discourages the continued subdivision of rural road frontage.
  - ✓ Encourages the preservation of agriculture.
  - ✓ Mandates the concentration of growth to areas with existing sewer and water, and recommends reducing existing sewer district boundaries in areas where there are no sewer lines and no plans to extend them.
  - ✓ Recommends potential enhancements to the waterfront area.
- The "Framework for Regional Growth" identifies the Village of Barker as a Rural Service Center. As such, it is a location where redevelopment and infill growth is encouraged.
- The Town is located in the far northeast corner of Niagara County, with nearest population centers and major support services located in Lockport and Medina.

- The *Strategy for Prosperity* requires that for project approval or funding, the project must promote Smart Growth principles, and must target one or more of eight target industries, which include:
  - ✓ Advanced manufacturing;
  - ✓ Agriculture;
  - ✓ Bi-national logistics;
  - ✓ Energy;
  - ✓ Health and life sciences;
  - ✓ Higher education;
  - ✓ Professional services; and
  - ✓ Tourism.
- New development should be encouraged to locate adjacent to areas where there is already more concentrated development, including the Village of Barker and historic 'hamlet' centers. This policy will also help maintain the rural, scenic character of other areas of the Town.

### **Recommendations:**

- Explore ways to accommodate more elderly housing. The expansion of Barker Commons may be one option.
- Assess whether lot sizes make sense (both in and out of the sewer district).
- The subdivision and zoning laws need to be assessed to determine if they are helping the Town achieve its goals. Consider revisions that support more creative housing options.
- Incentive zoning could be utilized to encourage growth in the appropriate areas.
- The Village is an important partner and should be involved with the planning effort.
- The Town and Village could support the following target industries in appropriate areas: agriculture, professional services, small scale energy or green energy uses in the appropriate areas, tourism, and, at some level, advanced manufacturing.

### **Meet the Housing Needs of the Community by Providing for a Variety of Choices in New Housing and by Encouraging the Improvement of Existing Housing**

#### **Observations:**

- There is not a lot of diversity in regard to housing options in Somerset. The vast majority of housing is single-family homes. Census data indicate 86 percent of units are one-family units, with mobile homes making up an additional 4 percent of units in the Town.
- There is a demand for more affordable senior housing options. Support systems to allow seniors to remain safely and comfortably in their own homes are also lacking.
- Often the only alternative for a senior looking for a smaller housing type or supportive housing is to leave town.
- Lack of local health care options also affects seniors' ability to remain in the community.
- Many seniors do not drive and transportation alternatives are needed.
- There are 24 units at Barker Commons, which was built in the mid - 1980's. This property was originally for seniors only, but it has been suggested that a growing number of tenants are eligible non-senior tenants.
- It has been suggested that there could be interest in other types of housing products, such as easier to maintain patio homes.
- Much of the housing on the lakeshore has converted to year-round residences.
- The zoning of the Town allows one-family homes in Agriculture (A), Single-Family Residential (R-1), and Lake Shore Residential (RLS) districts. Two-family homes are allowed in the Single-

and Two-family Residential (R-2) district. Multi-family homes larger than doubles are not allowed in any zoning district in the Town.

- Areas of existing clusters of residential development should be protected from non-compatible land uses that would negatively impact property values or would impact the continuing viability of these residential hamlet type areas.
- Cluster residential developments are allowed in the A, RLS, R-1 and R-2 districts with a special use permit from the Town Board.
- The zoning code allows for residential Planned Unit Developments that allow business uses within the A district; however, the regulations require a minimum of 100 homes. Given building permit trends in the Town, a development that large is unlikely.

### **Recommendations:**

- The Town should explore ways to encourage a greater variety of housing options. In particular, more options for seniors should be considered and encouraged.
- Support services for seniors, such as health care and social opportunities, are also lacking. Perhaps the Barker Commons could be expanded to assist in some way as a clinic and a gathering place.
- Programs to help homeowners maintain their properties could help improve the existing housing stock.
- More creative approaches to housing options could help diversify the housing stock.
- For seniors, supportive services may help them remain in their homes, and therefore in the Town of Somerset. For example, transportation services or visiting nurse services can help residents avoid having to move to supported housing, which means moving out of town.
- The Town should create a Zoning District to support multi-family housing and apply it in appropriate places.
- Continue to enforce and create new legislation that protects the denser areas of residential development.
- Consider the investigation of rural development guidelines or a "rural transect" to protect the rural areas of the Town and maintain the rural character.
- Improve the PUD and Cluster Development Laws.

### **Protect Important Environmental Resources from Adverse Effects**

#### **Observations:**

- The Town has an adopted Local Waterfront Revitalization Program (LWRP) to protect waterfront lands.
- The Local Waterfront Revitalization Area (LWRA) in the LWRP document was expanded to increase the area within the Town eligible for waterfront grants. However, parts of the expanded LWRA are distant from the shoreline. Since all development within the LWRA is subject to consistency review, this can create problems for projects on non-waterfront lands that fall within the LWRA.
- Shoreline erosion is a concern along portions of the Town's waterfront.
- The south central and south eastern portions of the Town have significant environmental features such as wetlands and woodlots.
- A 1978 survey found that woodlands covered approximately 25 percent of the Town; more recent estimates suggest woodland coverage has declined to perhaps 15 to 20 percent of the Town.
- There are areas of significant woodlands in the Town. One such area is the area behind the Town Hall which has 5+ acres of old growth forest.
- It was noted in public meetings that there are other important woodland and other environmental features (salt springs, bald eagle habitats, etc.) that should be included in

mapping of the Town. These areas should be protected and potentially used in bringing visitors to the Town. Some of these sites are privately owned and therefore cannot be used for public purposes.

- Golden Hill Creek is the major drainage channel in the Town and an important environmental feature of the Town. It should be protected.
- Other creeks (Johnson, Fish and Marsh Creeks) also run through the Town and should be protected.
- The Town's waterfront and surrounding areas support an abundance of wildlife including an important international bird migratory corridor.
- The Town is split into two drainage basins. The northeastern part of the Town drains toward Lake Ontario, while the remainder of the Town drains southerly into the Johnson Creek basin in Hartland.
- Signage identifying the watersheds (drainage basins) could raise public awareness of watershed issues.
- There are areas of floodplains along the lakeshore and along Golden Hill Creek.
- There are five identified brownfield sites in the Town and Village, where former uses resulted in some level of contamination that inhibits redevelopment.
- One brownfield site, the former Barker Chemical site, is located in the Town outside the Village. Currently a study grant has been awarded through the County to review what has been accomplished to date, verify previous findings and make recommendations for future action and/or uses. The program is scheduled to be awarded to a private contractor in April with results by December of 2012. The contractor will be required to obtain local input during the study process.
- The Barker Chemical site is adjacent to the Barker Central School property, and also presents a potential risk to Golden Hill Creek.
- Currently, public access to the Lake is provided at two locations: the Village of Barker Park and Golden Hill State Park.
- There have been suggestions to expand the harbor and the boat launch facility at Golden Hill State Park.
- It has been noted that there are no docking facilities at Golden Hill State Park, which effectively prevents boaters from visiting the park.
- New flood plain maps have been prepared since the prior Comprehensive Plan was completed in 2004.
- New interconnection of water system at Hartland Road at Townline has improved available fire flows and provides backup supply source for the Quaker Road line.
- One interesting feature of the Town noted by residents is the "Dark Sky" nature of the Town. It has been reported that the International Dark Sky Association sees the Town as being very unique in this aspect.

### **Recommendations:**

- The Town should inventory major ecological resources, important scenic areas and other valued environmental features within the Town (map features like the salt springs, old growth forest areas, historic structures, eagle nest areas, important swamps, etc.) so it has a good baseline of where important environmental features are located; so that they can be protected.
- The Town should consider creating a creek corridor overlay district for Golden Hill Creek, and possibly other creek corridors in the Town. These overlays would protect the environmental quality of these creeks by providing appropriate setbacks and instituting other protections within their watersheds.
- Consider protection measures for the south central / southeastern portion of the Town to protect important wetlands and woodlots in this area. All major types of development should be severely restricted in these areas.

- The Town should support activities and programs to redevelop the Barker Chemical site.
- Assess the local demand for lake access (survey residents).
- Consider joint planning with adjacent communities to promote effective drainage.
- Evaluate the LWRA to determine whether the expanded area is appropriate.
- Consider developing 'best practices' manual for landowners along sensitive resources (lakefront, creeks, wetlands, woodlands) for how to be proper stewards of these resources.
- Establish regulations that will protect these important stream corridors and highly restrict large scale users from these areas.
- Continue to support measures to help alleviate shoreline erosion.
- Increase public awareness of the location and importance of area watersheds.
- Review the Town's laws to ensure that they protect the significant wildlife habitats and migratory bird corridor.
- Development proposal should evaluate their impacts on the "dark sky" nature of the Town. Zoning Codes could be amended to address this issue.

### **Provide High Quality Community Facilities and Services at an Acceptable Cost to the Local Taxpayer**

#### ***Observations:***

- The Town Hall complex and other municipal facilities are currently providing adequate services to the Town's residents.
- As noted in the environmental section, drainage is a concern. A Drainage Plan could assist farmers, since many of the soils in the Town are rated as good for agriculture when drained. Keeping ditches cleared helps support the agricultural economy.
- Natural Gas: It has been suggested that the lines should be expanded to cover more homes along the lake. Extending natural gas to farms could help drive down the cost of drying corn and other products.
- Lake Access/ Multi use site: the siting decision for the AES power plant set aside lakeshore frontage for the town as recreation space. This site has never been developed for that use, but the Town has retained the option. There is concern with the change of ownership that past plans may be lost.
- If this recreation space were to be developed, activities and resources on the site should not duplicate or compete with Golden Hill. One consideration is whether to provide public access at the site.
- A right-of-way for the Hojak line runs through the Town. However, portions of it have been sold to adjacent private owners, which would complicate converting this right of way into a hiking or a bike trail.
- Golden Hill State Park is a State facility and the Town has very little control over what happens at the Park. The Town should look into what the State's long range plan for this facility is and assess how Somerset fits into these plans.
- Options for Golden Hill State Park include an expanded boat launch, docking facilities, camping and fishing opportunities.
- Development of docking facilities at the State Park would enable increased visitation from boaters, who currently are not able to moor.
- The Seaway Trail is an important feature of the Town.
- School enrollment is down, and the population is aging.
- Fire Protection: there is adequate equipment: new equipment was purchased since the prior Comprehensive Plan. There is a problem with recruiting volunteers.
- Development is occurring outside the sewer district.
- There is very little waterfront access outside of State Park.

- The wastewater system has capacities to accommodate additional growth.
- The water system is a strong system capable of supplying adequate daily, peak and fire flows throughout the Town.
- The power plant is the largest tax payer in the Town; changes in the payment arrangements from this facility would create problems with the Town's tax structure.

### **Recommendations:**

- The Town should consider conducting a drainage plan, possibly in conjunction with adjacent communities.
- The Town should investigate whether the sewer system should be expanded to accommodate future growth, particularly for economic development purposes.
- It has been suggested that the Town look into increasing lake access/ access to the water.
- Connect this NYS Park area with the Seaway trail, the Agricultural Tourism area of the Town, other environmental features, and the Village to encourage tourism and agri-tourism (trails, signage, expanded shoulders, etc.).
- The Town should explore options for the "Multiple Use" site adjacent to the power plant.
- The Town should assess the feasibility of the expansion of natural gas in the community, targeting the AES site and other business/ industrial areas.
- The Town needs a coordinated plan to improve tourism in the Town and "connect" existing and future features (see the Town's Vision Plan).

### **Provide for the Future Movement of Traffic through the Town in a Safe and Efficient Manner**

#### ***Observations***

- Transportation between communities needs to be addressed. Transportation within the Town is very automobile-oriented, with no options other than the private vehicle. This creates hardships for those that do not have a car or those that cannot drive any more.
- Traffic counts have actually decreased in the Town along major roadways.
- There may be potential for enhanced rail access and/or use of the Ho-jack line.
- More transportation alternatives are needed, such as trails, bicycle routes, and rural transportation options.
- It was suggested that there should be better connections to the Canalway Trail.
- There are abandoned rights-of-ways that could be converted to trail use; however, in many areas adjoining property owners have purchased this land.
- The rural nature of the Town, with its low density of development, makes it difficult to provide efficient public transportation.
- Roadways are an important resource of the Agricultural community.

#### **Recommendations:**

- Investigate the feasibility of multi-use trails in the Town, using abandoned rights-of-way.
- Look into the feasibility of adding bike lanes along existing major roadways.
- Consider developing better pedestrian/bike links to State Park.
- Assess continuity of sidewalk network within the Village.
- Conduct a connectivity assessment to explore whether extensions of the sidewalk and/or trail connections to destinations in proximity to the Village make sense (e.g. Town Hall).
- Investigate options for rural transportation services, such as vans, particularly for seniors.
- Create programs, signage and laws to help reduce conflicts between agricultural use of the roadways and residential and construction activities. Consider identifying important agricultural routes and establishing new road standards for these areas.

### **Create a vital and sustainable economy for the Town of Somerset that provides a strong tax base and jobs for our citizens.**

#### **Observations:**

- Agriculture is an important component of the Town's economic profile.
- The former AES power plant is a major revenue generator for the Town and the County.
- There are few properties zoned to allow business in the Town (business zone is limited in geographic area).
- Some business uses are allowed with a special use permit in the agricultural zoning district of the town.
- Residential density in the Town is unlikely to support significant amounts of retail development.
- Physical Infrastructure: All areas of the Town have water service. There is a significant amount of undeveloped land within the sewer district.
- Natural gas service and three- phase power are lacking in many areas and that could hinder development. The lack of natural gas service increases heating costs for residents and increases operations costs for farmers due to the need to use more expensive propane fuel.
- The gas line currently ends at Johnson Creek Road. Extending it to County Line Road would provide natural gas service to a number of homes and to two farms that have significant grain drying operations.
- Brownfields: there is the opportunity to redevelop the Barker Chemical property with the County brownfield grant to study, review/test and recommend further courses of action and possible uses for this property.
- There are other underutilized formerly developed sites that could be redeveloped. These properties should be identified and inventoried.
- Tourism could be enhanced in Somerset with agritourism. Possible developments include an extension of the wine trail, an expansion of Mayer Brothers and further development of the cidery in town.
- AES is the largest employer and source of revenue for local government.
- Large scale industrial wind facilities require substantially larger and more distributed project area than the existing power plant facility currently uses. The existing Somerset power plant site is located in a small isolated area. Conversely, a large scale industrial wind facility would be spread throughout large areas of the Town, and would create significant impacts on the fundamental character of the Town.
- Shovel Ready: Term needs to be more clearly defined to make it clear that it represents more than just an open piece of property. Actions to make property Shovel-Ready need to include efforts to make sure there is appropriate zoning, environmental issues are addressed, potential new uses are identified, and all needed infrastructure and utilities are in place, including adequate services such as three-phase power, high speed Internet fiber optic cable, natural gas connections, road access, drainage, etc.
- Farming and related agricultural businesses employ many people. The Town should consider how to produce an environment where farms and agricultural-related business continue to thrive and expand.
- As enrollment in schools shrinks, there should be thought put into how to put excess building space to good public use.
- There are vacant buildings in the area that should be redeveloped or demolished, depending on their condition.
- The former Shoreline Fruit facility employed about 90 people at one time; it could be suitable as some type of food processing center.

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- With the bankruptcy of AES and new owners taking over, this represents a threat and an opportunity. The Town and County should begin dialogues to support the new owners, and develop strategies to keep the facility viable.
- The power plant property includes large acreage and different 'use' areas:
  - ✓ Main site includes two landfills in addition to the power plant itself.
  - ✓ The west property is zoned PUD.
  - ✓ The "Mixed Use Site" is proposed as a future park.
  - ✓ Southside of Lake Street, AES owns land as "noise buffer" (between Hartland and extending to west side of Hosmer Roads).
- Regional economic development documents provide little guidance for economic development in the Town of Somerset.
- Consider creative approaches to agricultural issues. One suggestion was to develop a methane digester to produce methane fuel from agricultural waste. The facility could be either privately or publically owned.
- Types of businesses that were identified as appropriate for Somerset include data storage, light business park, farm stands, wineries, health center, and a senior living complex.
- Fels Road was suggested as a good location for future business development. It was questioned whether the area is shovel ready.
- The Town should be better prepared for another "Verizon Project": appropriate "Shovel Ready" sites in the appropriate areas of the Town should be identified in advance of businesses looking for sites.
- Sites across from Town Hall may be suitable for business development.
- Jobs are an issue. The largest employers in Town are Mayer Brothers, the School District, the Somerset power plant, and agriculture.
- The Town should explore how to better support agriculturally-related business.
- Agritourism, such as the Wine Trail, is expanding. There are no wineries in Somerset, although there is one in Appleton, just west of the Town, and a new cidery has opened.
- The PUD for the proposed "Verizon" site is specific to the development that was proposed; the Town should consider rezoning to a new PUD plan to better support new development on the property.
- The "Multi-Use Site:" the Town needs to consider their preferences for this site: Recreation or economic development?
- It was suggested that a Theme Park/ amusement park may be an option, although this would need further investigation into the market potential.
- Small scale, distributed Alternative Energy (wind turbines/ solar, etc.) in targeted areas is an option to explore. Large scale industrial grade wind turbines spread throughout the Town would negatively impact many of the Town's Goals and Objectives, and should be avoided.
- Somerset has larger parcels. It can be difficult to find sites of 100 acres or more.
- Assess what types of businesses could be successful in Somerset (e.g. not transportation dependent businesses).
- Review the success of JT Precision on Haight Road and how the Town could help them further and utilize strategies for other businesses.
- Support continued success of local businesses: Town should be supportive of business expansion planning and training needs.
- Assess where growth areas in the Town should be – where is there high speed Internet, appropriate utilities, etc.
- There is potential to bring in visitors to events. Many suggestions were raised, including sporting events, community events; sledding hill at AES landfill site.
- It was suggested that a deep water port may have potential. It would facilitate access to Canada and could be an economic driver.
- Since 2004 the Town has adopted several new laws (Right-to-Farm; Noise; Wind energy). A new Wind Energy law was adopted in 2016 to better protect the goals and objectives of the comprehensive plan.

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- New development since 2004 includes four small wind turbines and JT Precision on Haight Road.

## Recommendations:

- The Town should establish an economic development group to support and coordinate efforts to increase business activity in the Town.
- The Town should support agriculture as an important business and employer in the Town.
- Support and become actively involved in the planning for the former Barker Chemical site.
- Explore Agri-tourism efforts and marketing, working cooperatively with the County. The Agri-tourism area identified in the Vision map should be protected from incompatible uses that would negatively affect the ability of this area to support these types of uses (amend the Zoning in this area).
- The Seaway Trail, a national scenic byway with outstanding views and scenic vista's, represents an extremely important component of the Town and its future. The Seaway Trail needs to be protected from non-compatible uses and connected to important features. It is an important economic component of the Town and its tourism economy.
- Consider zoning changes that encourage new business development in targeted areas.
- Identify properties appropriate for business development and make progress towards facilitating future redevelopment of these properties.
- Coordinate with County and regional economic development agencies to promote business development in Somerset. The sites around the power plant should be added to County and Regional marketing efforts (completed since the last plan).
- Investigate ways to better link the educational system and industry to promote an appropriately trained work force.
- Work with Regional and State Agencies to help ensure that the AES Plant remains a vital business in the community.
- Large scale industrial grade wind turbines spread throughout the Town would negatively impact many of the Town's Economic Goals and Objectives as expressed in the 2012 Comprehensive Plan and this Update, and should be avoided (see Vision Plan).
- The power plant area (including all of the Somerset Operating Company owned properties) should be considered for economic development.
- A joint School District / Town Government Task Force should be formed to evaluate future scenarios and issues.
- The former AES properties should be evaluated for future uses and a new PUD created to encourage development (this has been accomplished). See the PUD Plan for the combination of uses that could be placed on this site.
- The Town should work with the Regional Economic Council and State Agencies to establish a Plan for the largest tax payer in Niagara County (power plant).
- The Barker Chemical Site should have a redevelopment plan completed (this has been completed) and implemented.
- Push for the expansion of natural gas in targeted areas in the Town.
- An Agricultural Committee working with regional and state agencies should investigate future agricultural trends and work with local farmers to evaluate how they can better prepare for and take advantage of these trends. Participate and input to Niagara County's update to their Agriculture and Farmland Protection Plan.
- Pursue potential shovel ready designations and potentially pre-permitting sites that are targeted for economic development opportunities.
- Evaluate tools such as expanded 485 (b) programs to encourage existing businesses to grow and expand in the Town.

## SECTION V

### IMPLEMENTATION

#### A. TARGET AREAS

In developing the Comprehensive Plan, the Town identified some concepts that represent higher priority target areas for implementation. Other recommendations and ideas remain valid, but the areas outlined below are the focus areas that merit more emphasis. Based on the research and discussions during the development of the Plan, these concepts emerged as having the greatest potential to help ensure that the Town achieves its vision, and represent the topics most likely to be prioritized as initial implementation actions.

##### 1. Protection of the Rural, Agricultural, and Residential Character of the Town

The protection of Somerset's rural, agricultural, and residential character town should be the primary consideration in any land use or planning decision. Proposed uses that are facially inconsistent with this goal, or that will have a substantial impact on the character of the Town, should be discouraged. Other important components of this character are the environmental resources of the Town; waterfront areas, woodlands, wetlands, steam corridors, wildlife habitats, bird corridors, etc. and features such as the Seaway Trail.

##### 2. Development and redevelopment in and around the Village of Barker

As noted in the Framework for Regional Growth, the Village of Barker is a Rural Center. Rural Centers are targeted growth areas; they represent the heart of the region's rural communities. Development in the Town of Somerset adjacent to the Village should strive to complement the Village, match development patterns and strengthen the Village's role as the civic center of the Town.

- *East of the Village:* Development in this vicinity should complement Village development, matching and extending existing land use patterns. In the southern portion of the eastern boundary, this would entail extension of the Village grid of residential neighborhoods. In the Fels Road area, the Town should capitalize on the success the Village has had with commercial development and continue to fill this area in with businesses.
- *West of the Village (Barker Chemical site):* Feasible options depend upon the results of Phase II ESA. The Town would like to see some level of light industrial/ commercial development out towards the road, while keeping the more sensitive lands in the center of the site open to avoid environmental issues. The rear of the property has potential for development but has access issues.
- *South of the Village:* Currently, this area is mostly residential development. Additional options include neighborhood level commercial and mixed uses (small commercial with residential uses).
- *North of The Village:* This area has the greatest potential for extending the Village character north toward the Somerset hamlet along Quaker Road. Town Hall and the school facilities are located in this vicinity. Future plans should ensure that these facilities are tied into the Village. See focus area 3 for discussion of Haight Road.

To accomplish the above items, the Town could take the following approach:

- East of the Village
    - a. Evaluate infrastructure needs and environmental restrictions for the development of this area.
    - b. Evaluate zoning alternatives, including a new zoning to meet the needs of this area.
    - c. Meet with the Village to discuss how to best mesh with the development occurring in the Village in this area.
    - d. When applicable and if needed, invest in the infrastructure needs of this area.
  - West of the Village
    - a. Once the current study is completed and accepted by the Town and County (see copy of the draft report sections in the Appendix), evaluate the proposed future development options and the needs for that development.
    - b. If additional clean up is necessary (or other activities), work with the County to find monies to accomplish this clean up or work.
    - c. Working with the County, evaluate options for marketing the site for re-development (incentives may be necessary).
  - South of the Village
    - a. Evaluate the use of a neighborhood / hamlet type zoning district for the area.
    - b. Evaluate the infrastructure needs in this area and determine the appropriate areas for prioritized development (senior housing could be an option).
  - North of the Village
    - a. Evaluate the use of a Hamlet Zoning District for this area (establish extent of area – see the Vision Map for suggestions).
    - b. Look at existing infrastructure for areas for targeted development. Longer term development may necessitate infrastructure improvements.
    - c. Create an Overlay of this “hamlet” area (see vision map) that protects this area from uses and actions that are not consistent with this residential area.
3. Development around the Somerset power plant site

The power plant site is the largest industrial site/user in the Town and is extremely important to the region. The WNY Regional Economic Development Strategic Plan targets “Energy” as a key WNY Industry Sector, and states, “The Electric Power sector is the fastest growing share of the energy economy in New York, the United States, and most of the world. This growth requires considerable investment and planning by power generating companies and State agencies.” The properties formerly owned by AES on the north side of Lake Road are zoned PUD to allow the power plant and associated commercial and industrial uses. It must be noted that under Article 8 of the New York State Public Service Law, the Town does not have jurisdiction over power generation activities on this site. Other, non-power generating related uses can be affected by local laws and ordinances. Some properties along the railroad, south of Lake Road, are zoned industrial. A Mayer Brothers facility is located to the west of the power plant. Much of the surrounding area is agriculture.

- “Verizon site”: This site consists of property on the north side of the lake, adjacent to the power plant and previously proposed for a Verizon Data Center. The Town should explore getting this site designated as “Shovel-Ready” for light industrial and business uses. This would help support economic development in the Town, in an area where there is already similar development types.
- *Northwest Sector of Town*: The area west of “Verizon” site to Mayer Brothers’ facility represents an opportunity for additional economic development, but given the

agricultural nature of the area, proposed uses include a mix of businesses, focusing on agriculture-related opportunities, similar in nature to Mayer Brothers, and possibly some residential uses along the lakeshore.

- *South of Lake Road/ West of Hosmer:* this area is another area where agricultural related business and light industrial agricultural related uses could be supported. East of Hosmer Road, north of Haight Road should also be reserved for agricultural related business.
- *Power Plant Property:* contains the power plant and its related uses and accessory uses. Efforts should continue to keep this important regional, State and national Energy provider and strategic Industry Sector in operation.

#### 4. Other areas appropriate for economic development/ business expansion

As a first priority, development is encouraged to occur in the areas around the Village and in the vicinity of existing commercial / industrial businesses in the Town. However, other economic development options exist in the Town.

- *Haight Road in the vicinity of Town Hall:* This area has potential for business development, focusing on small businesses such as JT Precision. It should not be encouraged as a retail corridor, as retail development should be concentrated in the Village center.
- *Agritourism:* As opportunities present themselves, the Town should encourage agritourism enterprises. The greatest potential is in the northeast sector of the Town, near the cidery on Lower Lake road, as the cidery exists as an anchor and the area is in the vicinity to the State Park, where there is a concentration of potential visitors (see below for more information on agriculture). There also needs to be connections from the State Park and waterfront to the Seaway Trail.
- *"Hamlets":* Small scale, nodal development in the character of a small hamlet can be encouraged in key areas such as the Somerset hamlet. Any non-residential uses should be small-scale, locally supportive, such as small convenience outlets.

#### 5. Agricultural economic development

Agriculture continues to be an important part of the Town, its economy, and its character. The Town should be exploring how it can encourage the continuation of farming in the community, and work with the agricultural community to help them prosper. Initial concepts include the following:

- Allowing more creative uses on farms, while discouraging uses that might change or convert the agricultural assessment of any parcel.
- Support of farming-related businesses.
- Explore what the needs are for farmers in Somerset and support the farmers by helping them achieve their goals.
- Agri-tourism can be part of the Town's agricultural economy. The Town can help look for new markets and marketplaces.

To accomplish these actions related to agriculture, the following approach could be taken:

- a. Establish a Town Agricultural Committee. They can work with agencies such as the Niagara County Soil and Water District, the Cooperative Extension of Niagara County, the NYS Department of Agriculture and Markets, and other agricultural groups and organizations

- b. Review and update, as necessary, the agricultural information gathered for this plan update (working with the County as they do their Ag plan).
- c. Obtain assistance from the County, Regional and State Agencies and groups to help evaluate agriculture in the Town and provide input on the trends in agriculture.
- d. Make sure the zoning of the Town does not inhibit these creative agricultural approaches (amend zoning as necessary).
- e. Work with the County and others to help establish what the viable agricultural markets are for farmers in Somerset, and help market these agricultural products.
- f. The Town should seek grants to help the farmers with transitioning to these new agricultural activities.
- g. Support and champion the extension/expansion of three phase power, natural gas and high speed internet in appropriate areas,

## 6. Sustainable Smart Growth

To be in accordance with regional plans (Framework for Regional Growth, County Comprehensive Communities Plan, Regional Economic Plans) and with State "Smart Growth" legislation, the Town should plan for sustainable Smart Growth. This pattern of growth and planning will help to make the community more economically viable, improve community characteristics, and help in obtaining funding support from State and Regional programs. Elements of Smart Growth that would fit in with the rural character of Somerset include the following:

- Make the community more walkable/bikable.
- Promote design standards to improve the quality of development.
- Encourage more housing diversity. In particular, there is evidence of a need for more options for senior housing. Senior housing ideally would be located in or near the Village, close to services.
- Other growth should occur primarily within the sewer district and around the Village. Non-sewered areas of the Town, with the exception of the economic development corridor adjacent to the power plant, should remain agricultural, with some low density residential development.
- Agriculture protection and strengthening of the agricultural nature of Town should be encouraged if not required.
- Preservation and protection of important environmental resources is another Smart Growth priority.

The following actions could be taken to help accomplish the above:

- a. Provide a map in greater detail illustrating potential connections (bike and pedestrian) between the Town and the Village. Once completed work with the Village to ascertain costs and potentials for grant applications.
- b. The Planning Board should review sample design standards / guidelines from other communities, to see what applies to Somerset.
- c. For senior housing, the Town should work with the County to identify senior housing developers in the region. The Town should talk to these developers to see if demand exists and their interest in potentially developing in Somerset. Evaluate infrastructure needs and further target areas for this type of use.

## 7. Expansion of tourism, recreational opportunities and waterfront access

A very important component of the Town is its waterfront and issues related to it, including recreation and tourism and the Seaway Trail. The Town needs to protect this very important asset, while also taking advantage of this asset. Elements to consider include:

- Fishing connections, building on Niagara County's successful fishing tourism initiative.
- Festivals, events, and other activities to draw visitors.
- Careful consideration of how to address the "Multiple Use Site" development.
- Encouraging New York State to provide additional amenities for visitors to the Golden Hill State Park, such as docks.
- Capitalizing on visitors to the Seaway Trail by connecting it to the waterfront.
- Building on Wine Trail synergies: although there are no wineries in the town, the cidery is a related attraction that could draw visitors.
- Enhance the connections between the State Park, the Village, the Seaway Trail, the Wine Trail and other community features.

All of these actions require coordination with County, Regional and State Agencies, and Town Board representatives should be assigned to lead these efforts.

This area must be protected from incompatible uses that would negate the tourism and scenic components of this area.

## 8. Protection of environmental features

The Town of Somerset is blessed with some significant environmental features. These environmental features are important to the character of the community and can directly and indirectly affect the economic conditions of the community.

- Inventory significant woodlands and wetlands; tie into regional plans
- Protection of stream corridors, fishing sites, etc.
- Monitor issues and policies affecting Lake Ontario, especially policies that affect lake level control.
- Create Environmental Overlay Zoning Districts to help protect these resources. All proposed uses would need to show that they are not impacting these resources.

The above can be accomplished as follows:

- a. Utilize GIS mapping, local knowledge and site visits to update the environmental features map.
- b. Generate and add information concerning the stream corridors and fishing sites within the Town.
- c. Tie these efforts into the agri-tourism planning efforts. These features and important sites could assist in attracting more people to the Town for tourism related activities.
- d. If necessary, the Town could seek grants to help with improvements needed to capitalize on these features.

## **B. GENERAL IMPLEMENTATION ACTIONS**

1. Once adopted, add the new plan to the Town's website and provide copies to appropriate Town officials and agencies.
2. The Town should form an implementation committee consisting of Planning Board representatives, Town Board members, and other Town representatives. This committee will be responsible for organizing and helping to implement the Plan. They will also provide a yearly report that includes a summary of achievements for the year, suggestions for Plan modifications, and actions to be completed for the coming year (including any funding needs).

3. The Town should look for community volunteers to help “man” focus groups that are needed in implementing the Plan (such as the agricultural group).
4. The Town Board should include funding each year to implement the Plan.
5. Every five years, or more frequently if circumstances warrant, the Town should evaluate the need for any major updates to the Plan.
6. Amend the Town’s LWRP to reflect the new Somerset Comprehensive Plan.

## C. OTHER IMPLEMENTATION ITEMS

Building upon the recommendations outlined in the Observations and Findings sections of this document, this section of the document includes a list of potential implementation items to help achieve the goals (and their priority).

### Support Agriculture:

1. Create an agricultural committee that can help maintain communication between Town government and the farming community. The committee can also help look for opportunities to help improve agricultural operations and potentially seek grants (priority action).
2. Evaluate Town infrastructure, particularly roads and bridges, as to whether they are adequate to accommodate agricultural traffic (e.g. widths, weight limits). Prioritize needed upgrades and develop a capital works plan to address problem areas, and develop a grants strategy to help support the needed improvements (priority action).  
Work with County and State agencies to focus them on this issue with County and State Jurisdictional roadways.
3. Investigate ways to promote more agricultural tourism (proper attractions, support services, marketing, etc.)
4. Support creation of “value added” processing ventures, which package/ market/ brand agricultural products.
5. The Town could work with the County more aggressively in exploring the creation of an Agribusiness Development Corporation (ADC) in the model of the Hudson Valley ADC. An ADC is an economic development agency with a focus on the viability of the agricultural economy. Such an agency would support marketing, promotion, financial support, agricultural entrepreneurship and other activities in support of the rural economy.
6. Work closely with Niagara County on their update to the County’s Agricultural Protection Plan.

### Promote Smart Growth:

1. Create ‘nodal’ growth centers (areas of more concentrated development) around the Village and other areas of denser population (such as West Somerset and Somerset Corners).
2. In the more rural areas (outside the sewer district), provide opportunities for rural business, home occupations, and community services.
3. In and surrounding the Village, provide a variety of connections to allow residents to drive, walk and/or bike to locations throughout the Village center.
4. Work with the Village to create a vibrant village center that is supported by the Town.
5. Create design standards for targeted growth areas.
6. Evaluate the Town’s subdivisions regulations to determine if they are supportive of a ‘smart growth’ approach (e.g. rural cluster design that protects the rural character of undeveloped areas).
7. Support and promote economic opportunities in the Town and Village.

8. Consider adoption of rural development guidelines.

## **Encourage Greater Housing Diversity:**

1. Investigate alternative housing types that could be located around the Village center.
2. Assess the Town's zoning to accommodate a greater diversity of housing choices. (Currently, only one- and two-family homes are allowed in the Town).
3. Consider zoning changes to allow creative housing approaches, such as accessory apartments or elder cottages.
4. Work with the county to identify entities that develop alternative housing and promote the Town to these entities.
5. Investigate the need for housing programs to support a stable and well-maintained housing stock.

## **Protect Environmental Resources**

1. Inventory major ecological resources, important scenic areas and other valued environmental features within the Town (as noted in the Recommendations Section).
2. Consider a creek corridor overlay district for Golden Hill Creek, and possibly other creek corridors in the Town.
3. Consider protection measures for the south central / southeastern portion of the Town to protect important wetlands and woodlots in this area.
4. Assess the local demand for lake access (survey residents).
5. Consider joint planning with adjacent communities to promote effective drainage.
6. Using the completed study of Barker Chemical site, continue to explore appropriate reuse strategies.
7. Evaluate the LWRA to determine whether expanded area is appropriate.
8. Once the environmental inventory is completed, consider having site plan and subdivision plats reference important features.
9. Consider developing 'best practices' manual for landowners along sensitive resources (lakefront, creeks, wetlands, woodlands) for how to be proper stewards of these resources.
10. Continue supporting funding opportunities for shoreline erosion control.
11. Increase public awareness of the location and importance of area watersheds.

## **Provide Quality Community Facilities and Services**

1. Explore options for the "Multiple Use" site adjacent to the power plant.
2. Assess the need for additional waterfront access.
3. Support the expansion of natural gas in the community, targeting the AES site and other business/ industrial areas.
4. Consider areas for careful expansion of the sewer system.
5. A drainage plan should include field tiling and an analysis of soil types. Drainage-related activities should be coordinated with adjoining towns.

## **Promote Transportation Options:**

1. Conduct a feasibility study for developing better bicycle and pedestrian access in the town through the development of multi-use trails and/or bike lanes along existing major roadways.
2. Conduct a connectivity assessment to assess existing gaps in sidewalk/ pedestrian access, as well as exploring potential for sidewalk and/or trail extensions/ connections to destinations in close proximity to the Village.
3. Investigate options for rural transportation services, such as vans, particularly for seniors.

## Create a Vital Local Economy

1. Establish an economic development group responsible for supporting and coordinating efforts to increase business activity in the Town.
2. Explore ways to support agriculture as an important business and employer in the Town.
3. Support and become actively involved in the planning for the former Barker Chemical site.
4. Work cooperatively with the County to explore agri-tourism efforts and marketing.
5. Consider zoning changes that encourage new business development in targeted areas.
6. Identify properties appropriate for business development and make progress towards facilitating future redevelopment of these properties.
7. Coordinate with County and regional economic development agencies to promote business development/redevelopment in Somerset.
8. Investigate ways to better link the educational system and industry to promote an appropriately trained work force.

## D. VISION PLAN

The Vision Plan for the Town of Somerset is shown in Map 9. The Vision Plan, together with the goals and policies described previously, is intended to guide decisions which affect the future development of the Town. The recommendations portrayed on the Vision Plan map are based upon an analysis of the existing land use patterns and roadway system, economic conditions and environmental resources and constraints, in conjunction with the issues and opportunities identified by the public. It is a graphic representation of the general preferred future development of the Town, and it mirrors the intent of the goals and policies for the Town. The Vision Plan does not directly represent land use or zoning, and is not meant to rigidly depict the specific type of development that should occur on a particular parcel. Various development patterns could be consistent with the ideals it portrays. The Vision Map, in conjunction with the goals and objectives should guide an interpretation of what type of development is appropriate in any particular area. There is considerable flexibility in the Vision Plan, but the Town should encourage future development to occur within areas where growth is appropriate, and discourage intensive development in areas identified for a more rural character.

The following concepts are illustrated in the Vision Plan:

- The majority of the land area of the Town will remain rural; largely as agricultural or open space uses. Any area not specifically called out for some other designation is presumed to remain rural in character and be protected from incompatible growth that does not promote the Goals and Objectives of the Town.
- New residential development is encouraged primarily within and adjacent to the village and within the sewer district. This area is designated as the "Expanded Village", shown in dark yellow on the Vision Map. The concept is to strengthen the Village as the center of Town and concentrate denser development within the area where there are services to accommodate it. Other small pockets of residential growth indicated on the Plan should also be protected from unacceptable uses.
- For longer-term future growth, a "hamlet" area, depicted in gray, shows how growth should continue to expand from the central Village core (It is in the existing Town sewer district). This area must also be protected from uses that would impact this long term residential growth area.

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- The Community/Village Center area represents an area of the Town/Village that all development proposals must be evaluated for their impact on the Village Center.
- Business activities should be concentrated within the Village and an area designated as “Town Center” along Haight and Quaker Roads. Development in the “Town Center” area should be job-creating and non-retail types of businesses, designed to complement, not compete with commercial activities in the Village of Barker.
- A portion of the shoreline of Lake Ontario is designated as a “shoreline protection” area to protect this resource and its recreation potential, while accommodating expanded public access to the lake in appropriate locations (see LWRP).
- Industrial/business development (purple) is shown adjacent to the Village, where services and transportation are available, as an extension of the Village industrial area. The “Barker Chemical” site (site on the western side of the Village) has been further studied, and the Town should continue to work with the County of Niagara and other agencies to determine the appropriate light industrial/business related uses that could be developed on the different portions of this site. Industrial uses are also shown for the lands owned by the power plant north of Lake Road, and the Mayer Brothers site in the northwest corner of the Town. The other areas of the Town are not appropriate for large scale Industrial development.
- The power plant site is currently zoned PUD and under that zoning would only allow the present power plant and related accessory uses on that site. This site is shown as Industrial/Business on the Vision Map to provide greater flexibility for the Town to entertain a rezoning that would allow other industrial and business uses on this site, if rezoning became necessary for this site to remain viable as an economic engine for the Town. It must be noted that under Article 8 of the New York State Public Service Law, the Town does not have jurisdiction over power generation activities on this site. Other, non-power generating related uses can be affected by local laws and ordinances.
- The area directly west of the power plant site has been designated for new business development in support of economic development for the Town. Shown in orange on the Vision Map, the concept is to facilitate business development at this location, possibly through getting the site designated as “Shovel-Ready” under New York State’s business development program.
- The eastern portion of the power plant properties is shown as the “Multiple Use Site,” depicted in turquoise on the Vision Map. As part of the permitting for the power plant, a study was completed in 1979 aimed at developing recreational uses on these lands. While never implemented, the concepts are retained here for possible future development. The power plant purchased additional lands after the study was completed. These additional lands could be incorporated into the multiple use plan and are represented as “Multiple Use Expansion” on the Vision Map. The full 1979 study for the Somerset Power Plant Multiple Use Plan is included as Appendix B. This “Multiple Use Site” area was a mitigation to the potential long term impacts from the construction of a power plant on the waterfront in the Town. At that time, a plan was developed that included recreational development on this site. This site, 30 years later, still represents an important mitigation for the Town. The needs of the Town and region have changed over this time period and the recreational plan would need to be updated if it is going to be implemented. If the recreational plan cannot be implemented, another beneficial plan/use for this site should be developed and implemented. This new plan should reflect the needs of the community, this valuable waterfront asset, and make

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economic sense for the Town and its residents. It is imperative that the multiple use plan or a revision to it be implemented as it represents the mitigation for the use of a large area of the Town's waterfront for a power plant.

- The area to the east of the Multiple Use site is "cross-hatched" and referenced as the "Multiple Use Site Expansion Area". This area was not originally owned by the power plant and was acquired after the Multiple Use Plan was completed. These lands abut Hartland Road and have sewers available. This "expansion area" should compliment what will be done on the Multiple Use Site and further strengthen the economic opportunities in this area. Development of this area could be commercial/businesses, light industrial or tourism/recreational related.
- The northwest corner of the Town is designated as mixed use/ agricultural support businesses. The intent is to support the agricultural economy with businesses that provide agricultural support services, similar to the Mayer Brothers' food processing facility already located in this vicinity. Creative agricultural operations would also be considered such as wine related, craft breweries, etc. Agricultural uses would also be appropriate.
- The northeastern portion of the Town is identified as an area to encourage agriculture and agricultural/ tourism activities. Agri-tourism would include farm stands, farm tours, etc. Ties to the Niagara County Wine Trail are encouraged. Attracting people to support the existing Agriculture and Tourism facilities and future Agri-Tourism and recreation is important to the success of this area. This area must be protected from incompatible uses to ensure this vision.
- The southeast portion of the Town has been identified as an area that is environmentally sensitive, due to the number of wetlands and wooded areas in this region. Development occurring in this quadrant of the Town should respect these environmental features, which serve important roles in the Town's environmental sustainability. Any development should be very small scale and not impact the features or character of the area.
- The major stream corridors through the Town should be protected. The intent is to discourage development within the floodplain, and encourage environmental conservation of the areas immediately adjacent to the creeks.
- The Seaway Trail is depicted on the map and connective features from the Seaway Trail to the State Park, along Lower Lake Road and to the Village of Barker. A Rails to Trails area is also show on the Vision Map.
- With respect to the issue of large-scale Industrial grade Wind Turbines, the following areas are not appropriate for these types of uses based on the Vision for these areas; the "Expanded Village" and Hamlet/rural center areas, the Village of Barker and surrounding business and residential areas, the Environmentally Sensitive area, the Agriculture/Agriculture Tourism area, the waterfront protection area (residential), the mixed use –Agriculture/Agriculture support business area. Also, per the US Fish and Wildlife recommendation, large scale wind turbines should not be within three miles of the shoreline (line shown on the Vision Plan). This should involve further investigation.

## SECTION VI

### ENVIRONMENTAL ANALYSIS

A Comprehensive Plan is categorized as a Type 1 action under the State's Environmental Quality Review (SEQR) Act. As such, the Town, as Lead Agency, is required to examine the potential environmental impacts of the plan. To facilitate this requirement, the comprehensive plan itself can be set up to represent the components of a GEIS (see §272-a.8 of Town Law). This format enables the reviewers, the Lead Agency, all involved and interested agencies, and the public to review one comprehensive document that outlines plans for the future and the potential environmental implications of these plans. The inclusion of this chapter is intended to help in the environmental evaluation.

#### Potential Significant Adverse Environmental Impacts

The underlying purpose and a major goal of a Comprehensive Plan is to promote appropriate land use and avoid significant adverse environment impacts in the community that it covers. The Part 2 of the EAF does not identify any potentially moderate to large impacts and no significant environmental impacts. However, it is important here to acknowledge and discuss potential adverse impacts.

#### Short term/long term and cumulative impacts

Based on the environmental setting of the Town of Somerset, the following potentially significant adverse environmental impacts could occur if the community does not plan adequately and provide the proper tools for the management of growth and development. The comprehensive plan is designed to properly guide growth in the Town to lessen the negative impacts of land use and development decisions.

#### A. **Impacts on Land** (see Map 4: Environmental Features; Map 5: Agricultural Districts and Generalized Soils)

- The Town of Somerset is rural in nature, a characteristic that is valued by area residents. Inappropriate planning and development actions could negatively impact the land resources of the Town.
- The Town of Somerset has areas of hydric soils, and some wetlands and floodplains. There are also some areas in the Town with slopes greater than 15 percent. Improper development of these areas could result in drainage, flooding and/or erosion problems within the Town and in downstream areas.
- There are large areas in Somerset where the soils are categorized as prime farmland, or prime farmland when drained. There are extensive areas covered under agricultural districts and many farms. Development of these areas could displace irreplaceable resources.
- Some locations in the Town of Somerset contain significant areas of mature woodland. Inappropriate development of these areas could have a negative impact on the rural character of the Town and important open space.

#### **Impacts on Water** (See Map 4: Environmental Features)

- Fish Creek, Golden Hill Creek, and Marsh Creek and tributaries of these waterways run through the Town of Somerset. Floodplains surround portions of these waterways. Inappropriate development could lead to flooding or drainage problems, and hazards

to public safety. These creeks are also important for environmental protection, open space preservation, drainage, wildlife habitat and aesthetics.

- Much of the Town's development is on municipal water and is not dependent upon groundwater resources for their water supply. Many residences in the Town use groundwater for the discharge of sanitary waste (septic systems). Only a portion of the Town has public sewers.
- There are areas of wetlands and hydric soils. Inappropriate development in these areas could lead to flooding and drainage problems, and adversely impact groundwater resources.
- The waterfront area of the Town has floodplains, wetlands and is an important environmental feature of the community. Inappropriate development in this area could cause many problems.

### **B. Impacts on Flora and Fauna**

- The Town's expansive areas of open meadows, fields and woodlands, waterfront areas as well as the wetlands and creek corridors, support many non-threatened and non-endangered plant, avian and animal species. These areas provide important habitat for many resident and migrating species, and are an important element of the rural character of the Town. Over-development and poor site planning decisions could adversely impact these resources.
- The Town and its waterfront are considered International Bird corridors that by recent studies show areas within 3 miles of the waterfront should be protected from structures that would interfere with these bird populations.
- Some of the streams are considered to be Class A streams.

### **C. Impacts on Agricultural Land Resources (See Map 5: Agricultural Districts and Generalized Soils)**

- Most of the Town is located in a State designated agricultural district. The predominant land use and economic activity in the Town is agricultural, and most of the Town is zoned agricultural.
- Agricultural uses have been slowly declining over the past decade, although agriculture remains important in the town.

### **D. Impacts on Aesthetic Resources**

- The aesthetic resources of the Town of Somerset include significant views (especially in the waterfront region of the town), open spaces, parks, historic buildings, a National scenic Byway and creeks. These resources contribute to the atmosphere and character of the Town, and could be negatively affected by inappropriate development.
- These natural and man-made resources, and the development patterns of the Town contribute to its rural character, which is the primary goal of the Town (protecting the Town's Rural Character).

### **E. Impact on Open Space, Parks and Recreation**

- Parks and recreation resources in the Town of Somerset are identified in Section III.
- The Town also has important open space resources, with large portions of the Town including undeveloped woodlands and meadows.
- Inappropriate development, including increased demands caused by population increases, could have an adverse effect upon these resources. Present population

statistics show a large number of seniors, and children under the age of 18 compared to county averages.

## F. Impact on Critical Environmental Area

- There are no designated critical environmental areas in the Town.

## G. Impact on Transportation

- The transportation system in the Town of Somerset is heavily based upon roadways and automobiles. Public transportation is very limited, and the rail line is used for very limited commercial and freight uses only. No passenger rail is available.
- The major roadway corridors in the Town are described in Section III.
- Travel for pedestrians and bicyclists can be difficult in the Town.
- Poorly planned development in the Town has the potential to adversely impact the transportation network. Although the roads are mostly level of Service A, localized problems could occur if development is not planned and designed properly. Development within the Town also affects the traffic in the Village. Development in the surrounding communities may also have impacts on the Town's transportation system.
- Additional development may also increase potential conflicts between automotive and non-automotive modes of transportation.
- The Agricultural community depends on the road system to support their fields and operations, and for the transport of their goods. These roadways need to be protected and when necessary maintained, repaired and upgraded to meet these needs.

## H. Impact on Growth and Character of Community or Neighborhood

- The population of the Town of Somerset has been relatively stable. While there was population growth between 1990 and 2000, recent Census data indicate population has returned to 1990 levels.
- The rate of new households being generated in Somerset experienced a similar trend, strong growth between 1990 and 2000, partly reversed between 2000 and 2010.
- The growth in number of households has been strongest in the Town outside the village, which saw an 8 percent increase between 1990 and 2010, compared to a 4 percent decline within the Village.
- The Comprehensive Plan supports directing residential growth mainly toward the areas of Town in or adjacent to the Village and north of the Village along Quaker Road.
- The Village of Barker serves as the central business district and service center for the Town of Somerset. The Town recognizes the importance of the Village and wishes to provide support for these businesses.
- The Town supports non-retail commercial and industrial growth in certain designated areas of the Town in order to support tax base and employment opportunities.
- With targeted, well planned growth, the Town's character should not be adversely affected.
- The Town's Vision for the Community has been expressed in this Plan, and actions supporting this vision should be implemented and those that do not support this Vision should be opposed and not entertained.

## Adverse Environmental Impacts that Cannot be Avoided

With or without the adoption and implementation of a Comprehensive Plan, the region will

continue to have new development that will impact the environment. The adoption of this plan and implementation of the suggested actions will allow the Town to better manage growth and development, and reduce potential environmental impacts. All development actions taking place after the completion of this study will still be subject to the State Environmental Quality Review (SEQR) process on a site specific basis. This plan can assist with the review of those future development actions.

## **Growth Inducing Aspects of the Plan**

Most of the implementation actions outlined in this study will help to control and moderate growth within the Town, and encourage growth in specific areas where it can be best supported. Specifically, redevelopment in and around the Village of Barker, and within areas with sewers will be encouraged. Certain areas adjacent to the power plant have also been identified for potential economic development, (non-retail commercial and industrial uses are encouraged).

## **Mitigation Measures**

It is the objective of any comprehensive plan to help to reduce the potential impacts that could be caused by the present development trends in the planning community. This can be accomplished by providing techniques for changing the development trends of a community, such as amending zoning or other development regulations, or by providing tools to help mitigate the possible impacts of those development trends, such as providing for improved infrastructure, increased/improved standards for development, etc. A good comprehensive plan will supply techniques for modifying or clarifying the direction of the community, and the tools for reducing the impacts of development that themselves do not create other adverse environmental impacts. The following section discusses the study's recommendations and the logic as to why and how they help mitigate the potential impacts of future growth.

### **A. Impacts on Land**

- The plan recommends a number of measures to protect the land and environmental resources of the community.
- The plan supports the protection of agricultural lands in the Town. Techniques include strengthening the economic viability of farms, encouraging agricultural support services, and maintenance of policies, such as the Town's Right to Farm legislation, that support farmers.

### **B. Impacts on Water**

#### Surface Water

- The plan supports directing development away from the designated stream corridors, and recommends an overlay zone to protect these resources.
- The plan supports increased drainage standards and avoidance of poor soil areas to further reduce impacts to surface waters from development.
- New requirements, when necessary, will also help to protect these resources.

#### Groundwater

- Directing growth to areas with public infrastructure will help in the protection of groundwater resources in the Town of Somerset.
- Possible expansion of the sewer system to areas along the waterfront could help to reduce problems.

## **C. Impacts on Plants and Animals**

- As discussed previously, the Somerset community will be taking efforts to protect and preserve the stream corridors and open spaces in the community. By targeting these important habitats for protection, the Town is minimizing impacts to the flora and fauna of the region. Projects that impact these important resources will be discouraged if not restricted.
- The plan also identifies important features like floodplains, wetlands and unique environmental features, so that they can be incorporated into designs and/or preserved.

## **D. Impacts on Agricultural Land Resources**

- As previously discussed, the Town will be coordinating activities to protect and preserve agricultural land and agricultural operations.
- Other programs and ideas will be attempted as needed to try and assist farmers to stay in business. If the economics of farming (related to Agriculture) can be helped, farming may continue which will assist with the agricultural land preservation. These mechanisms will allow for creativity without impacting surrounding non-farm property owners and the environment.

## **E. Impacts on Aesthetic Resources**

- The preservation of community character is one of the major goals of this Plan. Community character includes the aesthetic resources of the community such as significant views, open spaces, farmland, important structures and the Towns' overall rural character. The community has identified these resources and the plan identifies actions to be taken by the community to protect these features. Development guidelines will help to maintain the rural character of this community.

## **F. Impacts on Open Space, Parks and Recreation**

- The plan identifies these resources and provides methodologies to protect and preserve them during development.
- Major features are identified in the Plan and some are incorporated into the vision map and are considered an integral part of the Town's future. The Plan requires that development follow the recommendations in the Plan and the Vision articulated in the Goals and Objectives and illustrated on the Vision Map.

## **G. Impacts on Critical Environmental Areas**

- There are no CEA's in the Somerset community.

## **H. Impacts on Transportation**

- Transportation in the community is heavily based on roadways and automobiles. Generally, traffic counts are low and there is not significant congestion.
- Actions such as access management plans are being suggested to minimize potential impacts from traffic.
- One of the other issues of transportation relates to the region's accommodation of pedestrians and bicycles. The plan recommends continuing to improve pedestrian and bicycle access around the Village.
- Public transportation in the region is minimal and Somerset will continue to work with the County and Niagara Frontier Transportation Authority in trying to improve public transportation.

- The railroad running through Somerset is an important asset to the region. The community has planned around this feature (continuing access to industrial areas and preventing encroachment of incompatible uses), and is strongly interested in the railroad being improved and remaining active.

## **I. Impact on Growth and Character of Community or Neighborhood**

- Population trends suggest that the growth rate in the Town of Somerset will remain modest.
- Economic development and local jobs has become a larger issue, and the plan attempts to proactively support additional targeted locations for job supporting development.
- This economic development will be focused, will not impact the important resources of the Town and preserve the rural character of the community.

## **Evaluation of Alternatives**

Throughout the planning process, alternatives for helping the Town achieve its Goals and Objectives were evaluated. These recommendations and implementation alternatives were evaluated for not only their desired results, but also their impact to the environment, the needs of local residents, private property rights, and the vitality of the community.

It must be noted that long term recommendations were not thoroughly evaluated in this section since these actions are only to be considered in extenuating circumstances where the Town is seeing greater levels of growth pressure or where short term recommendations are not achieving the desired results.

Under the present growth conditions in the Town, the "No Action" alternative was considered. However, to enable the Town to properly plan for its chosen future, to prepare for potential development activity over the next 15 years, and to better direct and manage such growth and development, this alternative was deemed inappropriate. Furthermore, the chosen action plan will provide greater protection to the environment than the present course of action. For example, without adhering to this Plan and implementing it, the proposed Industrial Wind Turbine Project could have a significant impact on not only the environment but many of the Goals and Objectives and Vision of the Town and this Plan.

# Comprehensive Plan Mapping

# Town of Somerset Comprehensive Plan

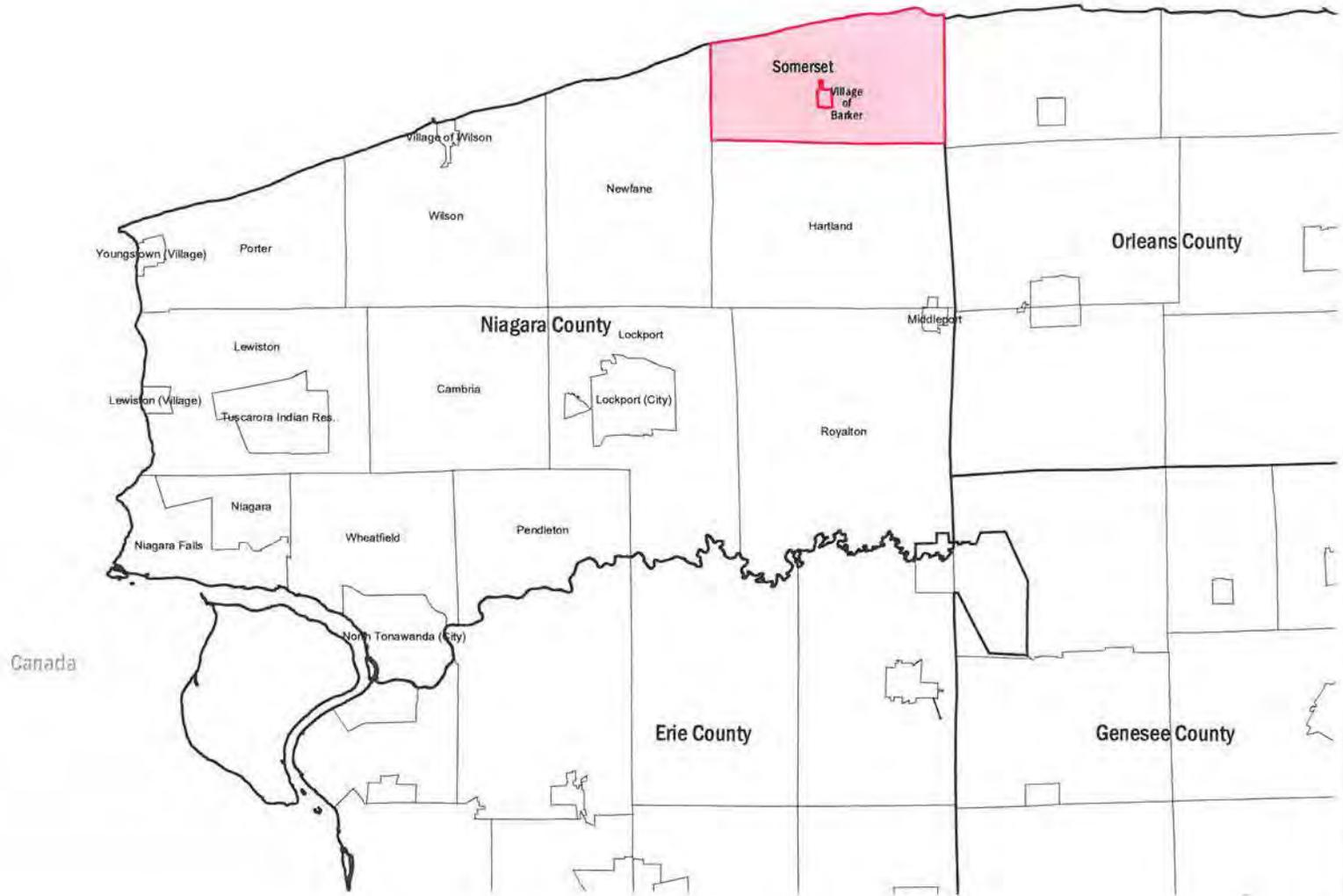
## Regional Setting

Map 1



**Key to Features**

- Town of Somerset
- County Boundary
- Municipal Boundary



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# Town of Somerset Comprehensive Plan

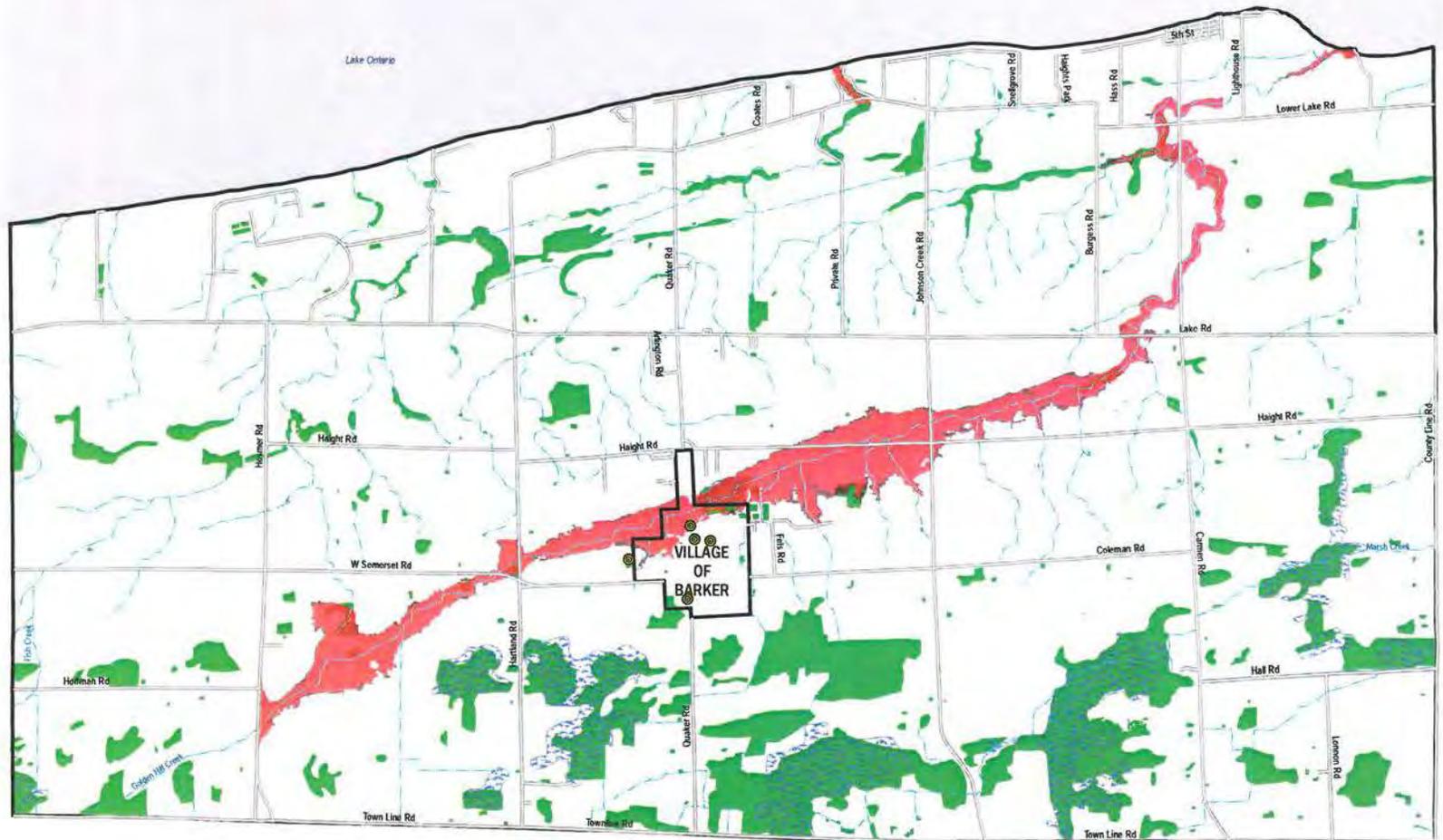
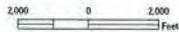
## Environmental Features

Map 2



**Key to Features**

	Municipal Boundary
	Streams
	Brownfields
	NYSDEC Wetlands
	Federal Wetlands
<b>FEMA</b>	
	100 Year Floodplain
	500 Year Floodplain



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# Town of Somerset Comprehensive Plan

## Agriculture District & General Soils

Map 3

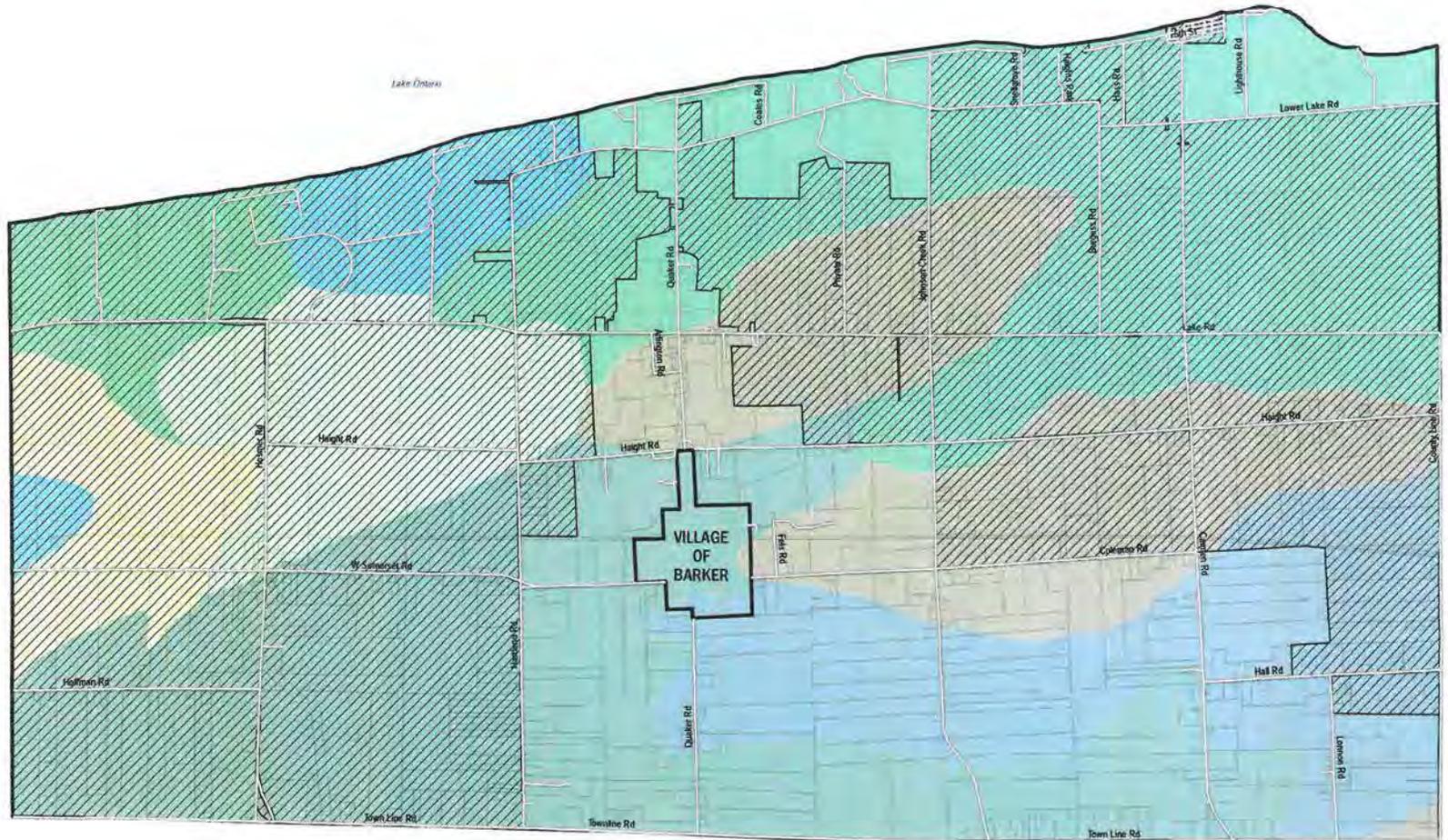
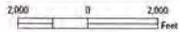


**Key to Features**

- Municipal Boundary
- Parcels (2011)
- Agriculture District #2

**General Soils**

- Appleton-Kendall-Hilton
- Palmyra-Alton-Howard
- Honeye-Ontario-Lima
- Dutton-Cazenovia-Nunda
- Hudson-Rhinebeck-Coffeier
- Minca-Artpori-Lamson
- Wassae-Famington-Landsville



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 DATA SOURCES: TOWN OF SOMERSET, SHERBORN COUNTY, MASSACHUSETTS, U.S. GEOLOGICAL SURVEY



# Town of Somerset Comprehensive Plan

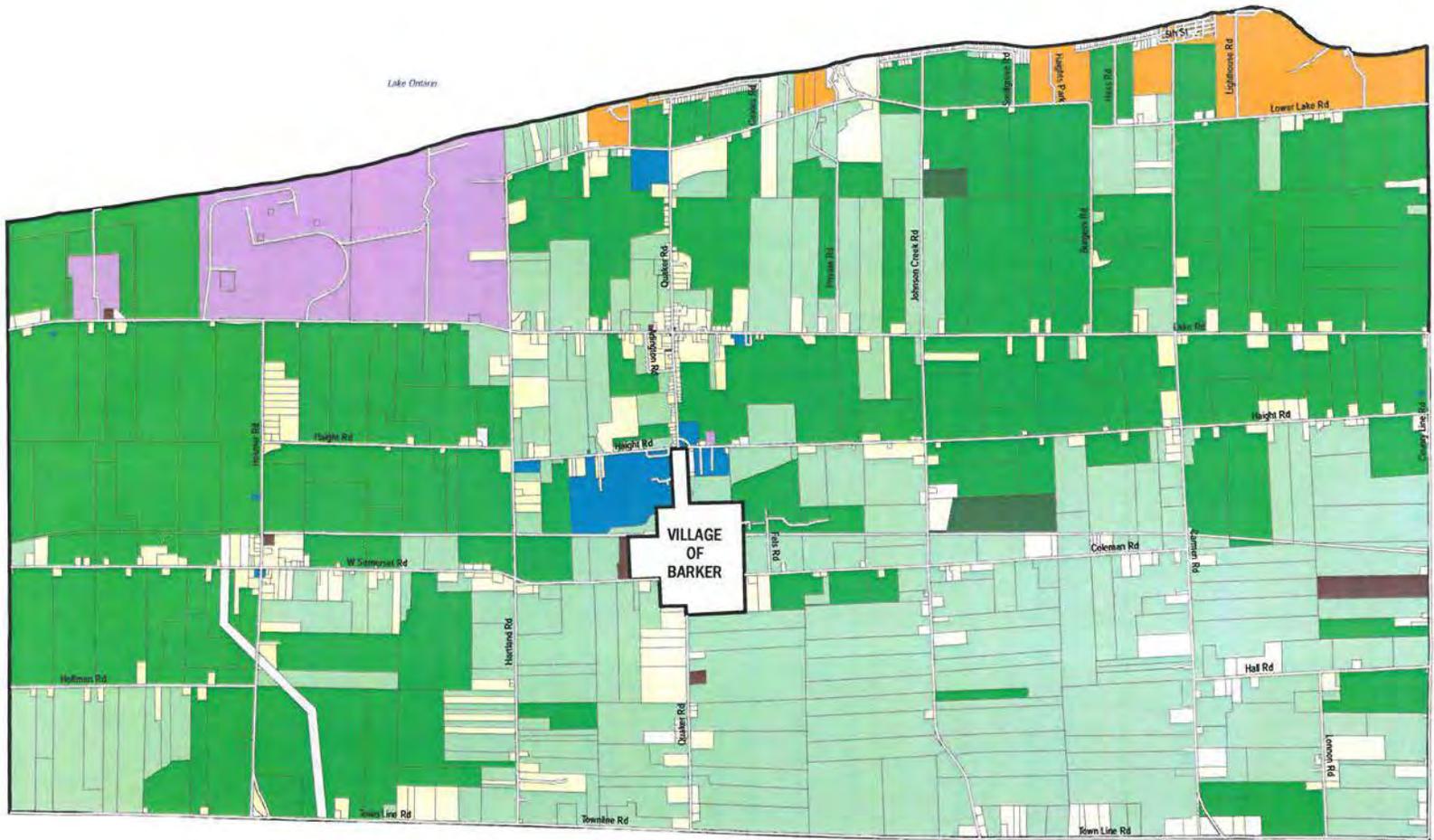
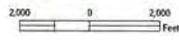
## Existing Land Use



Lake Ontario

**Key to Features**

- Municipal Boundary
- Existing Land Use**
- Agriculture
- Residential
- Rural
- Commercial
- Vacant
- Recreation
- Government
- Industrial
- Conservation



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# Town of Somerset Comprehensive Plan

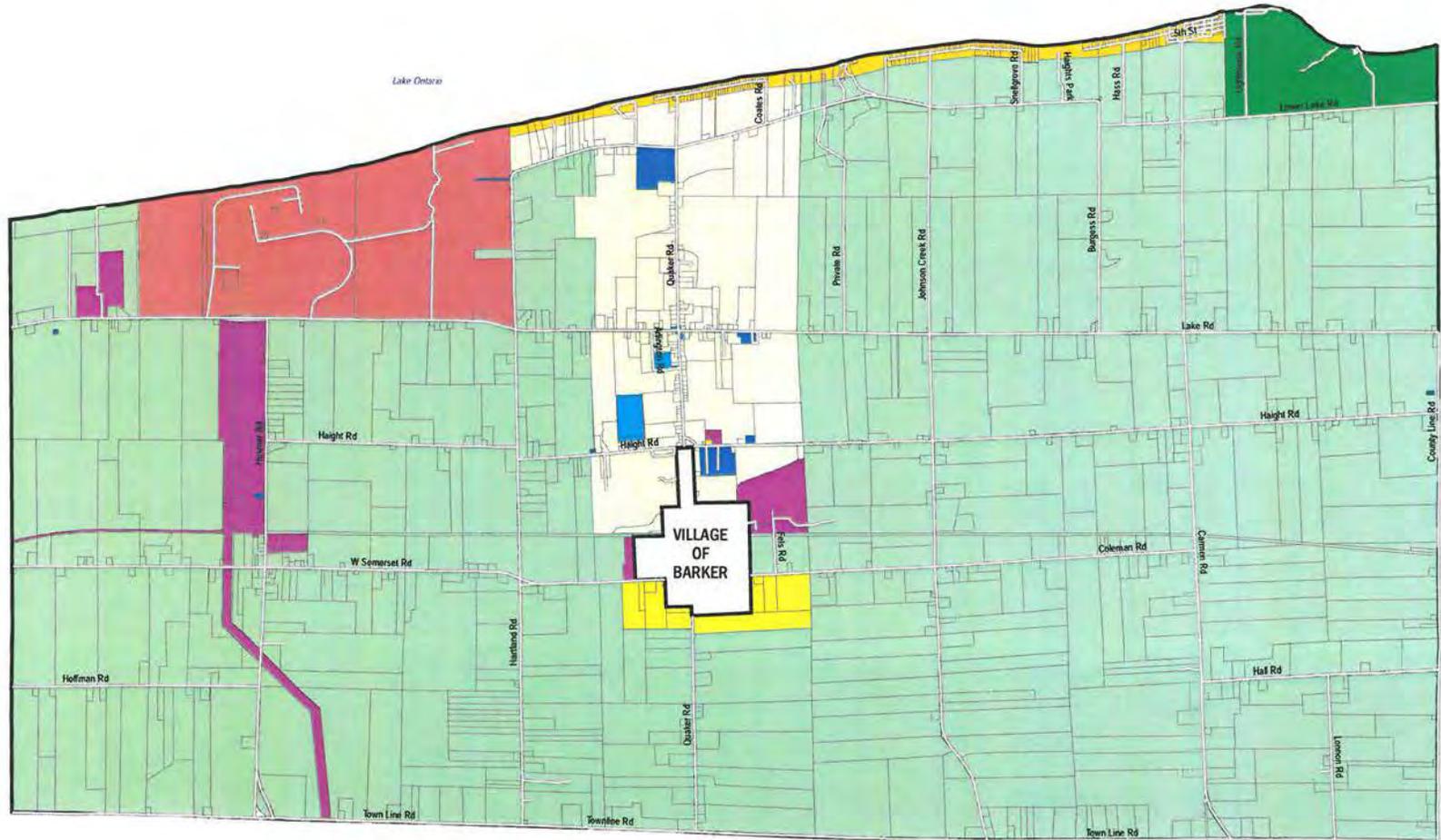
## Existing Zoning



**Key to Features**

- Municipal Boundary
- Parcels (2011)
- Existing Zoning**
- Agricultural
- Business
- Industrial
- PUD
- R-1
- R-2
- RLS - Residential Lake Shore
- State Park
- Town Owned / Recreational

2,000 0 2,000  
Feet



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# Town of Somerset Comprehensive Plan

## Transportation



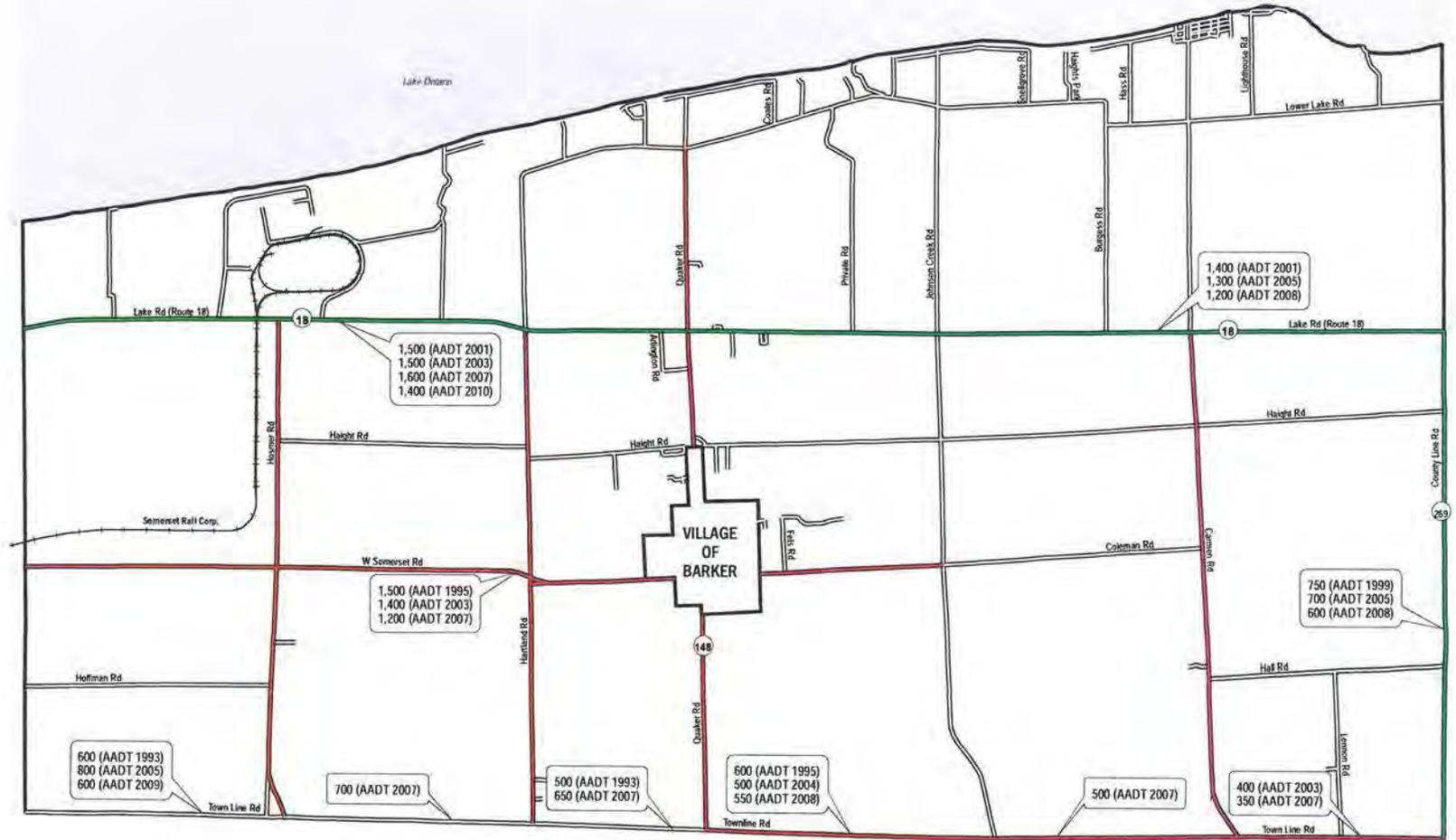
**Key to Features**

- Municipal Boundary
- Active, Freight Only Railroad

**Road Categories**

- NYS Route
- County Road
- Local Road

2,000 0 2,000  
Feet



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# Town of Somerset Comprehensive Plan

## Utilities/Infrastructure

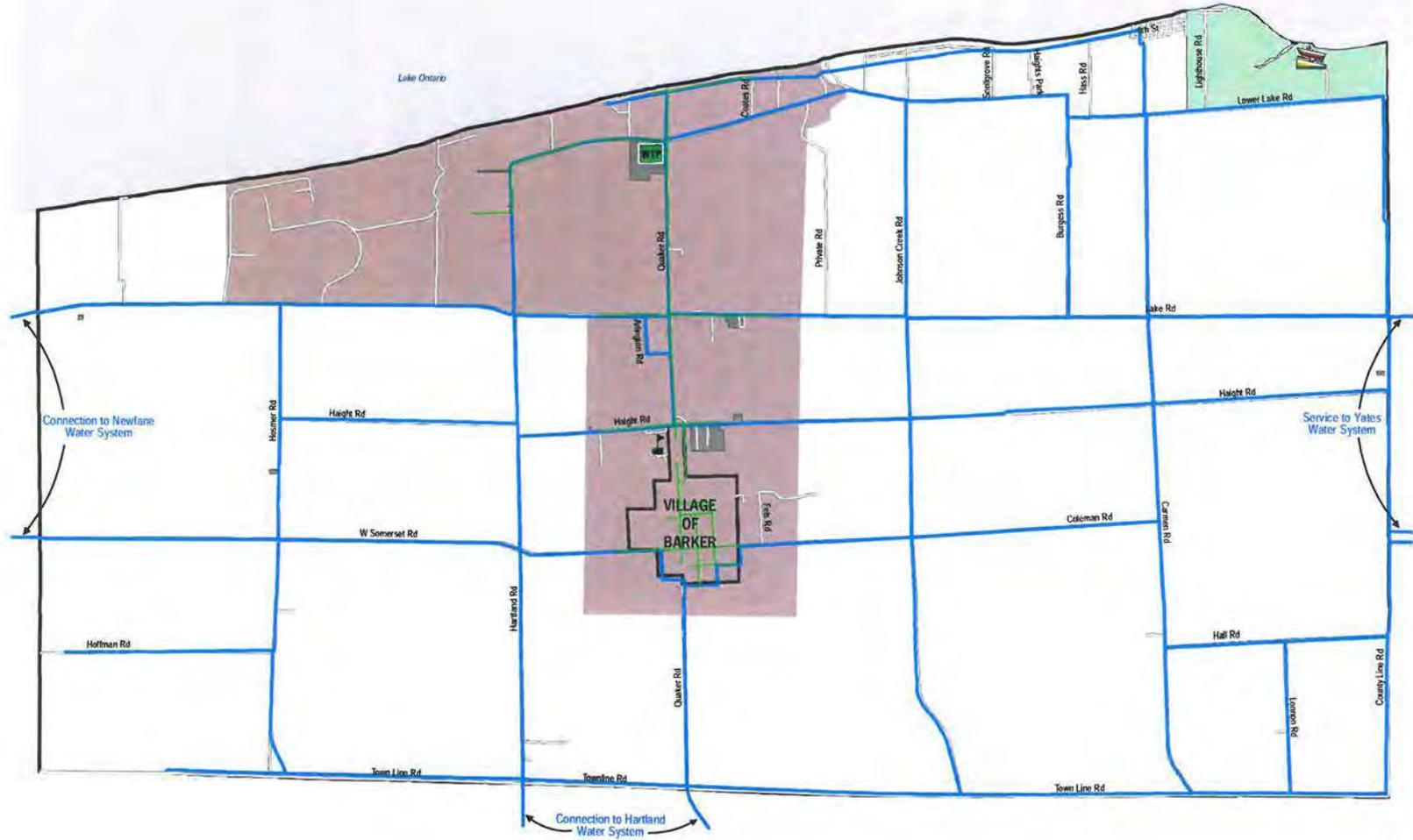
Map 8



**Key to Features**

- Municipal Boundary
- Town Owned Land
- State Park
- Boat Launch
- Barker Central Schools
- Sewage Treatment Plant
- Sewerlines
- Waterlines
- Sewer District

2,000 0 2,000  
Feet



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# Town of Somerset Comprehensive Plan Vision Map

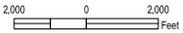


**Key to Features**

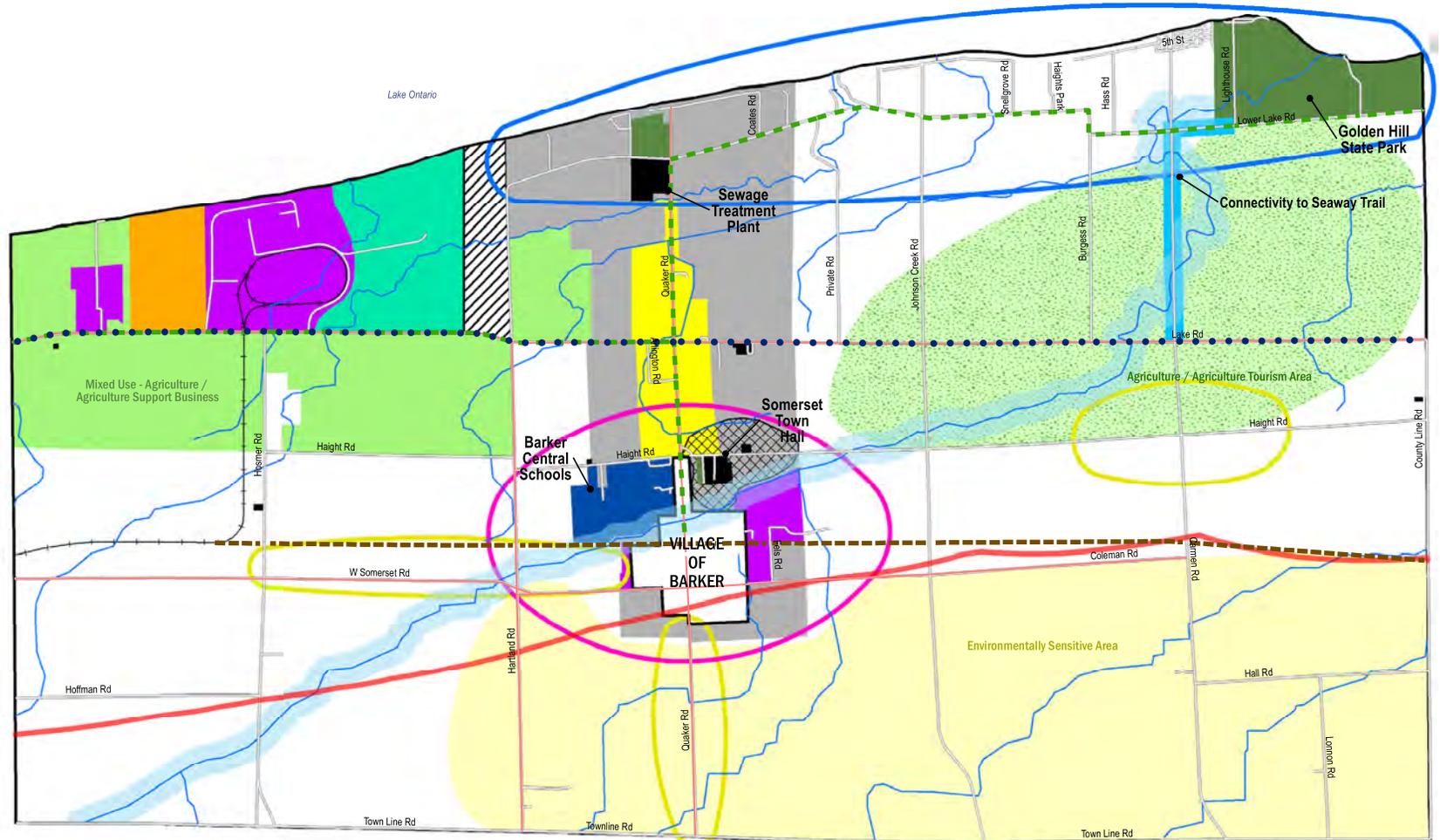
- Municipal Boundary
- Town Owned Properties
- Streams
- Stream Open Space Area
- Major Highway Connections
- Seaway Trail
- Multi Use Path
- Potential Rails to Trails Path
- Lakefront Setback Line

**Comprehensive Plan Vision**

- Expanded Village
- Residential Area
- Community/Village Center
- Waterfront Protection Area
- Town Center
- Agriculture / Agri-Tourism Area
- Environmentally Sensitive Area
- Mixed Use - Ag / Ag Support Business
- Multiple Use Site
- Multiple Use Site Expansion Area
- "Shovel Ready" Business Area
- Industrial/Business
- Hamlet/Rural Center
- Rural/Agricultural
- Barker Central Schools
- Park
- Connectivity Seaway Trail



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\* This map is not a future land use map and should only be utilized in conjunction with the concepts in the Comprehensive Plan Document.

# Town of Somerset Local Waterfront Revitalization Program

Adopted:  
Town Board, August 9, 2005

Approved:  
Acting NYS Secretary of State Frank P. Milano, December 13, 2005

Concurred:  
U.S. Office of Ocean and Coastal Resource Management, November 2, 2007

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, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231.



*Rebecca A. Connolly, MMC*

**Town Clerk/Registrar**

Town of Somerset

8700 Haight Road • P.O. Box 368

Barker, NY 14012 - 0368

Phone: (716) 795-3575 Fax: (716) 795-9041

TOWN CLERK'S CERTIFICATION

STATE OF NEW YORK

:SS:

COUNTY OF NIAGARA

I, Rebecca A. Connolly, Town Clerk of the Town of Somerset, DO HEREBY CERTIFY:

THAT I have compared the attached proceedings of the Town Board of the Town of Somerset including the resolution contained therein with the originals thereof on file in my office and that the same is a true and correct copy of the said original as recorded in the minutes of the Town Board meeting dated August 9, 2005 and filed in the Office of the Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Somerset, New York this 10<sup>th</sup> day of August 2005.

Rebecca A. Connolly, MMC

Town Clerk

Town of Somerset

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I

TOWN OF SOMERSET

Resolution to Adopt the Town of Somerset  
Local Waterfront Revitalization Program  
And Authorization to Submit to the New York State Department of State  
For Final Approval

WHEREAS, the Town of Somerset has prepared a Local Waterfront Revitalization Program, pursuant to Article 42 of the Executive Law; and

WHEREAS, the Draft Local Waterfront Revitalization Program (LWRP) and related local laws have been completed under the guidance of the Town of Somerset Waterfront Advisory Committee, the Town Attorney, and the Town Board; and

WHEREAS, the LWRP was subject to the required 60-day review period and modifications were made to the draft program document in response to comments received from this review; and

WHEREAS, the Town of Somerset Town Board, as Lead Agency under the provisions of the State Environmental Quality Review Act, prepared an environmental assessment form and evaluated the impacts of this action in accordance with the requirements of Part 617 of the implementing regulations of Article 8 of the New York State Environmental Conservation Law; and

WHEREAS, the Board determined that there would be no adverse impacts upon the natural, institutional, economic, developmental or social resources of the Town, and have therefore, issued a negative determination of significance, which has been filed and published.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Somerset Town Board hereby accepts and adopts the Draft Local Waterfront Revitalization Program for the Town of Somerset; and

RESOLVED, that the Town of Somerset Town Board hereby directs the Town Clerk to transmit the adopted LWRP and a copy of this resolution, to the New York State Secretary of State for approval pursuant to Article 42 of the New York State Executive Law - the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.



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

---

GEORGE E. PATAKI  
GOVERNOR

February 24, 2006

Honorable Herbert A. Downs  
Supervisor  
Town of Somerset  
8700 Haight Road  
PO Box 368  
Barker, NY 14012

Dear Supervisor Downs:

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Frank P. Milano".

Frank P. Milano  
Acting Secretary of State

FPM:lt\gn



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

NOV - 2 2007

Rec'd Coastal Resources

NOV 07 2007

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

Dear Mr. Stafford:

Thank you for the New York Division of Coastal Resources' June 28, 2007, request that the Town of Somerset Local Waterfront Revitalization Program (LWRP) be incorporated into the New York Coastal Management Program (CMP). You requested that the Town of Somerset LWRP policies described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on July 9, 2007, and OCRM's decision deadline was extended until November 2, 2007.

Based on our review of your submission, we concur, with the exceptions described below, that the incorporation of the Town of Somerset LWRP is an RPC and we approve the incorporation of the LWRP policies (including the policy standards and supporting language) as enforceable policies of the New York CMP. Federal Consistency will apply to the approved policies only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

#### **CHANGES APPROVED**

See enclosed list of the changes incorporated into the New York CMP.

#### **CHANGES NOT APPROVED**

OCRM does not approve the incorporation of Policy Standard 13.2.B., which relates to the siting of hydroelectric power generating facilities, as an enforceable policy. Any policies regarding such siting are preempted by the Federal Power Act under the jurisdiction of the Federal Energy Regulatory Commission.

OCRM does not approve the incorporation of Policy Standard 13.4.B., which lists factors to be used in the siting of Liquefied Natural Gas facilities, as an enforceable policy. Any policies regarding such siting are preempted by the Natural Gas Act, as amended by section 311 of the Energy Policy Act of 2005, under the jurisdiction of the Federal Energy Regulatory Commission.



## **QUALIFICATIONS**

OCRM is not approving the incorporation of the following enforceable policies because they are not applicable to the Town of Somerset LWRP: 19 NYCRR 600.5 (a)(3), (a)(4), (b)(3), (b)(4), (d)(1), (g)(2), and (i). Additional policies found in the NYSCMP and Final Environmental Impact Statement that are not applicable include: 6, 29, and 42. As noted in the state's Approval and Findings document, these policies are part of the approved NYSCMP, but are not applicable to the Town of Somerset LWRP.

Policy Standard 13.3.A(5) specifically refers to the facility expansion project, and therefore only applies to the AES facility and the multiple use plan that has been developed for the site pursuant to the 1978 Opinion and Order Granting Certificate of Environmental Compatibility and Public Need.

Policy Standard 8.6 "does not apply to the existing State-approved solid waste disposal facilities (SWDA I, SWDA II and SWDA III) that accept only on-site waste generated at the AES facility" (Wendy Salvati of Wendell Duscherer, Town Attorney and Town Planning Consultant). Despite this clarification by the Town Attorney, this policy should be applied in a way that ensures reasonable availability of solid and hazardous waste facilities. In future amendments to the LWRP, consideration should be given to how any changes to the LWRP affect the application and impacts of Policy Standard 8.6. OCRM also is concerned that policies of this nature could cumulatively result in inadequate ability to meet the regional and national interests in having sufficient capacity for the disposal of solid and waste. Although there is no basis for determining that a threshold for regional and national interest concerns has been crossed by the Town of Somerset LWRP Policy Standard 8.6, New York State will be expected to demonstrate in future evaluations of the New York Coastal Program that the cumulative impact of local policies is not affecting the regional and national interests in having adequate solid and hazardous waste disposal facilities.

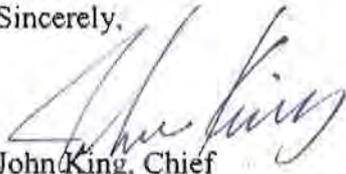
The Town of Somerset LWRP policies refer to the Town Code and several documents that were not submitted for incorporation as enforceable policies. After conferring with NYSCMP staff, OCRM confirmed that these documents are intended to be enforceable mechanisms or guidance for how to implement the policies. Therefore, the following documents are not approved as enforceable policies: Chapter 104 of the Town Code, Chapter 96 of the Town Code, EPA's Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters, and the New York State Water Quality Accident Contingency Plan and Handbook.

## **PUBLIC AND FEDERAL AGENCY COMMENTS**

OCRM received comment letters from nine individuals and groups, both in support of the LWRP and opposed to it. A summary of the comments and OCRM's responses are enclosed with this letter.

Thank you for your cooperation in this review. Please contact Carleigh Trappe at (301) 713-3155, extension 165, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John King". The signature is written in a cursive style with a large initial "J" and "K".

John King, Chief  
Coastal Programs Division

Enclosures: Policies Approved and Incorporated into the New York CMP and OCRM Summary Response to Comments

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APPENDICES

Appendix A.  
Waterfront Consistency Law.

Appendix B.  
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## **SECTION I – Local Waterfront Revitalization Area Boundary**

The boundary of the Town of Somerset Local Waterfront Revitalization Area (LWRA) encompasses all of the land area along the Lake Ontario shoreline, as shown on [Map 1 – LWRP Boundary](#), and follows an inland boundary as noted below.

Beginning at the point where the mean high water line of Lake Ontario intersects with the corporate boundary between the Town of Somerset and the Town of Newfane, the boundary proceeds due south along this line for a distance of 6,916 feet. At this point, the boundary turns east and proceeds a distance of 6,608 feet and then south, a distance of 2,934 feet and then east a distance of 1,341 feet to Hosmer Road. The boundary then follows Hosmer Road north a distance of 1,099 feet to the boundary of West Somerset Cemetery and then turns west and continues a distance of 328 feet and then turns north and continues a distance of 169 feet and turns east and continues a distance of 330 feet to Hosmer Road. The boundary continues north along Hosmer Road to its intersection with Haight Road and follows Haight Road east to its intersection with Hartland Road. At its intersection of Hartland Road the boundary continues north along Hartland to a point 100 feet south of its intersection with the south shoreline of Fish Creek. The boundary generally encompasses all of the lands east the Newfane/Somerset Town line and north of Haight Road that are situated west of Hartland Road, and includes the undeveloped Conrail spur and surrounding lands excepting the cemetery property on Hosmer Road.

At this point, the boundary then continues east and northeast along a line drawn 100 feet from the centerline of Fish Creek to its intersection with Lower Lake Road. The boundary then continues east along Lower Lake Road to its intersection with Burgess Road and turns south along the overlap of Lower Lake Road and Burgess Road to the point where Lower Lake Road again diverges from Burgess Road. The boundary then continues east along Lower Lake Road to County Line Road, which is also the corporate boundary between the Town of Somerset, Niagara County and the Town of Yates, Orleans County. The boundary generally includes all the lands north of fish Creek and Lower Lake Road east of Hartland Road and west of the Orleans County line.

At this point, the boundary turns north and follows County Line Road (CR 50) to the point of the mean high water line of Lake Ontario. From this point the boundary

follows the mean high water line of Lake Ontario west to the point of origin for the local waterfront revitalization area boundary.

## **SECTION II – Inventory and Analysis**

### **A. Regional Setting and Community Characteristics**

The Town of Somerset is located on the south shore of Lake Ontario, in the northeast portion of Niagara County, New York as shown on [Map 2 – Regional Setting](#). It is situated between the Town of Yates (Orleans County) to the east, Town of Hartland to the south, and Town of Newfane to the west. The Town shares its northerly boundary with approximately 8.7 miles of the southern shoreline of Lake Ontario. Within the western New York region, Somerset is situated approximately 30 miles outside the Buffalo metropolitan area, with the City of Lockport located approximately half-way between.

The Town encompasses approximately 36.7 square miles in land area and is generally rural in character. Within the Town, the Village of Barker serves as a residential hamlet and center for community services. While the village provides significantly to the general character of the Town, it is located outside the designated Local Waterfront Revitalization Area (LWRA). The smaller hamlet of Somerset, which is also located outside the LWRA, also contributes to character to the Town as a whole.

The Town of Somerset has experienced generally continuous growth in population (6.7% annual average) since the 1940's. While the overall population and number of households, has continued to grow, the Town's rural community character and agricultural base has remained. With few exceptions, residential development has occurred at low densities and outside the Village. One of those exceptions has been residential development in certain areas along the lakeshore. Generally, growth outside the Village has been residential with commercial uses occurring in the Village. Industrial growth consists primarily of the AES power generating plant situated on the lakeshore.

This continuing growth and development of the Town and a concern for properly managing shoreline development, particular the potential use of land in the vicinity of the AES plant, has raised the need for the recent Comprehensive Plan and the Local Waterfront Revitalization initiatives.

## **B. Upland Uses**

### 1. Existing Land Use

Land uses along the waterfront in the Town of Somerset within the LWRP study area are characterized by a mix of residential and agricultural uses, with some industrial, park and commercial properties, as depicted on [Map 3 – Existing Land Uses](#). While the industrial and commercial properties are limited in number, they account for a significant amount of land area. The key land use categories found in the LWRP study area are further described and quantified below.

**Residential** - There are approximately 286 residential parcels, accounting for 358 acres in the 11,113 acre LWRP study area. The smallest residential properties occur along the lakeshore in clusters on Huntington Beach Road, Lake View Drive, Lakeshore Road and Somerset Drive.

**Agricultural** - Agricultural lands comprise approximately 27 parcels, accounting for 1,622 acres in the LWRP study area. Land area in active farm production in Somerset declined between 1968 and 1978 by 3,115 acres. However, between 1978 and 2002 the declining trend stabilized and active farmland increased by approximately 100 acres. According to the U.S. Census of Agriculture, the number of farms in operation in the Town has also remained essentially stable between 1992 and 1997 (the most recent year available). For comparison, the number of farms in Niagara County over the same time period decreased by 8.2 percent, from 749 farms to 687. Approximately 81 percent of the farms in the area are in the 50 to 999 acre size range, compared to 64 percent in this size range in 1992.

**Commercial** - There is limited commercial activity in the LWRP study area, consisting of approximately 6 parcels comprising of 124 acres. The largest commercial properties are the private camps and commercial campgrounds. The YMCA Camp Kenan (47 acres) and the Lighthouse Christian Camp (77 acres) are private camps. Haight's Park Campground (79 acres – within the LWRA) and Brown's Camp (31 acres) are commercial campgrounds. The camps and campgrounds represent less intensive uses than their commercial designation implies. Also, in the case of the commercial campgrounds, the active campground areas do not cover the entire parcel, but do utilize the waterfront.

Industrial - The most significant industrial land use in the LWRP study area, as well as the Town, is the AES Somerset power generating plant. At approximately 1,100 acres AES accounts for 4.6% of the study area. The power plant contains large areas of undeveloped property, including approximately 2.3 miles of undeveloped shoreline.

Vacant - There are approximately 85 vacant parcels, consisting of 1,169 acres, or approximately 10% of the LWRP study area. Vacant lands include a combination of wood lots or abandoned agricultural fields. As noted above, a significant amount of additional undeveloped lands are undeveloped areas owned by the AES Somerset, LLC.

Parkland - There are two public parks along the shoreline within the LWRP study area. The larger of the two parks on is Golden Hill State Park. This park is a 511 - acre state-owned facility that contains a campground, nature trails, picnic areas and shelters, and playgrounds. The park facilities include a boat launch and offer public access to Lake Ontario for fishing, boating and other water-related recreational uses. There are 60 campsites. A unique feature of this park is the Thirty-Mile Point Lighthouse, a historic lighthouse built in 1875. The lighthouse, which is listed on the National and State Registers of Historic Places, is a popular tourist attraction, and was featured on a US Postal Service postage stamp in 1995 as the representative for Lake Ontario in a series of lighthouse stamps. Boat and camping facilities are open from April through October, while the remainder of the park and lighthouse are open year-round. Excellent views of the Lake Ontario shoreline are available from this site. The Village of Barker owns and maintains the Barker Bicentennial Park on Quaker Road at the lakeshore. The park is 1.5 acres in area and provides public access to the waterfront for fishing.

## 2. Zoning and Other Land Use Regulations

Within the Town of Somerset, land use is controlled by the Zoning Code (Chapter 205 – Zoning) and by Subdivision Regulations (Chapter 171 - Subdivisions of Land). Zoning in the Town includes four residential categories (agricultural, single-family, single and two family, and a lake shore residential district), one business district, two industrial zones (industrial and general industrial). The code also allows a planned unit development (PUD) or mixed use floating zone designation to be applied on a site-by-site basis. It should be noted that the "planned business areas" district of the code also encourages PUD's. Zoning is depicted on [Map 4 – Existing Zoning](#).

The zoning districts that occur within the LWRA are listed below along with a summary of the land uses identified as permitted uses by right and uses allowed with a special use permit (SUP) from the Planning Board:

#### A Agricultural District

Within the LWRP study area, properties in the Agricultural District account for the largest land area in any zoning classification. While most of the agricultural land is not located directly on the waterfront, it is still important to consider because lands in agricultural receive the most development pressure. Also the nature of typical agricultural uses may result in the use of materials or practices that can potentially be threats to water quality. Landuses allowed in the Agricultural District include:

Single-family residential dwellings and accessory structures on lots having a minimum area of 60,000 square feet, and Farms and accessory structure and uses.

Uses allowed by Special Use Permits include Public utilities (SUP), Campgrounds (SUP), Mobile Home Parks (SUP), Air Strips (SUP), Retirement Homes (SUP),

Public Buildings (SUP), Churches (SUP), and Municipal Parks (SUP).

#### R-1 Single-Family Residential District

The R-1 Single-Family Residential zoning district occurs in the area on either side of Lower Lake Road, north of Fish Creek and south of Lake View Drive. This area is within the sewer district and has the potential for increased residential development. Allowed land uses in the R-1 District include Single-family residential dwellings and accessory structures on lots having a minimum area of 20,000 square feet. Cluster residential development (SUP) and Animal Husbandry (SUP) are permitted as special uses.

#### RLS Lake Shore Residential District

Approximately one-half of the entire lake shore falls into the RLS zoning district. Within this area, approximately 50 individual parcels are vacant and can possibly be developed for uses allowed in this district. Permitted uses are limited. They include Single-family residential dwellings and accessory structures on lots having a minimum

area of 20,000 square feet, and Cluster residential development (SUP) by special use permit.

## I Industrial District

The Industrially zoned lands along Hosmer Road include the railroad tracks and power transmission lines. This is unlikely to change as long as the AES Power Generating Plant is in operation. Allowed land uses in the Industrial District include Laboratory, Assembly, Manufacturing, Food processing, Wholesale business, Office uses, and Farms.

## PUD Planned Unit Development

The AES Power Generating Plant is located within the PUD zoning district. This property represents the single largest privately owned property within the LWRP study area and potential expansion or re-development could have significant impacts on the waterfront. Allowable land uses in the Planned Unit Development Zone are the same as those allowed in the Lake Shore Residential District, R-2 Single- and Two-family Residential District, B Business District and the I Industrial District.

## Public Lands

There are two areas within the LWRA that are not included in a zoning district. The area within the Golden Hill State Park and Town owned property (Wastewater Treatment Plant) are depicted on the zoning map 'as islands' outside the surrounding zoning district. Typically local zoning does not apply to higher levels of governments and county, state and federal properties are not subject to local zoning regulations. Because the Golden Hill State Park is owned by New York State it is exempt from zoning regulations. Town property (the WWTP) is not subject to changes in use where zoning regulations would be applicable.

The Town's subdivision regulations are fairly standard regulations, with procedures for both minor subdivisions (4 or less lots, not involving public infrastructure improvements or extensions) and major subdivisions (more than 4 lots). A minor subdivision approval is a two step process with sketch plan and minor subdivision plat review. A major subdivision requires three steps: sketch plan, preliminary plan review, and final plat review.

The zoning code establishes height and bulk regulations, site plan specifications, development standards, required improvements, and penalties. The regulations include the authority to approve cluster development.

Within the LWRP study area there are several vacant properties that may be susceptible to future subdivision and residential developments. In addition, development pressures may also increase on agricultural lands within the sewer district. For these reasons it is important that the Town's subdivision and zoning regulations remain up-to-date as they are the Town's primary land use controls.

Other codes in the Town of Somerset that affect land use in the Town include: "Bed and Breakfast establishments", "Campgrounds and Vehicle Parks", "Environmental Quality Review", "Excavations", and "Mobile/Manufactured Homes".

Bed and Breakfast establishments are allowed by special use permits throughout the Town.

Campgrounds and Vehicle Parks establish a yearly permit requirement for these uses that are allowed in an agricultural district by special use permit.

Chapter 92 of the Town Code, known as Environmental Quality Review, is the local State Environmental Quality Review (SEQR) requirement for all development projects in the Town. The Town's SEQR code was adopted in 1977. Since then, the State has amended 6 NYCRR Part 617, the SEQR regulations, causing the Town's SEQR code to become outdated. The Town should either amend or repeal this law.

Excavations regulates excavation activities in the Town.

Mobile/Manufactured Homes establish standards for these uses, which are allowed by special use permit in agricultural districts (controlled by yearly license).

### 3. Land Ownership Patterns

The land ownership within the Somerset LWRP study area varies significantly by size ranging from over 1,000 acres to less than an acre. By any measure (number of parcels, land area, or lakeshore frontage) the majority of property in the LWRP study area is in private ownership. The largest privately owned property in the study area includes approximately 1,100-acres owned by AES Somerset, LLC, with 1.5 miles of

lakeshore frontage. There are relatively few other large vacant parcels that front on the lakeshore. However, two adjacent vacant parcels that adjoin the AES property at the western end of the LWRA have a combined frontage of approximately 1.1 miles and have the potential for future subdivision. Together these three properties represent over 2.3 miles of shoreline and over 1/4 of the Town's lakeshore.

Along the lakeshore there are two commercial campgrounds (Haight's Park Campgrounds and Brown's Camp) and two private camps (YMCA Camp Kenan and the Lighthouse Christian Camp). These camps do not utilize their entire property as intensely as the zoning would allow (either residential or commercial). There are numerous homes on small lots along the lakeshore having access from Huntington Beach Road, Lake View Drive, Lakeshore Road and Somerset Drive. These residential properties are interspersed with approximately fifty vacant lots.

The Golden Hill State Park occupies approximately 511 acres and has approximately 1.5 miles of waterfront. The only other publicly owned lands include the Village of Barker Bicentennial Park on Quaker Road; Town/Village wastewater treatment plant on Quaker Road at Lower Lake Road; and the Sawyer Cemetery on Lake Road.

#### 4. Water-Dependent and Water-Enhanced Uses

The Lake Ontario shoreline within the Somerset LWRA is not heavily developed with uses that are dependent on their waterside location, as shown on [Map 5 – Water Related Uses](#). The only water-dependent uses along the waterfront include The AES power station, which utilizes lake water for cooling and Golden Hill State Park, which has a boat launch.

The Somerset LWRA primarily consists of water-enhanced and non-water dependent uses. The LWRA includes approximately 126 private residences, which are water-enhanced. Large non-residential properties along the lakeshore that are water-enhanced uses include Haight's Park Campgrounds, Brown's Camp (both commercial campgrounds; the Lighthouse Christian Camp and the YMCA Camp Kenan (both private camps).

The LWRA contains certain lands, some of which are located directly along the shoreline, that support, and are zoned for, non-water dependent agricultural uses. Most vacant land in the LWRA is in the Agricultural (A) District. Any undeveloped industrial land is part of the AES power station and located in the Planned Unit

Development (PUD) District. In 2001, several modifications were made to the Town Zoning. At this time, considering that there is very little development pressure along the shoreline, and that the current zoning reflects the Comprehensive Plan, the Town believes the zoning within the LWRA adequately meets its needs for the foreseeable future.

## 5. Tourism

There are no extensive tourism services found within the LWRA. Tourism activities are centered around recreational camping and fishing. Golden Hill State Park offers a lakefront location with camping, hiking, picnicking and boat launch facilities. The Thirty-Mile Point Lighthouse is also located within the State Park. The lighthouse living quarters are a popular destination to rent for overnight accommodations.

There are two private camps YMCA Camp Kenan and Lighthouse Christian Camp. There are also two privately owned commercial campgrounds located on the waterfront; Haight's Park Campgrounds and Brown's Camp, offering camping along with fishing and boat access to the waterfront.

Other tourist attractions include the Babcock House Museum operated by the Town of Somerset Historical Society and located on Lake Road. Commercial and retail services and restaurants are found outside the LWRA in Village and local hamlets.

Tourism in the LWRA is seasonal, with boating occurring from early May to late October. The private camps and campgrounds do not operate in the winter. However, Golden Hill State Park does offer cross-country skiing, snowmobiling, and snowshoeing.

The New York Seaway Trail follows Lake Road (NYS Route 18) in the vicinity of the Somerset LWRA. The Seaway Trail is a recognized scenic route paralleling Lake Erie, the Niagara River, Lake Ontario and the St. Lawrence River. This corridor is a designated National Scenic By-way. The Seaway Trail route is well marked and promoted as a tourism destination and as an alternative to the NYS Thruway and other interstate highways. The NYS Seaway Trail is a membership organization that encourages tourism and economic development in the communities along the Seaway Trail corridor by marketing the scenic byway designation.

### **C. Surface Waters and Surface Water Uses**

Topographically, the entire northeastern part of Niagara County drains toward Lake Ontario via several major drainage courses including Johnson and Marsh Creeks, which extend easterly into Orleans County, and Fish and Golden Hill Creeks in the Town of Somerset. The LWRA is within the Golden Hill Creek drainage basin and the Johnson Creek drainage basin. Fish Creek and Gold Hill Creek and their tributaries represent the primary drainage courses to Lake Ontario. There are no major lakes or ponds within the LWRA.

Golden Hill Creek divides the Town in half, running from the extreme southwest corner of the Town to the northeast, through Golden Hill State Park. Golden Hill Creek has its headwaters near Town Line and Hosmer Roads and flows approximately 10 miles northeast through the Village of Barker and through Golden Hill State Park and discharges into Lake Ontario, just west of the boat launch. All land south of Golden Hill Creek and lands parallel to the creek, for approximately 1,000 feet to the north also drain to Golden Hill Creek.

All land lying generally north of the parallel line approximately 1,000 feet north of Golden Hill Creek, and below an elevation of 330 feet, drains to the north into Fish Creek or its tributaries, or to a small west branch of Golden Hill Creek. An exception is a small area on the AES Somerset property, which drains directly into Lake Ontario. Fish Creek flows approximately 7.5 miles from its headwaters near Hoffman Road in a northeast direction through the AES power station property and along the Barker Somerset Wastewater Treatment Plant facility, eventually discharging into Lake Ontario, west of Johnson Creek Road. A lesser, intermittent stream flows parallel to and just south of Fish Creek and outlets directly to Lake Ontario between Johnson Creek Road and Snell Grove Road.

In general, creeks and their banks remain in relatively natural conditions where they flow through the LWRA. The goals and policies section of the Somerset Comprehensive Plan suggests specific policies to guide local decision making in order to protect the creeks from the adverse effects of development. The implementation of these policies would help to allow for the protection of these waterways.

## 1. Marinas, Docks and Bulkheads

There are no marinas or permanent docks within the LWRA. The only boating facility accessible to the public is the boat launch ramp located in Golden Hill State Park. One ramp is available for transient users to launch and load small boats. There is also approximately 50 feet of floating dock and 1 stationary dock that are removed seasonally. Boat launch and dock facilities are open from April through October. Park user and parking fees range from \$5 to \$7. Outside the LWRA, the nearest marinas are in Olcott to the west and Lakeside to the east.

Outside the State Park only two concrete boat launch ramps on private properties were observed. One was at the Christian Lighthouse Camp, and the second was at a private residence on Lakeshore Road at the foot of Johnson Creek Road.

The use and need of shoreline protection varies within the LWRA based upon the varying height of the bluff and on the land use. Much of the LWRA shoreline generally west of Quaker Road, including the highest bluffs, remains natural.

Shoreline protection is in place along the residential some reaches of the waterfront. Shoreline protection consists of either large boulders placed at the bottom of the bluff or concrete walls. Walls are not consistent along the shoreline and occur at approximately a third of the homes. The walls are in various states of repair. Some are cracked and leaning into the water. There are few new walls. Many residences have wooden or concrete steps between the top of the bluff and the beach. Along Somerset Drive the bluff is somewhat lower than further west and the use of walls is less common. Rock armoring is in place.

At the Village Park there are two small piers approximately 24 inches wide and approximately 30 feet long that are remnants of an old water-pumping station. Today people use these piers to fish from.

Some of the highest bluffs occur within the State Park in the vicinity of the Thirty-Mile Point Lighthouse. In this area large boulders are placed at the bottom of the bluff for protection against erosion.

## 2. Vessel Use and Navigation

There is limited navigational use along the Somerset waterfront. Small pleasure craft are used for recreation and fishing. There are no commercial vessels in the area. The creeks tributary to the lake are not navigable. Various residents along the shoreline have boats but do not have permanent docks. According to interviews of park personnel, personal watercraft are becoming more popular with park users.

The lake bottom is rocky from the shoreline out to depths of 30 to over 50 feet where the bottom transitions to mud and clay. There is one area having a sandy bottom just west of Thirty-Mile Point. According to National Oceanic & Atmospheric Administration navigation charts rock obstructions occur along the shoreline that cover and uncover at depths up to 6 feet. Other obstructions and features include cribbing off the AES site and the Wastewater Treatment Plant outfall.

### **D. Public Access and Recreation**

Public parkland and waterfront access is limited to a few facilities within the Town of Somerset LWRA. These facilities are depicted on [Map 6 – Public Lands and Cultural & Historic Resources](#). Golden Hill State Park is located along Lake Ontario at the easterly boundary of the Somerset LWRA. It is surrounded by agricultural lands and the Lighthouse Christian Camp to the west, by Lower Lake Road (County Road 82) to the south and Niagara-Orleans County Line Road (County Road 50) to the east. The 511-acre park contains a 72-site campground, recreation building, nature trails, picnic areas and shelters, playgrounds and a boat launch ramp. The park facilities offer public access to the lake for fishing, boating and other water-related recreational uses. A unique feature of this park is the Thirty-Mile Point Lighthouse. This State-operated park provides regional recreation and waterfront access opportunities.

The Village of Barker owns and maintains the Barker Bicentennial Park on Quaker Road on the lakeshore. The 1.5 acre park provides public access to the waterfront for fishing. Picnic facilities and restrooms are available on a seasonal basis.

There are two private camps and two commercial campgrounds that offer waterfront access to patrons and visitors. Their waterfront locations provide all four of these facilities significant scenic views of the lake and surrounding area.

The Town also has provisions for potential future park facilities within the property currently owned by AES Somerset, LLC. The original owner, New York State Electric and Gas (NYSEG), was directed to work with local officials to prepare a multiple use plan for their site as part of their approval to build what is now known as the AES Somerset power generating station. The approval, granted in the mid-1970's by the Siting Board, required a multiple use plan that would provide for the recreational needs of the community and to replace land previously designated by the Town for future recreation use. Under the leadership of the staff of the Erie and Niagara Counties Regional Planning Board, a multiple use plan for the power plant site was prepared and adopted by the Somerset Town Board, the Power Company, and various regulatory agencies. The plan provides for continued access to the lake and a combination of active and passive recreation uses to be implemented over a long-term period. The Town Planning Board also approved the multiple use plan, and it reflects the policy of the Planning Board relative to the proposed future use of that portion of the power plant site (approximately 30 acres). While there are no current plans to implement the multiple use plan, the Town wishes to retain its rights for the future recreational use by incorporating it into their LWRP and recently completed comprehensive plan.

#### **E. Historic and Cultural Resources**

The area known today as Somerset was first settled in 1810 and officially organized in 1823 from holdings of the Holland Land Company, with rail service commencing in 1876 and Village incorporation in 1908. A key historic resource resulting from the early development of Somerset is the Thirty-Mile Point Light House.

The Thirty-Mile Point Lighthouse, built in 1875, is a popular tourist attraction. The Lighthouse is listed on the National and State Registers of Historic Places. The lighthouse was also featured on a US Postal Service postage stamp in 1995 as the representative for Lake Ontario in a series of lighthouse stamps. The 70-foot high stone and brick lighthouse is located on the most northerly point of land along the south shore of Lake Ontario. The lighthouse operated from 1875 until 1958, when a steel tower with an automatic revolving light replaced it. In 1984, New York State took possession of the abandoned building from the United States Coast Guard for the purposes of including the property in Golden Hill State Park. At that time the structure was listed on the Federal and State Registers of Historic Places.

The Babcock House Museum, built in 1848, occupies a cobblestone farmhouse at 7449 Lake Road. The structure is owned by the AES Somerset, LLC but furnished and maintained by the Town of Somerset Historical Society. The structure is historically significant because it was the farmstead home of Jephtha Babcock, the first postmaster in the western section of Town, Supervisor of the Town of Somerset and a NYS Assemblyman.

Within the Town of Somerset, archaeological resources may also be found. In this regard, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) was queried to determine if any known archaeological or additional historic resources are known to exist within the study area or if the entire area has been identified as a zone of archaeological sensitivity. According to the OPRHP response, there is a documented archeological site in or adjacent to the LWRP study area. Therefore, a phase 1 archeological survey may be required during the approval process for any project(s) located within 1 mile of the archeological site.

#### **F. Scenic Resources**

There are no Scenic Areas of Statewide Significance within the Somerset LWRA as designated by the Secretary of State. (SASS's are limited to 6 areas in the Hudson River Valley).

Although not formally designated, the scenic resources along the waterfront in the Town of Somerset are locally important. These scenic resources consist primarily of the dramatic vistas of Lake Ontario and its shoreline. Excellent views of the Lake Ontario shoreline are available from the site of the Thirty-Mile Point Lighthouse in Golden State Park. Lake Road (State Route 18), which runs parallel to the lakefront, is a segment of the NYS Seaway Trail, a designated National Scenic By-way. Scenic views are also available from the private camps and residences located along the shore. Scenic views of the lake should be protected and improved wherever possible through the Site Plan review process.

## **G. Public Infrastructure**

### **1. Water Supply**

At the present time, the entire Town of Somerset is served by public water provided from the Niagara County Water District. The source of water is the west branch of the Niagara River.

Service is provided to Barker through a 10-inch line located on Quaker Road, which connects to a 24-inch line coming easterly on NYS Route 31 from the direction of Lockport. There are also two 10-inch water mains located along Route 18 and West Somerset Road that tie into the Town of Newfane, which are part of the Niagara County Water District. An 8-inch line also extends easterly from Wilson, along Lake Road. An additional 8-inch waterline is located on Haight Road with 10-inch lines on Coleman and Johnson Creek Roads. The areas west of Golden Hill State Park on Lower Lake and Somerset Roads are served by 8-inch lines, with a 10-inch line on Carmen Road. In general, the Town is well interconnected to the Towns of Newfane and Hartland, and the water system is fairly up-to-date and in good condition.

The Town of Somerset Comprehensive Plan indicates that currently, the Town water requirements are averaging 340,000 gallons per day, for domestic and industrial use. According to the County's Comprehensive Public Water Study, this usage was forecast to increase to 1.66 MGD for the Town by 1990. However, that forecast was not realized and there are currently no quantity or quality deficiencies in the public water distribution system.

### **2. Sanitary Sewer**

The Somerset-Barker Sewer District was created in 1977. The Sewer District, serving the central area in the Town of Somerset, covers the LWRA between the AES power plant (north of Lake Road) to the mouth of Fish Creek. Sanitary sewer service is not provided to the entire LWRA. The areas served within the LWRA include Quaker Road, Hartland Road, Lower Lake Road and Somerset Drive. The Sewer District was extended around 1980 to provide domestic sewerage treatment to AES.

Dense areas of residential development within the LWRA that are not served by public sewer include Lake Shore Drive and Somerset Drive between the mouth of Fish Creek and Golden Hill State Park. Within these areas individual residences utilize on-site

septic systems. These residences are located on relatively small waterfront lots and as the on-site septic systems fail health and safety issues arise. Newer and replacement systems often are required to be sand filter systems, which are both more expensive for the homeowner and demand more treatment area. In the future, as older systems fail and newer in-fill development occurs, the Town will continue to receive pressure to expand the sewer district and provide service to this relatively dense residential area.

The wastewater treatment plant is located within the LWRA, on a 40-acre tract of land in the southwest corner of the intersection of Lower Lake Road and Quaker Road. The treatment plant discharges directly into Lake Ontario from an outfall approximately 1,500 feet into the lake from a point situated at the east of Camp Kenan.

According to the Town of Somerset Comprehensive Plan, October 2002, the sewage treatment system has sufficient surplus capacity to meet the projected population growth through the year 2025. The current SPDES permit is valid until June 2006. The plant has a design capacity of 278,000 gallons per day. It currently is operating at 110,000 gallons per day with seasonal fluctuations to over 200,000 gallons per day. There is an on-going project to improve aeration in the lagoons, but otherwise there are not operational problems effecting effluent quality. Future development within the LWRA should be directed to occur within the existing sewer service area.

### 3. Stormwater

The Town of Somerset does not have a closed drainage system. Stormwater is conveyed through open ditches. The Village of Barker stormwater sewer system contains four independent tile systems, which deliver the surface water to open drainage ways and then to Golden Hill Creek, or directly to the creek. The Village system has been operational since its inception in the early 1900's. However, areas of more recent development and areas adjacent to the Village have not yet been included in the Village's storm drainage system and continue to utilize open ditches. All of the stormwater collected within the Village and southern portions of Town eventually drains through the LWRA via a system of roadside ditches that drain to the creeks which discharge to Lake Ontario.

Because of proper highway construction and an annual program to maintain and clean ditches, storm water runoff has not become a major problem in the Town in general, nor in the LWRP in particular. This program has successfully minimized flood conditions and has helped to maintain the viability of active farmland. Efforts

must be continued to keep roadside ditches and culverts open and free from growth and debris. Further more, drainage considerations must be included in all development proposals.

#### 4. Solid Waste Disposal

The Town contracts with private solid waste haulers for solid waste collection. Refuse collection and disposal is arranged through the Niagara County Solid Waste Consortium, which provides options to bid refuse collection and disposal services jointly with other Towns. Waste collection and disposal is contracted with American Refuel until 2008. Current contractual arrangements provide for collection and disposal, recycled material collection and disposal, and the disposal of large items and white goods on a weekly basis. The Town also arranges for an annual curbside tire pickup by Town work forces and disposal by private contract.

Agrilink Comstock Michigan Fruit and Mayer Brothers are large generators of solid waste in the Town and Village. They are able to dispose of their own organic waste on site, in a manner frequently monitored by and approved under State Health Department regulations. The AES generating station also produces large amounts of solid waste materials, which are stockpiled on site and disposed of in a regulated manner. There are no disposal facilities for municipal solid waste located within the LWRP study area.

#### 5. Transportation System

As a predominantly rural town, the Town of Somerset has a relatively simple roadway system. Lake Road (NYS Route 18) is the principal east-west route in the Town, and Quaker (NYS Route 148) is the main north-south route. Along with Niagara Orleans County Line Road (NYS Route 269), Lake Road and Quaker Road are the only State routes in Somerset. All other roadways are under local or County jurisdiction.

Lake Road is the primary east-west highway providing access to the LWRA. In the eastern half of the study area, Lower Lake Road provides access to a series of residential streets along the lake shore, including Huntington Beach Road, Lakeview Drive, Coates Road, Brown's Camp Road, Lakeshore Drive, Somerset Drive, Snell Grove Road, Haight's Park, Hass Road, and Carmen Road. With few exceptions the residential roads have one point of access onto Lower Lake Road.

Hosmer Road, Hartland Road, Quaker Road, Johnson Creek Road, Burgess Road, Carmen Road and Niagara Orleans County Line Road provide north-south access to the Somerset waterfront. Within the LWRA, Quaker Road, north of Lake Road, is a Town Road. Lovers Lane has been abandoned and is no longer maintained by the Town.

Traffic counts indicate that Route 18 (Lake Road) and Hartland Road handle the most traffic. According to 2002 NYSDOT traffic data, NYS Route 148 had 3,150 vehicles reported in the section between County Road 135, Hartland /Somerset Town Line Road and NYS Route 18. According to average daily traffic count data collected by the New York State Department of Transportation in 2002, NY Route 148 had 3150 vehicles on the section between CR 135, Hartland Somerset Town Line Road and NY Route 18. There is no indication that any roadways currently operate at a failing level of service. There are no significant traffic problems in Town in general or within the LWRA in particular.

An active rail line runs through the western end of the Town, with a spur to the AES power generating station. This spur is included in the LWRA. The railroad right-of-way continues eastward through the Town, but this portion of the rail line is in private ownership and is not in operation. There is no public transportation service in Somerset.

According to the 1998 Bicycle Master Plan prepared by the Niagara Frontier Transportation Committee (now known as the GBNRTC), there are no existing designated bicycle routes in the Town of Somerset. That plan recommends establishing a bike route along the Lake Ontario shore for the full length of Niagara County, including the Town of Somerset. In Somerset, the route is shown along Lake Road to Quaker, along Quaker to Lower Lake Road, and continuing east to the County line. The New York Seaway Trail follows Lake Road (NYS Route 18) in the vicinity of the Somerset LWRA.

## **H. Water Quality**

The New York State Department of Environmental Conservation (NYSDEC) assigns a water quality stream classification to surface waters in New York State, which identifies the best usage for that stream. Fish Creek and Golden Hill Creek are classified as Class C fresh surface waters and are not classified as protected streams. Therefore, NYSDEC does not regulate stream crossings or stormwater discharges into

these creeks. NYSDEC identifies the best usage for Class C streams as fishing and recreation. According to 6 NYCRR Part 701 Classifications - Waters and Groundwaters, Class C streams have conditions suitable for primary and secondary contact recreation (although other factors may limit their use for these purposes). These waters are suitable for game fish survival.

The creeks are the discharge points for stormwater drainage in the Town. Which is conveyed to these waterbodies through open roadside ditches and outfall pipes. Outfalls are typically considered point source locations for the introduction of pollutants carried in stormwater. Depending on the type of development present, stormwater runoff can be a source of metals, organic compounds, nutrients or other contaminants, in addition to pathogens. Measures can be implemented to reduce contaminant loadings in the effluent. This approach typically involves expensive structural devices that address a relatively small portion of the entire contributing watershed area, but can be effective for localized water quality problems. At present, there is no indication that the quality of the stormwater effluent delivered to Fish Creek and Golden Hill Creek is degraded to the extent that it would require this type of mitigation. A more feasible means of improving the quality of stormwater flows in the Town and Village, that reach Lake Ontario, would be to institute a best management approach, as discussed below.

The primary impact to water quality in the Somerset LWRA is non-point source pollution. Non-point source pollution is pollution that reaches a surface water body through unconfined or indiscrete means. Examples include stormwater sheet or overland flow (i.e. – unchanneled flow from paved surfaces, buildings and construction sites) which carries animal wastes, road oil and other automotive by-products, pesticides and fertilizer; and groundwater infiltration that can carry contaminants from faulty cesspools or septic tanks or toxins from other sources of pollution. The best way to control the rate of non-point contaminant generation and transport in upland areas is through the use of "best management practices" such as reducing fertilizer and pesticide applications, proper disposal of pet wastes, automobile waste oils, etc. and other non-structural means. This approach is relatively inexpensive as compared to the costs of employing structural measures to mitigate point source pollution. Public Education is an important means of implementing best management practices. Vessel waste discharges are another potential source of water pollution, particularly in areas where vessels are docked in higher concentrations. Due to the lack of a marina in the LWRA, vessel waste discharges have not been identified as a problem in the study area.

## **I. Topography, Geology and Soils**

Somerset is located within the Iroquois Plain, which extends from the south shore of Lake Ontario, southerly to the Niagara Escarpment. The Escarpment traverses, in an east-west direction, the Towns of Lewiston, Cambria, Lockport, and the northern part of Royalton. North of the Escarpment elevations of below 500 feet are most common. Lake Ontario itself is at an elevation of approximately 250 feet above sea level. The Town of Somerset, which lies between the Escarpment and the Lake, ranges in elevation from a high of approximately 370 feet above sea level at the south town line, near Johnson Creek Road, to a low of 250 feet at lake level within the LWRA.

The Town, overall, has an elevation difference of approximately one-foot per thousand feet (0.1 percent) throughout its north-south length, to approximately Lower Lake Road. Within the LWRA, from Lower Lake Road northward, topography recedes toward the Lake at a rate of 50 feet per 1000 feet, or 5 percent slope. Areas to the west of Quaker Road have steeper topography up to 6 to 8 percent slopes on the northern extension of Hartland Road and Lower Lake Road. Immediately adjacent to the Lake, there are bluffs of 20 to 40 feet for approximately 80 percent of the Town's lakefront. These bluffs have in the past, constrained lakefront development. The majority of lakefront residential and recreational development has encroached on the lakefront bluffs north of Lakeview Drive in an area from Quaker Road, easterly to Golden Hill State Park.

According to the Niagara County Soil Survey (USDA Soil Conservation Service, 1972), the LWRA is primarily comprised of glacial till with sandstone and limestone fragments deposited shortly after the ice age. The majority of the soil in the LWRA is comprised of Hilton silt loam, Collamer silt loam, and Rhinebeck silt loam, which is usually found parallel to the Niagara escarpment. These soils are considered valuable for raising crops.

Soils within the Town vary greatly because of their initial creation as glacial drift deposits mixed with alluvium from the prehistoric recession of Lake Ontario. Although deposits of gravel are common in glacial formations, most of the soils in Somerset are alluvial deposits of silt and are heavy textured. Silts in particular have a soil composition in which moisture cannot be retained and a tight structure through which water cannot pass. This impervious soil structure, which inhibits the absorption of moisture, can be found in many areas of the Town outside the LWRA.

The majority of soils in the Town can be agriculturally productive if they have good natural drainage or can be mechanically drained by tile lines or ditches. High soil suitability for grain crops, fruits, and some vegetables coupled with late springs and long falls (typical along Lake Ontario) combine to provide better growing conditions than in most other areas within the state. These two natural phenomena help to explain the relative stability that farming has had in the Town of Somerset.

Most of the soils in the Town will not readily accept dense urban development without the extensions of water and sewer lines, because of high water tables and impermeable soils. The existing areas of the Village and Town with sewer service contain sufficient capacity to more than accommodate the needs for future urban growth during the next ten to twenty years. Urban growth will benefit the public investments (sewer and water lines costs) if it is concentrated within the existing sewer and water district areas, in the following ways:

Permit less costly district charges and maintenance costs for landowners.

Promote a sense of community and neighborhood ties that cannot be created by scattered sprawl development along major highways.

Indirectly stabilize and enhance the area's agricultural-economy by reducing the potential of scattered residential development throughout the farming areas.

## **J. Natural Resources**

### 1. Wetlands and Habitats

Under the New York State Freshwater Wetlands Act NYSDEC has prepared wetlands maps for the Town of Somerset, which are on file with the Town. The Town has adopted a wetland law, which is codified as Chapter 109 - Freshwater Wetlands of the Code of the Town of Somerset. The largest wetland areas in the Town are located outside the LWRA, in the southern portion of the town near the Town of Hartland.

Within the LWRA there are approximately 469 acres of federal jurisdictional wetlands, 360 acres of which are along the Lake Ontario shoreline. They primarily follow the creeks and tributaries. The Army Corps of Engineers (ACOE) regulates all activities that occur or are proposed within or near a potential wetland area. The quantity of wetlands that fall under the jurisdiction of the ACOE has been uncertain in recent

years due to litigation related to isolated wetlands. At this time, isolated wetlands (those wetlands with no apparent surface water outlet) are more vulnerable to changes in surrounding land uses because they no longer fall under the permitting authority of the Army Corps. See [Map 7 – Environmental Features](#).

As noted above, the Town of Somerset is crossed by a number of creeks, the most significant one being Golden Hill Creek, which runs through the LWRA to the its outlet into Lake Ontario. These creeks not only serve an important drainage function, but also provide attractive natural settings and offer opportunities for recreation. Golden Hill Creek and Fish Creek have experienced some salmon runs, and may have the potential to become an attraction for sport fishing.

Based upon a February 2003 review of the Natural Heritage Program databases, the NYSDEC Division of Fish, Wildlife & Marine Resources has reported that there are no records of rare or state-listed animals or plants, significant natural communities, or other significant habitats occurring within the LWRA boundary.

According to the Upstate New York Groundwater Management Program report of the NYSDEC, no Primary or Principal Aquifers underlie the study area.

## 2. Fish and Wildlife

According to a search of records by the New York State Department of State, Division of Coastal Resources, Coastal Habitats Unit, conducted in January 2003, no Significant Coastal Fish and Wildlife Habitat narratives or maps have been prepared for the Town of Somerset.

Salmon, Lake Trout, Rainbow Trout, and Brown Trout can be found within the western section of the Lake Ontario Shoreline. The eastern area surrounding Golden Hill State Park and the Thirty-mile Point Lighthouse are popular perch, bullhead, salmon, rainbow trout, and brown trout fishing areas. Fish Creek and Golden Hill Creek also include collections of rainbow and brown trout.

## **K. Flooding and Erosion**

### 1. Flooding

On February 3, 1982, the Federal Emergency Management Agency (FEMA) released the Flood Insurance Rate Maps (FIRM) for the Town of Somerset. The LWRA is covered by Community Panel Numbers: 360512 0005 B and 360512 0010 B. The FIRM maps delineate the final flood hazard boundaries which provide the basis for the implementation of the regular program phase of the National Flood Insurance Program within the Town. Within the LWRA the flood hazard areas (100-year floodplains) include the immediate Lake Ontario shoreline; a 100 to 400 foot wide corridor along Golden Hill Creek and a 250 to 400 foot wide corridor along Fish Creek to its outlet.

In order for property owners to take advantage of the National Flood Insurance Program (NFIP), the Town Board has adopted federally approved floodplain management regulations to manage land use and development within the designated flood hazard areas (Chapter 104 of the Town Code). Flood hazard regulations were developed as part of the Town's Coastal Energy Impact Program and incorporated into the Town's zoning ordinance. Property owners within designated flood hazard areas are eligible to receive federal flood insurance and federally insured mortgage money is available to buyers.

The flood zones are established based upon the degree to which an area is susceptible to flood damage. The two general flood zones that exist within the Town of Somerset are:

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

"C" Zone – areas of minimal flooding.

The entire shoreline up to an elevation of approximately 249 above mean sea level (msl) is located within the A1 Zone. The special flood hazard area Fish Creek is in the A3 Zone and has base flood elevations ranging from 249 to 265 above msl. Golden Hill Creek, north of Lower Lake Road, is also located in the A3 Zone and has base

flood elevations from 266 to 273 above msl. Because the Golden Hill State Park is outside the Somerset Corporate limits, Golden Hill Creek within the park and its outlet are not regulated by the NFIP and, therefore, base flood elevations are not available for this downstream segment. These natural flood zones, or plains, are relatively flat areas that surround streams and are periodically inundated with water due to overbank flow. Most of the land area in the LWRA is designated as C Zone.

Development in the floodplain in the Town of Somerset is regulated under Chapter 104 – Flood Damage Prevention of the Code of the Town of Somerset. This law is designed to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Within the regulatory floodplain, Floodplain Development Permits are required for certain construction activities within the Regulated Floodway and Special Flood Hazard Area (Zones A and AE). Pursuant to Chapter 104, any development action proposed within the Special Flood Hazard Area requires review and possibly a permit from the Code Enforcement Officer, who is the designated Local Administrator of the Flood Damage Prevention Law.

## 2. Erosion

On December 27, 1988, the New York State Department of Conservation issued Coastal Erosion Hazard Area (CEHA) maps for the Town of Somerset, pursuant to Environmental Conservation Law Article 34. The CEHA maps delineate the boundaries of the areas subject to regulation under the 6 NYCRR Part 505 Coastal Erosion Management Regulations, which establish requirements for permitting, construction and other activities within these areas. Although communities have the option of adopting locally administered coastal erosion management regulations, at this time the Town does not choose to assume the responsibility for issuing coastal erosion management permits.

Under the State's coastal management oversight, only portions of the Town of Somerset shoreline are classified by the New York State Department of Environmental Conservation as a "Natural Protective Feature Area" or a "Structural Hazard Area" (See [Map 7 – Environmental Features](#)). The shoreline from the westerly Town line to a point approximately 650 feet west of Quaker Road is designated as a "Natural Protective Feature" area. A second Natural Protective Feature area begins along the shoreline of Golden Hill State Park, at a point approximately 1,300 feet west of County

Line Road and extends eastward. This area is also a designated Structural Hazard Area.

Portions of the shoreline have been armored with rock rip-rap and concrete seawalls to prevent shoreline erosion. Seawalls can be found along the base of the bluffs and the seaward extent of many shoreline residential properties in the central portion of the study the area.

#### **L. Environmental Hazards and Constraints**

In research conducted for the Town of Somerset Comprehensive Plan, October 2002, it was determined that there are no known inactive hazardous waste sites within the LWRA.

#### **M. Summary of Assets, Issues and Opportunities**

##### Assets:

While the overall population and number of households has continued to grow, the Town's rural community character and agricultural base has remained stable.

The number of farms in operation in the Town has remained essentially stable since 1992.

The Village and State Parks (including Thirty-Mile Lighthouse) provide access and recreational opportunities on the waterfront.

The New York Seaway Trail follows Lake Road (NYS Route 18) in the vicinity of the Somerset LWRA. This designated National Scenic By-way is promoted as a tourism destination.

Most of the LWRA is served by public sewers.

Soils are considered valuable for raising crops.

Significant scenic views are available of Lake Ontario from many locations along the waterfront

##### Issues:

While the industrial and commercial properties are limited in number, they account for a significant amount of land area.

The camps and campgrounds represent less intensive uses than their commercial designation implies. Because the active campground areas do not cover the entire parcel and are not intensively developed, they may be subject to development pressures.

AES Somerset power plant occupies a significant length of shoreline, over 1/4 of the study area.

There are approximately 85 vacant parcels in the LWRP study area, consisting of 1,169 acres that represent lands available for future development.

There are approximately 50 residential vacant in-fill lots along waterfront in the RLS Lake Shore Residential District.

There are several large vacant properties that may be susceptible to future subdivision and residential development, including large undeveloped properties west of AES.

Development pressures may also increase on agricultural lands within the sewer district.

Although there is shoreline protection along some residential reaches, some of the existing erosion protection structures are in various states of disrepair.

Waterfront access is limited to two points of public access at the Village's Barker Bicentennial Park and Golden Hill State Park.

Public sewer service is not provided to some dense areas of residential development. In the future, as older on-site subsurface waste disposal systems fail and newer in-fill development occurs, the Town will continue to receive pressure to expand the sewer district and provide service to this relatively dense residential area. However, as sewer service is expanded development pressures may also increase.

The primary potential impact to water quality is non-point source pollution.

Air quality at AES Somerset power generating station

Protection of AES as a water-dependent use

Protection of wetlands and habitats

State Park and WWTP are not included in the surrounding zoning district

Potential loss and reuse of Agrilink facility

Erosion of steep banks.

There are no marinas or permanent docks within the LWRA primarily due to a combination of factors including, steep bluffs and bottom conditions. It is not anticipated that local demand will increase to a level justifying the effort to overcome the physical obstacles to establishing marina facilities within the LWRA, nor is it warranted to plan for the same.

There are no ferries for transportation or recreational purposes operating out of the Somerset LWRA. Due to numerous reasons including the lack of on-shore infrastructure and offshore physical conditions the location of a ferry terminal is not warranted, nor is it compatible with the character of the Somerset Community. The lack of a natural harbor dictates a public capitol investment and potential environmental impacts that do not justify the planning for such a facility.

#### Opportunities:

The campgrounds offer an opportunity to preserve relatively large and undeveloped areas of open space along the waterfront.

Creeks and their banks remain in relatively natural condition.

Undeveloped lands along lake shore offer future opportunities for public access.

The AES multiple use plan is in place to provide for the future recreational needs of the community (approximately 30 acres).

There is capacity at the WWTP to direct future development within the LWRA to occur within the existing sewer service area.

Creeks in the LWRA not only serve an important drainage function, but also provide attractive natural settings and offer opportunities for recreation.

In January 2003, in response to a request from the Niagara County Environmental Management Council, the Somerset Planning Board recommended the following area's within the LWRA for inclusion on Niagara County's list of lands to be considered for open space protection:

The multi-use area at the northeast edge of the AES Power Plant property as the area that can be developed into parkland along the Lake Ontario shoreline.

The Salt Springs located on Quaker Road. The area was used by the Native American Indian and has historic significance.

Lover's Lane north of the Creek. This area has a ravine and is in a floodplain.

Brown's Camp and Haight's Park. Both of these camps have considerable frontage along Lake Ontario and acreage that could be utilized as parkland. Open lakefront of 200 plus acres with 4,000' frontage on Lake Ontario on the west end of the Town.

## **SECTION III – Local Waterfront Revitalization Program Policies**

Section III presents the waterfront revitalization policies and their associated standards that are used in guiding appropriate development actions for a community. These policies consider the physical, economic, environmental and cultural characteristics of the community. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and preservation that will permit the beneficial use of waterfront resources in the Town of Somerset without undue impacts. The following is a list of the Town of Somerset LWRP policies.

### **DEVELOPED WATERFRONT POLICIES**

#### Policy 1

Foster a pattern of development in the coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.

#### Policy 2

Preserve historic resources

#### Policy 3

Enhance visual quality and protect outstanding scenic resources.

### **NATURAL WATERFRONT POLICIES**

#### Policy 4

Minimize loss of life, structures, and natural resources from flooding and erosion.

#### Policy 5

Protect and improve water resources.

#### Policy 6

Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.

#### Policy 7

Protect and improve air quality.

#### Policy 8

Minimize environmental degradation from solid waste and hazardous substances and wastes.

## **PUBLIC WATERFRONT POLICIES**

Policy 9

Improve public access to and use of public lands and waters.

## **WORKING WATERFRONT POLICIES**

Policy 10

Protect water-dependent uses, promote siting of new water-dependent uses in suitable locations, and support efficient harbor operation.

Policy 11

Promote sustainable use of fish and wildlife resources.

Policy 12

Protect agricultural lands in the Somerset LWRP study area.

Policy 13

Promote appropriate use and development of energy and mineral resources.

## **DEVELOPED WATERFRONT POLICIES**

### **POLICY 1**

**FOSTER A PATTERN OF DEVELOPMENT IN THE COASTAL AREA THAT ENHANCES COMMUNITY CHARACTER, PRESERVES OPEN SPACE, MAKES EFFICIENT USE OF INFRASTRUCTURE, MAKES BENEFICIAL USE OF A LAKESHORE LOCATION, AND MINIMIZES ADVERSE EFFECTS OF DEVELOPMENT.**

Somerset's waterfront area is a key component to the character of the Town. The Town of Somerset waterfront is characterized by rural landscape with small enclaves of residential development along the shoreline of Lake Ontario. The vitality of the waterfront, and the preservation of the rural character of the area, is a critical component of the land use strategy for this area. Focusing future investment to sustain the community and protects the remaining open landscape that provides

agricultural, ecological and scenic value. The intent of this policy is to foster a pattern of development that protects and improves stable residential development, improves recreational opportunities, preserves open space and agricultural uses, and reinforces the rural character of the area.

## **Policy Standards**

- 1.1 Concentrate development and redevelopment in order to revitalize and enhance the waterfronts and strengthen the traditional rural waterfront focus of a the community

New development should be located where infrastructure is adequate or can be upgraded to accommodate new development. Future development within the LWRA should be directed to occur within the existing sewer service areas.

The following planning principles should be used to guide investment and preparation of development strategies and plans:

- A. Scale development to be appropriate to the setting;
- B. Design development to highlight existing resources, such as local history and important natural and man-made features to reinforce community identity;
- C. Design the waterfront as a focus for activity that draws people to the shoreline and links the waterfront to upland portions of the community;
- D. Meet community and regional needs and market demands in making development choices;
- E. Recognize environmental constraints as limiting development; and
- F. Recognize the lack of sewer service as a constraint limiting development.

All development or uses should recognize the unique qualities of a lakeshore location by:

- A. Using building and site design to make beneficial use of a waterfront location and associated lakeshore resources;
- B. Minimizing consumption of waterfront lands and potential adverse impacts on natural resources;
- C. Limiting shoreline alteration and surface water coverage;
- D. Incorporating recreational activities, public access, open space, or amenities, as appropriate to the use, to enhance the site and the surrounding community, and to increase visual and physical access to the coast;
- E. Attracting people to the lakefront, as appropriate to the use;
- F. Ensuring that design and siting of uses and structures complements the surrounding community and landscape;

- G. Using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demand; and
- H. Reinforcing community identity by highlighting local history and important natural and man-made features.

1.2 Ensure that development or uses make beneficial use of their waterfront location.

The amount of waterfront and its associated resources are limited. All uses should relate to the unique qualities associated with a waterfront location. Consideration should be given to whether a use is appropriate for a waterfront location. When planning waterfront development or redevelopment, the waterfront location should be reflected in the siting, design, and orientation of the development.

Water-dependent uses

Water-dependent uses should be promoted where appropriate and given precedent over other types of development at suitable waterfront sites. Existing water dependent uses should be protected.

Water-dependent uses are activities which require a location in, on, over, or adjacent to the water because the activities require direct access to water and the use of water is an integral part of the activity.

Development which is not dependent on a waterfront location or which cannot make beneficial use of a waterfront location should be avoided in the currently vacant areas along the waterfront.

It is recognized that the AES power generating station is a long-term water dependent use that will continue its operations Somerset. However, expansion or addition of non-water dependent uses should be avoided along the waterfront.

Water-enhanced uses

Water-enhanced uses may be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their waterfront location.

Water enhanced uses are activities that do not require a location on or adjacent to the water to function, but whose location on the waterfront could add to public enjoyment and use of the water's edge, if properly designed and sited. Water-

enhanced uses are generally of a recreational, cultural, commercial, or retail nature.

To ensure that water-enhanced uses make beneficial use of their waterfront location, they should be sited and designed to:

- A. Attract people to or near the waterfront and provide opportunities for access that is oriented to the coast;
- B. Provide public views to or from the water;
- C. Minimize consumption of waterfront land; and
- D. Not interfere with the operation of water-dependent uses.
- E. not cause significant adverse impacts to community character and surrounding land and water resources
- F. where appropriate, improve public access to waterfront

Uses should be avoided that would:

- A. Result in unnecessary and avoidable loss of lakeshore resources;
- B. Ignore their waterfront setting as indicated by design or orientation; and
- C. By their nature, not derive an economic benefit from a waterfront location.

The existing camps and campgrounds are water-enhanced uses. Due to the lack of significant pressure for new development, it is anticipated that the camps will remain in operation. However, in the future, if the camps and campgrounds are proposed for re-development, priority should be given to water-dependent and water-enhanced uses over or non-water dependent commercial or industrial uses. This policy is reflected in the recently adopted (2003) Comprehensive Plan, which presents a Vision map promoting waterfront uses along the shoreline. Proper site planning (to protect the shoreline and promote public access) is facilitated by the Town's authority to utilize its existing cluster development regulations.

Since much of the existing waterfront land use is residential, in-fill development in existing residential areas should continue to be allowed in existing sewer service areas.

When deemed necessary by the Town, an overlay district should be established in order to provide enhanced use and design controls while maintaining the underlying residential and agricultural designations within the LWRA.

### 1.3 Maintain and enhance natural areas, recreation, open space, and agricultural lands

Natural areas, agricultural lands, open space, and recreational land produce public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for ecologically important fish and wildlife, provide watershed management of flood control benefits, serve to recharge groundwater and maintain links to a region's agricultural heritage.

To enhance community character and maintain the quality of the natural and man-made environments, potential adverse impacts on existing development, physical environments, and economic factors should be addressed and mitigated. Development requirements should reflect site characteristics, limit the disturbance of land and water, and foster visual compatibility of the development with surrounding areas.

Adverse impacts on natural resources should be avoided, including:

- A. Deterioration of water quality;
- B. Loss, fragmentation, and impairment of habitats and wetlands; and
- C. Alterations to natural protective features and changes to the natural processes of erosion and accretion that lead to increased erosion rates, damage by lake storms, and tidal flooding.

Special consideration should be given to protecting stands of large trees, unique forest cover types and habitats, and old fields. The open space value of agricultural land should be protected, preferably through retention of agricultural production.

The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote growth and development detrimental to natural resources and agricultural productivity.

At this time the Town does not have the funds available to develop the recreation features in the Multi-use Plan. Nor does the Town believe that there is sufficient demand for a park at this time in that location. However, The Town should retain its options to implement the Multi-use Plan in the future to meet the recreation needs of the Town. At such time as demand and fund are in place, development of the Multi-use Plan should focus on public access to the waterfront.

- 1.4 Minimize potential adverse land use, environmental, and economic impacts that would result from proposed development

To enhance community character and maintain the quality of the natural and man-made environments of the waterfront area, potential adverse impacts on existing development, physical environments, and economic factors should be addressed and mitigated. Development requirements should reflect existing site characteristics, limit the disturbance of land and water, and foster visual compatibility of development with surrounding areas.

Cumulative and secondary adverse impacts from development and redevelopment should be minimized. Cumulative impacts are the result of the incremental or increased impact of repetitive actions or activities when added to other past, present, or future actions or activities. Secondary impacts are those that are foreseeable, but occur at a later time or at a greater distance from the action, and are caused by an action or activity, whether directly or indirectly.

Potential adverse impacts on existing development should be minimized, as follows:

- A. Avoid introduction of discordant features which would detract from the community by comparing the proposed development with existing mass and distribution of structures, scale, intensity of use, architectural style, land use pattern, or other indicators of community character;
- B. Mitigate adverse impacts among existing incompatible uses by avoiding expansion of conflicting uses, promoting mixed-use development approaches which would reduce potential for conflict, mitigating potential conflicts by segregating incompatible uses, and providing buffers, or using other design measures to reduce conflict between incompatible uses;
- C. Protect the surrounding community from adverse impacts due to substantial introductions of or increases in visually intrusive uses, odors, noise or traffic;
- D. Integrate waterfront areas with upland communities by: providing physical linkages between the upland community and the waterfront, matching uses to community needs, particularly as related to demographic characteristics, and limiting exclusion of the waterfront from the surrounding community; and
- E. Prevent displacement or impairment of the operation of water-dependent and water-enhanced uses.

Potential adverse economic impacts should be minimized, as follows:

- A. Prevent deterioration of the site and surrounding area by preventing derelict or dilapidated conditions, avoiding detracting from community character, and preventing isolation of community and people from the waterfront;
- B. Protect and enhance the community's economic base;
- C. Promote a diverse economic base; and

- D. Where expansion of infrastructure or services is necessary:
- (1) increase existing facility and service capacity and efficiency to foster concentration of development,
  - (2) where feasible, expand sewer service areas to currently un-served residential areas, and
  - (3) avoid expansion of improvements and services into previously undeveloped areas.

#### 1.5 Protect stable residential areas

New development located in or adjacent to existing residential areas should be compatible with neighborhood character. New development can result in a reduction of informal public access points, which may be of significance to a residential area. The potential loss of these informal public access points emphasizes the need to foster opportunities to provide new public access points for the community.

New non-residential uses in a stable residential area should be avoided when the use, its size and scale will significantly impair neighborhood character. New construction, redevelopment, and screening, such as fences and landscaping, should not reduce or eliminate vistas that connect people to the water.

## **POLICY 2**

### **PRESERVE HISTORIC RESOURCES.**

Archaeological sites and historic structures are tangible links to the past development of a community-both its cultural and economic life-providing a connection to past generations and events. In the Town of Somerset, there are few identified archaeological or historical resources of statewide significance. Those that are known (Thirty-Mile Point Lighthouse and Babcock House), as well as those that may be identified in the future, are important components in defining the community's distinctive identity and heritage. Therefore, the effective preservation of historic resources must include efforts to identify, document restore and revitalize important resources, where appropriate.

The intent of this policy is to preserve the historic and archaeological resources of the Somerset LWRA. Concern extends not only to the specific site or resource, but with the area adjacent to and around specific sites or resources. The quality of adjacent areas is often critical to maintaining the quality and value of the resource. Effective

preservation of historic resources must also include active efforts, when appropriate, to restore or revitalize. While the Somerset LWRP addresses all such resources within the waterfront area, it actively promotes preservation of historic, archaeological, and cultural resources that have a waterfront relationship.

In addition to the above noted historic structures, historic resources that would be covered under this policy include those structures, landscapes, districts, areas or sites, or underwater structures or artifacts, which are listed or designated as follows:

- A. Any historic resource in a federal or state park established, solely or in part, in order to protect and preserve the resource;
- B. Any resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places;
- C. Any cultural resource managed by the New York State Nature and Historic Preserve Trust or the New York State Natural Heritage Trust;
- D. Any archaeological resource which is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation, and Historic Preservation; and
- E. Any locally designated historic or archaeological resources protected by a local law or ordinance.

In identifying those elements that are important in defining the character and value of a historic resource, designation information, available documentation, and original research should be used. Important character-defining elements of the historic resource should be identified in terms of its:

- A. Time, place, and use;
- B. Materials, features, spaces, and spatial relationships;
- C. Setting within its physical surroundings and the community; and
- D. Association with historic events, people, or groups.

The value of the historic resource as indicated by:

- A. Its membership within a group of related resources which would be adversely impacted by the loss of any one of the group of resources;
- B. The rarity of the resource in terms of the quality of its historic elements or in the significance of it as an example; or
- C. The significance of events, people, or groups associated with the resource.

## **Policy Standards**

### 2.1 Maximize preservation and retention of historic resources

Preserve and retain the historic character-defining elements of the resource. Use the following standards to achieve the least degree of intervention.

- A. Protect and maintain historic materials and features according to the following approach:
  - (1) Evaluate the physical condition of important materials and features;
  - (2) Stabilize materials and features to prevent further deterioration;
  - (3) Protect important materials and features from inadvertent or deliberate removal or damage; and
  - (4) Ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.
- B. Repair historic materials and features according to recognized preservation methods when their physical condition warrants.
- C. When a historic feature is missing or the level of deterioration or damage precludes maintenance or repair:
  - (1) Limit the replacement of extensively deteriorated features or missing parts to the minimum degree necessary to maintain the historic character of the resource.
  - (2) Maintain historic character where a deteriorated or damaged feature is replaced in its entirety. In replacing features, the historic character of the resource can be best maintained by replacing parts with the same kind of material. Substitute materials may be suitable if replacement in kind is not technically or economically feasible and the form, design, and material convey the visual appearance of the remaining parts of the feature.
  - (3) When re-establishing a missing feature, ensure that the new feature is consistent with the historic elements of the resource. If adequate historical, pictorial, and physical documentation exists so that the feature may be accurately reproduced, use available documentation to

design and construct a new feature. If adequate documentation does not exist, design and construct a new feature that is compatible with the remaining features of the resource. The new design should be based on research, pictorial, and other evidence so that a true historical appearance is created.

- D. Provide for efficient, compatible use of the historic resource.
- E. Foster uses that maximize retention of the historic character of the resource:
  - (1) Maximum retention of historic character is best achieved by using the resource as it was historically used; and
  - (2) If the resource cannot be used as it was historically used, adapt a use to the historic resource that maximizes retention of character-defining materials and features.
- F. Minimize alterations to the resource to preserve and retain its historic character.
  - (1) Minimize potential negative impacts on the resource's historic character due to necessary updates in systems to meet health and safety code requirements or to conserve energy.
  - (2) Make alterations to the resource only as needed to ensure its continued use and provided that adverse impact on the resource is minimized. Alterations should not obscure, destroy, or radically change character-defining spaces, materials, features, or finishes in order to minimize adverse impact on the resource. Alterations may include selective removal of features that are not historic elements of the resource and its setting and that detract from the overall
  - (3) historic character of the resource.
  - (4) Construct new additions only after it is determined that an exterior addition is the only viable means of assuring continued use of the resource.
  - (5) In constructing new additions, use appropriate design and construction to minimize adverse impact on the resource's historic character. Adverse impact can be minimized in new additions by: clearly differentiating from historic materials and features; using design compatible with the historic materials, forms and details, size, scale and proportion, and massing of the resource to protect the integrity of the resource and its setting. In addition, new additions should be designed such that, if removed in the future, the essential form and integrity of the historic resource and its setting would not be impaired.
- G. Minimize loss of historic resources or the historic character of the resources of the waterfront when it is not possible to completely preserve and retain the resource.
- H. Relocate an historic resource when it cannot be preserved in place and the resource is imperiled:

- (1) directly by a proposed activity which has no viable alternative which would not result in adverse effects on the resource, or
  - (2) indirectly by surrounding conditions which are likely to result in degradation or inadequate maintenance of the resource
  - (3) the resource cannot be adapted for use on the existing site which would result in preservation of the resource,
  - (4) a suitable site for relocation is available, and
  - (5) it is technically and economically feasible to move the resource.
- I. Allow for demolition of the resource only when:
- (1) it is not feasible to protect the resource through relocation, and
  - (2) the resource has been officially certified as being imminently dangerous to life or public health, or
  - (3) the resource cannot be adapted for any use on the existing site or on any new site
- J. Document in detail the character-defining elements of the historic resource in its original context prior to relocation or demolition of the resource.
- K. Avoid potential adverse impacts of development on adjacent or nearby historic resources.
- L. Protect historic resources by ensuring that development is compatible with the historic character of the affected resource.
- M. Design development to a size, scale, proportion, mass, and with a spatial relationship compatible with the historic resource.
- N. Design development using materials, features, forms, details, textures, and colors compatible with similar features of the historic resource.
- O. Limit adverse cumulative impacts on historic resources.
- (1) Minimize the potential adverse cumulative impact on a historic resource, which is a member of a group of related resources that may be adversely impacted by the loss or diminution of any one of the members of the group.
  - (2) Minimize the potential cumulative impacts of a series of otherwise minor interventions on a historic resource.
  - (3) Minimize potential cumulative impacts from development adjacent to the historic resource.

## 2.2 Protect and preserve archaeological resources

Conduct a cultural resource investigation when an action is proposed on an archaeological site, fossil bed, or in an area identified for potential archaeological sensitivity on the archaeological resources inventory maps prepared by the New York State Department of Education.

- A. Conduct a site survey to determine the presence or absence of cultural resources in the project's potential impact area.
- B. If cultural resources are discovered as a result of the initial survey, conduct a detailed evaluation of the cultural resource to provide adequate data to allow a determination of the resource's archaeological significance.

If impacts are anticipated on a significant archaeological resource, minimize potential adverse impacts by:

- A. Redesigning the project;
- B. Reducing direct impacts on the resource; and
- C. Recovering data prior to construction.

Avoid disturbance or adverse effects on any object of archaeological or paleontological interest situated on or under lands owned by the State of New York. These resources may not be appropriated for private use.

### 2.3 Preserve and enhance the historic Thirty Mile-Point lighthouse.

The Thirty-Mile Point lighthouse adds significantly to the character of the Somerset waterfront community.

Provide for the long-term protection of Thirty-Mile Point lighthouse, which is listed in the National or State Register of Historic Places through the least degree of intervention.

- A. Protect the historic lighthouses from erosion hazards.
- B. Use nonstructural methods such as beach nourishment as the first choice in providing protection from erosion hazards
- C. Relocate the historic lighthouse if imperiled by erosion hazards that cannot be managed by nonstructural methods. The lighthouses should be relocated to an adjacent sites, whenever feasible, as determined by economics and

engineering constraints. In relocating the lighthouse, particular attention should be given to preserving the original context and function. In addition, any decision to relocate the lighthouse should provide for a sufficient period of protection to warrant the expenditure of funds for relocation.

D. Use hard structural erosion control measures to preserve the lighthouse only if:

- (1) The lighthouse is clearly imperiled by erosion hazards;
- (2) Relocation is not feasible based on economic or engineering constraints;
- (3) Nonstructural approaches would not provide sufficient protection; and
- (4) Hard structures would not adversely affect coastal processes.

2.4 Preserve and enhance the historic Babcock House Museum on Lake Road.

Provide for the long-term protection of the Babcock House Museum. In the event that AES Somerset, LLC proposes to develop or sell the 178-acre parcel, on which the Babcock House is located, measures must be put into place to ensure the continued preservation and maintenance of the museum, its associated out-buildings and a surrounding parcel large enough to ensure that their historic significance is not significantly diminished.

### **POLICY 3**

#### **ENHANCE VISUAL QUALITY AND PROTECT OUTSTANDING SCENIC RESOURCES.**

Waterfront landscapes possess inherent scenic qualities. The presence of water and ever-changing expansive views, the ephemeral effects of wildlife and atmospheric changes, and the visually interesting working landscape draw people to the water's edge. Due to their importance, scenic resources should be considered in balancing wise use and conservation of waterfront resources.

From various points along the Somerset waterfront, there are excellent views of Lake Ontario and its shoreline. Significant views are available from Thirty-Mile Point within Golden Hill State Park, Lower Lake Road and from some vantage points along Lake Road (Route 18). The New York Seaway Trail follows Route 18 through the Town of Somerset. The Seaway Trail is the only National Scenic By-way in New York State. National Scenic By-ways are areas that possess outstanding qualities that exemplify the regional characteristics of our nation. This designation for the corridor through

Somerset is important and should be recognized as such. Efforts should be taken to protect and where possible, to improve the visual quality and visual accessibility of the waterfront area.

### 3.1 Protect and improve visual quality throughout the waterfront.

The visual quality of Town of Somerset waterfront is an important component in the character of this area. Waterfront uses often include residential and recreational activities, infrastructure, and changes to the landscape that add visual interest. Some of these uses include elements that may not in themselves be considered scenic, yet contribute interest to the landscape. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial lighting or massive structural elements in open areas, should be discouraged.

The Thirty-Mile Point Lighthouse in Golden Hill State Park represents a structure that is significant both culturally and scenically and should be preserved and protected.

Wetlands, important open space, including upland areas and the expanse of water, and shorelines in natural conditions all contribute to scenic quality. Along the Somerset shoreline, the bluffs are the most significant natural feature adding to the scenic value of waterfront. These resources should be protected.

### 3.2 Protect aesthetic values associated with recognized areas of high scenic quality

There are no designated Scenic Areas of Statewide Significance; designated areas under Protection of Natural and Man-made beauty (Article 49 of ECL), designated scenic rivers, or other governmentally recognized scenic resource areas in the Somerset LWRA.

Route 18 runs through the western portion of the Somerset LWRA. Route 18 is part of the New York Seaway Trail, the only National Scenic By-way in New York State. National Scenic By-ways are areas that possess outstanding qualities that exemplify the regional characteristics of our nation. This designation for the corridor through Somerset is important and should be recognized as such. Efforts should be taken to protect and where possible, to improve the visual quality and visual accessibility of the waterfront area.

## **NATURAL WATERFRONT POLICIES**

### **POLICY 4**

#### **MINIMIZE LOSS OF LIFE, STRUCTURES, AND NATURAL RESOURCES FROM FLOODING AND EROSION.**

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. The Town of Somerset contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Flood Insurance Rate Maps. The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 104 of the Town Code – Flood Damage Prevention. This law is designed to promote the public health, safety and general welfare and to minimize public and private loss due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 104, any development action that is proposed within regulated flood zones requires a permit from the Town Code Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix B).

In the Town of Somerset, flooding has been known to occur along Fish Creek and Golden Hill Creek and the shoreline of Lake Ontario is subject to high velocity wind and wave action from lakefront storms. Portions of the lakeshore have experienced erosion problems and required reinforcement due to the impacts of lake storm events.

In response to existing or perceived erosion and flood hazards, many landowners construct erosion control structures. While some erosion control structures are necessary to protect development, there are many erosion control structures located along the shoreline are not necessary for erosion protection.

Although some sections of the coast have been heavily fortified, significant stretches remain in a natural state. Other areas have been hardened in the past, but those structures are now in disrepair. The natural shoreline has an inherent natural, social, and economic value that should be respected to ensure continuing benefits. Consequently, those portions of the Lake Ontario shoreline that are not fortified should generally remain in a natural condition to respond to coastal processes. Where

feasible and appropriate, portions of the shoreline that have been hardened should be returned to a natural condition.

Development and redevelopment in hazard areas needs to be managed to reduce exposure to flooding and erosion hazards. Hardening of the shoreline is to be avoided except when alternative means, such as soft engineering alternatives, beach nourishment or revegetation, are impractical to protect principal structures or extensive public investment (land, infrastructure, facilities).

This policy seeks to protect life, structures, and natural resources from flooding and erosion hazards. The policy reflects State flooding and erosion regulations and provides measures for reduction of hazards and protection of resources.

Policy standards are divided into seven sections. Section 1 presents standards directed at protection of life and property, including measures for minimizing losses from flooding and erosion arranged in order of priority, ranging from avoidance to hard structural approaches. Section 2 addresses natural protective features. Section 3 addresses protection of public lands or public trust lands. Section 5 establishes conditions for expenditure of public funds for management of flood and erosion hazards contingent on public benefit.

## **Policy Standards**

4.1 Minimize losses of human life and property damage by locating structures and other development away from flooding and erosion hazards

A. Use hard structural erosion protection measures for control of erosion only where:

- (1) Vegetative approaches to control erosion are not effective;
- (2) Construction of a hard structure is the only practical design consideration and is essential to protecting upland uses;
- (3) The proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
- (4) Practical vegetative methods have been included in the project design and implementation.

B. In all areas of special flood hazards the following standards are required.

Anchoring -

- (1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.

- (2) All manufactured homes shall be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist floatation, collapse and lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Construction materials and methods -

- (1) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

Utilities -

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision proposals -

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

Encroachments -

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section 104-13A(3) of the Flood Damage Prevention Law. This may require the submission of additional data to assist in the determination.

- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to the provisions of Sections 104-13B or 104-14d(4) of the Flood Damage Prevention Law, and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 104-13B, the requirements of Section 104-16 of the Flood Damage Prevention Law shall apply.

C. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 104-6 104-13B of the Town of Somerset Flood Damage Prevention Law, the following standards are required.

Residential construction - New construction and substantial improvements of any residential structure shall comply with the following:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch shall be provided for every square foot of enclosed area subject to flooding;
  - b. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
  - c. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Non-residential construction - New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevations shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - b. The bottom of all such openings shall be not higher than one (1) foot above the lowest adjacent finished grade; and

- c. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
- a. A licensed professional engineer or architect shall develop and/or review structural designs, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - b. A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (3) The Town of Somerset Local Flood Law Administrator shall maintain, on record, a copy of all such certificates noted in this policy.

Construction standards for areas of special flood hazards without base flood elevations, include the following:

- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated to or above the base flood elevation as may be determined in Section 104-13B of the Flood Damage Prevention Law or two (2) feet above the highest adjacent grade where no elevation data is available.
- a. New construction or substantial improvements of structures, including manufactured homes shall have the lowest floor (including basement) elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
  - b. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
    - a minimum of two (1) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding
    - the bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade
    - openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

#### 4.2 Maintain erosion protection structures to protect public health and safety and reduce erosion hazards

The erosion protection structures located along the central portion of the lakefront are in various states of disrepair. To protect public health and safety, and reduce

erosion hazards, lakefront property owners are encouraged to repair or replace concrete seawalls, rock rip rap and other erosion protection structures, to the greatest extent possible. The New York State Department of Environmental Conservation will work with residents and continue to permit the replacement of these structures or the installation of new structures in accordance with 6 NYCRR Part 505 (Coastal Erosion Management Regulations) and Part 608 (Protection of Water).

#### 4.3 Minimize loss of structures and natural resources in floodways

Located within areas of special flood hazards are areas designated as floodways. The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces.

When floodway data is available for a particular site (as provided by Subsections 104-6 and 104-13B of the Flood Damage Prevention Law), all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

#### 4.4 Preserve and restore natural protective features

Natural protective features along Lake Ontario and the tributary creeks and streams include beaches, dunes, bluffs, and wetlands, and associated natural vegetation.

##### A. Maximize the protective capabilities of natural protective features by:

- (1) Avoiding alteration or interference with areas of the Lake Ontario shorelines currently in a natural condition;
- (2) Enhancing existing natural protective features;
- (3) Restoring the condition of impaired natural protective features, wherever practical; and
- (4) Using practical vegetative approaches to stabilize natural shoreline features.

#### 4.5 Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects

- ##### A. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.

- B. Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.
  - C. Provide and maintain compensatory mitigation of unavoidable impacts to ensure that there is no adverse impact to adjacent property, to natural coastal processes and natural resources, or to public trust lands and their use.
- 4.6 Expend public funds for management or control of flooding or erosion hazards only in areas of the lakeshore that will result in proportionate public benefit

Give priority in expenditure of public funds to actions that protect public health and safety, mitigate past flooding and erosion, protect areas of intensive development, and protect substantial public investment (land, infrastructure, facilities).

- A. The expenditure of public funds for flooding or erosion control projects:
  - (1) Should be limited to those circumstances where public benefits exceed public costs;
  - (2) Is prohibited for the exclusive purpose of flooding or erosion protection for private development; and
  - (3) May be apportioned among each level of participating governmental authority according to the relative public benefit accrued.
- B. Factors to be used in determining public benefit attributable to the proposed flood or erosion control measure include:
  - (1) Economic benefits derived from protection of public infrastructure and investment and protection of water-dependent commerce;
  - (2) Extent of public infrastructure investment; or
  - (3) Extent of existing or potential public use.

## **POLICY 5**

### **PROTECT AND IMPROVE WATER RESOURCES.**

The purpose of this policy is to protect the quality and quantity of water in the Somerset LWRP area. Water quality considerations include the management of both point and nonpoint pollution. Water quality protection and improvement must be accomplished by the combination of managing new and remediating existing sources of pollution.

Four sections present the standards for this policy. The first section deals with both point and nonpoint sources of pollution. These standards reflect the state regulations for point source discharge, treatment of sanitary and industrial wastes, and discharges into navigable waters. Section 2 presents specific approaches for managing nonpoint source pollution according to the land use or pollution source categories. Section 3 summarizes existing regulations for protection of lake water quality. Section 4 specifically addresses cumulative and secondary impacts as related to water quality.

## **Policy Standards**

5.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets

A. Prevent point source discharges into lake waters and manage or avoid land and water uses which would:

- (1) Exceed applicable effluent limitations, or cause or contribute to contravention of water quality classification and use standards; or
- (2) Adversely affect receiving water quality.

B. Ensure effective treatment of sanitary sewage and industrial discharges by:

- (1) Maintaining efficient operation of sewage and industrial treatment facilities;
- (2) Providing, at a minimum, effective secondary treatment of sanitary sewage;
- (3) Modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
- (4) Incorporating into the design for new or upgraded wastewater treatment facilities the capacity for treatment beyond secondary treatment, if and when funding is available;
- (5) Reducing the demand on sewage treatment facilities by:
  - a. Reduce infiltration of excess water in collection and transport systems
  - b. Prevent unauthorized collection system hookups
  - c. Pretreat industrial wastes
  - d. Limit discharge volumes and pollutant loadings to or below authorized levels
  - e. Installing low-flow water conservation fixtures in all new development, and when replacing fixtures in existing development;
- (6) Controlling, and to the greatest extent possible, reducing the loadings of toxic materials into lake waters by including limits on toxic metals as part of wastewater treatment plant (WWTP) effluent permits and by enforcing any pretreatment requirement; and

(7) Use of on-site disposal systems only when it is impractical to connect with public sewer systems. Encourage residential development in areas served by sewer before non-sewer service areas.

- C. Protect surface and groundwater against contamination from pathogens and excessive nutrient loading by keeping septic effluent separated from groundwater and by providing adequate treatment of septic effluent.

This standard addresses performance of septic systems. Factors to include in assessing septic systems include water table elevation, soil porosity, and system design. Septic system capacity is an important factor, which can be controlled by reducing unnecessary organic loads. Nutrient loading to groundwater is of concern based on cumulative effects and resulting contamination of potable groundwater water and excessive nutrient loadings into surface waters including through springs and groundwater lens ponds.

- D. Encourage evaluation and remediation of on-site systems that currently do not adequately treat or separate effluent.

A desire to protect and improve water quality in the LWRA is one of the main goals of the LWRP. This goal may be achieved by continuing to encourage the implementation of best management practices in areas subject to non-point source pollution, in particular failing septic systems. Over the long-term, further water quality improvement can be achieved by extending sanitary sewers to locations with older, failing systems, such as the Lakeshore and Somerset Drive area, where there is denser residential development that utilizes on-site sanitary disposal systems. These systems may require maintenance, and in some cases replacement, to ensure the protection of water quality. The installation of public sewers into this area would eliminate the potential threats to water quality from failing septic systems. Until such time that sewer extensions can be accomplished, property owners should work with the Niagara County Health Department to obtain guidance and assistance with acceptable designs for septic system maintenance and replacement.

## 5.2 Minimize nonpoint pollution of lake waters and manage activities causing nonpoint pollution

- A. Minimize nonpoint pollution of lake waters using the following approaches, which are presented in order of priority.

(1) Limit non-point source pollution by:

- a. Reducing or eliminating the introduction of materials that may contribute to nonpoint pollution;
  - b. Avoiding activities that would increase off-site stormwater runoff and transport of pollutants;
  - c. Controlling and managing stormwater runoff to:
    - minimize transport of pollutants,
    - restore degraded stormwater natural stormwater runoff conditions and
    - achieve no-net increase of runoff where unimpaired stormwater runoff conditions exist;
  - d. Retaining or establishing vegetation to maintain and provide soil stabilization, and filtering capacity;
  - e. Preserve natural hydrologic conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems where present; and
  - f. Where natural drainage systems are absent or incapable of handling the anticipated runoff demands:
    - develop open vegetated drainage systems as the preferred approach and design these systems to include long and indirect flow paths and to decrease peak runoff flows; and
    - use closed drainage systems only where site constraints and stormwater flow demands make open water systems infeasible.
- (2) Reduce pollutant loads to lake waters by managing unavoidable nonpoint sources and use appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.
- B. Reduce nonpoint source pollution using specific management measures appropriate to specific land use or pollution source categories.

This section presents summary management measures to apply to specific land use or pollution sources. These management measures are to be applied within the context of the prioritized approach of avoidance, reduction, and management presented in the previous policy section. Further information on specific management measures is contained in Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (U.S. EPA, 840-B-92-002).

(1) Agriculture

- a. Control soil erosion and contain sediment in order to avoid entry of soils into the waters of Lake Ontario and Fish and Golden Hill Creeks.
- b. Manage nutrient loadings by applying nutrients only in amounts needed for crop growth, avoiding nutrient applications that will result in nutrient loadings to lake waters and tributaries creeks and streams.
- c. Limit contamination of lake and creek waters from pesticides to the extent possible by applying pesticides only when economically appropriate and in a safe manner.

- (2) Urban
  - a. For new development, manage total suspended solids in runoff to remain at predevelopment loadings.
  - b. For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.
  - c. For construction sites, reduce erosion and retain sedimentation on site, and limit and control use of chemicals and nutrients.
  - d. For new on-site sewage disposal systems, ensure that siting, design, maintenance, and operation prevent discharge of pollutants.
  - e. Plan, site, and design roads and highways to manage erosion and sediment loss, and limit disturbance of land and vegetation.
  - f. Plan, site, and design bridges to protect ecosystems.
  - g. For roads, highways, and bridges, minimize to the extent practical the runoff of contaminants to lake waters.
- (3) Hydromodifications
  - a. Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts, and, where possible improve the physical and chemical characteristics of surface waters in the lake and creek corridors.
  - b. Use vegetative means, where possible, to protect stream banks and shorelines from erosion.
- (4) Floatables and litter
  - a. Prohibit all direct or indirect discharges of refuse or litter into surface waters of Lake Ontario and Fish and Golden Hill Creeks, or upon public lands contiguous to and within 100 feet of the lake or creek waters.
  - b. Limit entry of floatables to surface waters through containment and prevention of litter.
  - c. Remove and dispose of floatables and litter from surface waters and shorelines of the lake and creeks.
  - d. Implement pollution prevention and education programs to reduce discharge of floatables and litter into roadside ditches, creek corridors and the lake.

### 5.3 Protect and enhance surface water quality

- A. Protect water quality of Lake Ontario and Fish Creek and Golden Hill Creek based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic factors (oils, floatables, refuse, and suspended solids).
- B. Minimize disturbance of creeks and streams, including their bed and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
- C. Protect the surface water quality of Fish and Golden Hill Creeks from the potential adverse impacts due to excavation, placement of fill, dredging and the

disposal of dredged materials, using avoidance and minimization methods including reduction in scope of work and use of clean fill.

5.4 Limit the potential for cumulative and secondary impact of watershed development and other activities on water quality and quantity

A. Protect water quality by ensuring that watershed development results in:

- (1) Protection of areas that provide important water quality benefits;
- (2) Maintenance of natural characteristics of drainage systems; and
- (3) Protection of areas that are particularly susceptible to erosion and sediment loss.

B. Limit the individual impacts associated with development to prevent cumulative water quality impacts that would lead to a failure to meet water quality standards.

5.5 Protect and conserve quality and quantity of potable water

Limit cumulative impact on groundwater recharge areas to ensure replenishment of potable groundwater supplies

## **POLICY 6**

### **PROTECT AND RESTORE ECOLOGICAL RESOURCES, INCLUDING SIGNIFICANT FISH AND WILDLIFE HABITATS, WETLANDS, AND RARE ECOLOGICAL COMMUNITIES.**

#### **Policy Standards**

6.1 Protect Locally Significant Waterfront Fish and Wildlife Habitats

No Significant Coastal Fish and Wildlife Habitats have been identified or mapped by the Department of Environmental Conservation within the Somerset LWRA. However, 18-Mile Creek represents a locally significant habitat that should be offered a similar level of protection and therefore, must be protected for the habitat values they provide and to avoid permanent adverse changes to the local ecosystem.

The standards for this section are to be applied to any activity that is subject to consistency review under federal and state laws. Examples of generic activities that

could destroy or significantly impair habitat values are provided within the impact assessment section of the narrative for each designated habitat.

Significant fish and wildlife habitats are those habitat areas which:

A. Exhibit, to a substantial degree, one or more of the following characteristics:

- (1) Is essential to the survival of a large portion of a particular fish or wildlife population; and
- (2) Supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182.

B. Uses or activities should be avoided which would:

- (1) Destroy habitat values through direct physical alteration, disturbance, or pollution, or the indirect effects of actions that would result in a significant loss of habitat.
- (2) Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through:
  - a. Degradation of existing habitat elements;
  - b. Change in environmental conditions;
  - c. Functional loss of habitat values; or
  - d. Adverse alteration of physical, biological, or chemical characteristics.

C. Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures, which are likely to result in the least environmentally damaging feasible alternative. Mitigation includes:

- (1) Avoidance of potential adverse impacts, including:
  - a. Avoiding ecologically sensitive areas;
  - b. Scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions; and
  - c. Preventing fragmentation of intact habitat areas.
- (2) Minimization of unavoidable potential adverse impacts, including:
  - a. Reducing scale or intensity of use or development;
  - b. Designing projects to result in the least amount of potential adverse impact;
  - c. Choosing alternative actions or methods that would lessen potential impact; and
  - d. Specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

6.2 Support the restoration of locally significant fish and wildlife habitat wherever possible so as to foster their continued existence as natural, self-regulating systems

A. Measures that can be undertaken to restore significant habitats include:

- (1) Reconstructing lost physical conditions to maximize habitat values;
- (2) Adjusting adversely altered chemical characteristics to emulate natural conditions; and
- (3) Manipulating biological characteristics to emulate natural conditions through re-introduction of indigenous flora and fauna.

6.3 Protect and restore freshwater wetlands

A. The following measures can further the protection or restoration of wetlands:

- (1) Compliance with the statutory and regulatory requirements of the Stream Protection Act.
- (2) Prevention of the net loss of wetlands by:
  - a. Avoiding placement of fill or excavation of wetlands;
  - b. Minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
  - c. Providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
  - d. Providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the wetlands character, quality, values and functions.
- (3) Through the existing local review and approval processes for Site Plan, Subdivision, and Clustering, the Town should protect identified wetlands depicted in the Environmental Features Map. New development should first be designed to avoid wetlands. When avoidance is determined to be impracticable, disturbance to wetlands should be minimized and when disturbance is necessary the impact should be mitigated to the greatest extent possible.

## **POLICY 7 - Protect and improve air quality**

This policy provides for protection of the air quality in the Town of Somerset.

### **Policy Standards**

7.1 Control or abate existing, and prevent new air pollution

New land uses and development in the Town of Somerset should comply with the following standards.

- A. Limit pollution resulting from new or existing stationary air contamination sources, consistent with:
    - (1) Attainment or maintenance of any applicable ambient air quality standard
    - (2) Applicable New Source Performance Standards
    - (3) Applicable control strategy of the State Implementation Plan, and
    - (4) Applicable Prevention of Significant Deterioration requirements
  - B. Recycle or salvage air contaminants using best available air cleaning technologies.
  - C. Limit pollution resulting from vehicular or vessel movement or operation, including actions which directly or indirectly change transportation uses or operation, consistent with attainment or maintenance of applicable ambient air quality standards, and applicable portions of any control strategy of the State Implementation Plan.
  - D. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant, or animal life or property, or that would reasonably interfere with the comfortable enjoyment of life or property.
  - E. Limit new facility or stationary source emissions of acid deposition precursors consistent with achieving final control target levels for wet sulfur deposition in sensitive receptor areas, and meeting New Source Performance Standards for the emissions of oxides of nitrogen.
- 7.2 Limit discharges of atmospheric radioactive material to a level that is as low as practicable
- State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Town shall provide necessary information, as appropriate, to the State to enable the State to effectively administer its air quality statutes pertaining to atmospheric radioactive material.
- 7.3 Capture and recycle chloroflourocarbon compounds during service and repair of air-conditioning and refrigeration units to the greatest extent possible

State air quality standards regulate chloroflourocarbon pollutants. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon.

- 7.4 Limit sources of atmospheric deposition of pollutants to Lake Ontario, particularly from nitrogen sources

State air quality standards regulate sources of nitrogen pollution. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

**POLICY 8** - Minimize environmental degradation in the waterfront area from solid waste and hazardous substances

The intent of this policy is to protect people from sources of contamination and to protect lakeshore resources in the Town of Somerset from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites in developed centers to permit redevelopment.

**Policy Standards**

- 8.1 Manage solid waste (as defined under ECL §27-0701 and 6 NYCRR Part 360-1.2) to protect public health and control pollution
- A. Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
  - B. Manage solid waste in accordance with the following solid waste management priorities:
    - (1) Reduce the amount of solid waste generated;
    - (2) Reuse material for the purpose for which it was originally intended or recycle material that cannot be reused; and
    - (3) Use land burial or other approved methods to dispose of solid waste that is not being reused or recycled.

- C. Create and support a market for maximum resource recovery by using materials and products manufactured with recovered materials, and recovering materials as a source of supply for manufacturing materials and products.
- D. Prevent the discharge of solid wastes into the environment by using proper handling, management, disposal and transportation practices.

## 8.2 Manage hazardous wastes to protect public health and control pollution

- A. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
- B. Manage hazardous waste in accordance with the following priorities:
  - (1) Eliminate or reduce generation of hazardous wastes to the maximum extent practical;
  - (2) Recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical; and
  - (3) Use detoxification, treatment, or destruction technologies to dispose of hazardous wastes which cannot be reduced, recovered, reused, or recycled.
- C. Ensure the maximum safety of the public from hazards associated with hazardous wastes through the proper management and handling of industrial hazardous waste treatment, storage, and disposal.
- D. Remediate inactive hazardous waste disposal sites. While there are no known inactive hazardous waste disposal sites within the Somerset waterfront area, should any be identified in the future they should be investigated and remediated in the appropriate manner to minimize impact on the environment.

## 8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment

- A. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
- B. Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
- C. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
- D. Avoid resuspension of toxic pollutants and hazardous substances and wastes and reentry of bioaccumulative substances into the food chain from existing environmental sources.

- E. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
- F. Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides.
  - (1) Limit use of pesticides (substances defined under ECL §33-0101 and 6 NYCRR Part 325) to effectively target actual pest populations as indicated through integrated pest management methods.
  - (2) Prevent direct or indirect entry of pesticides into waterways.
  - (3) Minimize exposure of people, fish, and wildlife to pesticides.
- G. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.

#### 8.4 Prevent and remediate discharge of petroleum products

- A. Prevent discharges of petroleum products by following methods approved for handling and storage of petroleum products and using approved design and maintenance principles for storage facilities.
- B. Clean up and remove any petroleum discharge.

Undertake clean-up and removal activities in accordance with the guidelines contained in the New York State Water Quality Accident Contingency Plan and Handbook and the procedures specified in the New York State Water Quality Accident Contingency Plan and Handbook.

#### 8.5 Transport solid waste and hazardous substances and waste using routes and methods which protect the safety, well-being, and general welfare of the public and the environmental resources of the state; and protects continued use of all transportation corridors and highways and transportation facilities

#### 8.6 Site solid and hazardous waste facilities to avoid potential degradation of lakeshore resources.

The siting of solid and hazardous waste facilities in the Town of Somerset LWRA is considered an inappropriate use of land and shall be prohibited. This prohibition does not apply to SWDA I, SWDA II and SWDA II for waste generated on site by the existing electrical generating facilities.

## **PUBLIC WATERFRONT POLICIES**

**POLICY 9** - Provide for public access to, and recreational use of, coastal waters, public lands, and public resources in the coastal area

Along many stretches of the Lake Ontario shoreline physical and visual access to the waterfront is limited for the general public. Limitations on reaching or viewing the lakefront are further heightened by a general lack of opportunity for diverse forms of recreation at those sites that do provide access. Often access and recreational opportunities that are available are limited to local residents. Because of the residential nature of much of the waterfront and due to the fact that much of the waterfront is in private ownership, with few exceptions, much of the shoreline is only accessible to local residents. In addition to the loss of opportunities for physical access, in some instances visual access has also been lost due to the elimination of vantage points.

Given the limitations on public access and recreation, this policy incorporates measures needed to improve and protect public access throughout the Somerset waterfront area. The need to maintain and improve existing public access and facilities is the first of these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing demand. The second measure is to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation.

### **Policy Standards**

9.1 Promote appropriate physical public access and recreation throughout the waterfront area.

The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Somerset lakefront.

- A. Provide a level of public access and type of recreational use that takes into account the following factors:
  - (1) Public demand for access and recreational use;
  - (2) Type and sensitivity of natural resources affected;
  - (3) Purpose of public institutions which may exist on or near the site;

- (4) Accessibility to the public access site or facility;
  - (5) The needs of special groups such as the elderly and persons with disabilities; and
  - (6) The potential for adverse impacts on adjacent land uses.
- B. Provide convenient, well-defined physical public access to and along the waterfront for water-related recreation.
- C. Protect and maintain existing public access and water-related recreation facilities.
- (1) Support the prevention of physical deterioration of facilities at the Village of Barker Bicentennial Park and Golden Hill State Park due to lack of maintenance or overuse.
  - (2) Prevent any on-site or adjacent development project or activity from directly or indirectly impairing physical public access and recreation or adversely affecting its quality.
  - (3) Protect and maintain established access and recreation facilities.
  - (4) Protect and maintain the infrastructure supporting public access and recreation facilities.
  - (5) Encourage and allow the continued operation of the YMCA Camp Kenan and private campgrounds.
- D. Provide additional physical public access and recreation facilities at public sites along the lakefront.
- (1) Continue to maintain the Town's position supporting the development of the recreational components of the AES multi-use recreation plan.
  - (2) Where feasible, provide for public access and recreation facilities on non-public waterfront lands as a secondary use.
  - (3) Provide for public access at streets terminating at the shoreline.
  - (4) Provide access and recreation facilities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
  - (5) Any transfer of public land holdings immediately adjacent to the lake should retain a public interest that will be adequate to preserve public access and recreation opportunities.
- E. Provide physical public access to, and/or water-related recreation facilities on, the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public coastal lands and waters. Provide incentives to private development projects which provide public access and/or water-related recreation facilities.
- F. Restrict public access and recreation only where incompatible with public safety and protection of natural resources.

- 9.2 Provide public visual access to the lake or open space at all sites where physically practical

The following standards should be applied with respect to increasing visual access to Lake Ontario:

A. Avoid loss of existing visual access.

- (1) Limit physical blockage of existing visual access to the lake by development or activities due to the scale, design, location, or type structures.
- (2) Protect view corridors provided by streets and other public areas leading to the coast.
- (3) Protect visual access to open space areas associated with natural resources.

B. Minimize adverse impact on visual access.

- (1) Provide for view corridors to the lake in those locations where new structures would block views of the lake from inland public vantage points.
- (2) Use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views.
- (3) Visual access requirements may be reduced where site conditions, including vegetative cover or natural protective features, block potential views.
- (4) Vegetative or structural screening of an industrial or commercial waterfront site is allowed if the resulting overall visual quality outweighs the loss of visual access.

C. Provide compensatory mitigation for loss of visual access.

- (1) Provide public visual access from vantage points on the site where development of the site would block visual access from inland public vantage points.
- (2) Provide for additional and comparable visual access at nearby locations if physical access cannot be provided on-site.

D. Increase visual access to the lake whenever practical.

- (1) Provide an interpretative exhibit at an appropriate location for visual access to enhance public understanding and enjoyment of views of waterfront lands and waters and associated water-dependent uses.
- (2) Provide visual access to areas of high visual quality including community waterfronts, water-dependent uses, agriculture, natural resources, and panoramas of Lake Ontario.

- 9.3 Preserve public interest in and use of lands and waters held in public trust by the state and other government levels

A. Limit grants, leases, easements, permits or lesser interest in lands underwater in accordance with an assessment of potential adverse impacts of the proposed use, structure, or facility on public interest in public lands under water. Use the following factors in assessing potential adverse impact:

- (1) Environmental impact;
- (2) Values for natural resource management, public recreation;
- (3) Size, character, and effect of the transfer in relation to neighboring uses;
- (4) Potential for interference with navigation, public uses of waterway, and riparian rights;
- (5) Effect of the transfer of interest on the natural resources associated with the lands;
- (6) Water-dependent nature of use;
- (7) Adverse economic impact on existing commercial enterprises; and
- (8) Consistency with the public interest for purposes of navigation and commerce, fishing, bathing, and access to navigable waters and the need of the owners of private property to safeguard development.

B. Provide for free and unobstructed use of all navigable waters of Lake Ontario for navigation, recreation and other public trust purposes, including the incidental right of public anchoring.

C. Access and reasonable recreational use of navigable waters and public trust lands underwater should be provided.

D. Avoid substantial loss of public interest in public trust lands by assessing the cumulative impact of individual conveyances of grants, easements, and leases of public trust lands.

9.4 Provide access and recreation which is compatible with natural resource values

A. Provide appropriate access and associated recreational activity that will avoid potential adverse impacts on natural resources.

B. Limit public access and recreational activities where uncontrolled public use would lead to impairment of natural resources.

C. Provide public access for fish and wildlife resource related activities, including fishing and hunting, provided that the level of access would not result in a loss of resources necessary to continue supporting these uses.

## **WORKING WATERFRONT POLICIES**

**POLICY 10** Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations, and support efficient harbor operations

### **Policy Standards**

#### 10.1 Protect water-dependent uses

A. Actions should be avoided which would adversely impact or interfere with existing water-dependent uses. Examples of water-dependent uses include:

- (1) Water-related public and quasi-public utilities; and
- (2) Navigational aids and structures.

#### 10.2 Promote the siting of new water-dependent uses at suitable locations and provide for their safe operation

A. Adverse impacts of new and expanding water-dependent uses should be minimized. Water-dependent uses should be sited in locations where:

- (1) The need for dredging is minimized;
- (2) Waterside and landside access, as well as upland space for parking and other facilities, is adequate;
- (3) The necessary infrastructure exists or is easily accessible, including adequate shoreline stabilization structures, roads, water supply and sewage disposal facilities, and vessel waste pump-out and waste disposal facilities; and
- (4) Water quality classifications are compatible.

B. Due to the residential nature of much of the Somerset shoreline and due to the fact that the natural conditions of the shoreline, steep bluffs and shallow bottom, the Somerset shoreline is not appropriate for the location of marinas or other commercial transportation facilities such as passenger ferries, sight-seeing tour boat operators and charter recreational fishing operations.

#### 10.3 Improve the economic viability of water-dependent uses

A. Non-water-dependent accessory or mixed-use developments may be allowed, provided:

- (1) Accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;

- (2) Mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
- (3) Uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
- (4) Uses do not preclude future expansion of a water-dependent use.

B. Locations that exhibit important natural resource values and significant resources, such as wetlands and fish and wildlife habitats, should be avoided.

C. Other uses may be incorporated in the waterfront, particularly water enhanced and marine support services, provided that these uses:

- (1) Improve the working waterfront and its character;
- (2) Do not interfere with the efficient operation of another water-dependent use; and
- (3) Make beneficial use of a waterfront location through siting and design to increase public enjoyment of the waterfront.

10.4 Allow water-enhanced uses that complement or improve the viability of water-dependent uses

A. When determining if a water-enhanced use is appropriate for siting along a waterfront, the following factors should be considered:

- (1) The use would provide an economic incentive to prevent the loss of a water-dependent use;
- (2) The use would be sited and operated so as not to interfere with water-dependent uses;
- (3) The use would be sited in a manner that does not preclude future expansion of a water-dependent use; and
- (4) The activity makes beneficial use of a shoreline location through siting and design to increase public enjoyment of the waterfront and enhance community character.

**POLICY 11** - Promote sustainable use of living marine resources

This policy refers primarily to commercial and recreational fisheries, neither of which are significant features within the Somerset LWRA.

Living marine resources play an important role in the social and economic well being of waterfront communities. Recreational uses of living marine resources constitute an important contribution to the economy of the state. These resources provide recreational experiences and important accompanying economic activity. Although

Lake Ontario is widely utilized for recreational fishing, there are no significant support facilities along the Somerset shoreline.

### **Policy Standards**

11.1 Provide for and promote the recreational use of marine fisheries.

As the only public means of access for recreational fishing, the boat launch ramp at the State Park should be maintained and protected. To better promote the use of marine resources in Lake Ontario, adequate infrastructure should be provided for, where feasible and appropriate, to meet recreational fishing needs, including dockage and parking.

### **POLICY 12 - Protect agricultural lands**

The intent of this policy is to conserve and protect agricultural land in the waterfront area by preventing the conversion of farmland to other uses and protecting existing and potential agricultural production. Existing agricultural lands significantly add to the community character within the Somerset LWRA.

This policy contains four sections. The first section presents a definition of agricultural lands and contains standards to address conversion of agricultural lands and interference in agricultural operations. Section 2 directs the conditions that support agriculture be maintained and enhanced. Management of the impacts of unavoidable conversion of agricultural land is provided for by the standards in section 3. The last section recognizes the scenic and open space value of agricultural land and operations and provides for their protection within the framework of efficient farm operation.

### **Policy Standards**

12.1 Protect existing agriculture and agricultural lands from conversion to other land uses that would eliminate agricultural production or potential agricultural production

- A. Avoid conversion of agricultural lands used or with the potential to be used in agricultural production to non-agricultural uses. The following order of priority presents the importance of existing or potential use of agricultural lands:

- (1) Lakeshore -related agriculture, particularly vineyard, vegetables, fruits, sod farms, and nursery and greenhouse products;
  - (2) Other lands actively used in agricultural production; and
  - (3) Agricultural lands not actively used in agricultural production.
- B. Prevent encroachment of commercial, industrial, institutional, or residential development on existing agricultural lands.
- C. Protect existing agricultural use and production from adverse impacts due to:
- Public infrastructure and facility development including:
- (1) Unnecessary encroachment of public projects into agricultural lands;
  - (2) Introduction of infrastructure or facilities, such as public roads or water or sewer facilities into agricultural lands;
  - (3) Dividing active farms with obstacles, such as highway construction and maintenance right-of-ways;
  - (4) Creation of other conditions which are likely to lead to conversion of agricultural lands, such as loss of necessary support services; and
  - (5) Environmental changes which are likely to reduce agricultural productivity or quality, including, but not limited to, changes in groundwater quantity and quality.
- D. New development located adjacent or in proximity to agricultural land or uses should provide sufficient buffer between agricultural and non-agricultural lands to protect agricultural uses from interference from non-agricultural uses, and protect non-agricultural lands from potentially offensive agricultural practices.
- E. Conversion of agricultural lands for public uses may be allowed provided that no other site is available or suitable for the intended public purpose and loss of agricultural lands and production is minimized.
- 12.2 Establish and maintain favorable conditions that support existing or promote new lakeshore agricultural production
- A. Promote new and maintain existing local support services and commercial enterprises necessary to support agricultural operations.
  - B. Provide economic support of existing agriculture by allowing mixed uses which would assist in retention of the agricultural use.
  - C. Promote activities and market conditions that would likely prevent conversion of farmlands to other land uses.

- (1) Avoid activities which would likely result in real estate market conditions that would be unfavorable to continued agricultural use.
  - (2) Promote activities that protect and expand agricultural commodity markets.
  - (3) Promote production and marketing of local agricultural products.
- 12.3 Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land or agricultural production to other land uses
- A. Minimize encroachment of commercial, industrial, institutional, or residential development of agricultural lands.
  - B. Retain or incorporate opportunities for continuing agricultural use.
  - C. Locate and site development to maximize protection of the highest quality agricultural land in large contiguous tracts for efficient farming.
- 12.4 Preserve scenic and open space values associated with agricultural lands

Development shall be located and arranged to maximize protection of agricultural land in large contiguous tracts to protect associated scenic and open space values.

**POLICY 13** - Promote appropriate use and development of energy and mineral resources

This policy calls for conservation of energy resources in the Town of Somerset LWRA. It addresses alternative energy sources, provides standards to ensure maximum efficiency and minimum environmental impacts when siting energy facilities, standards to minimize the impact of large fuel storage facilities, and addresses land extraction and dredging.

13.1 Conserve energy resources

- A. Promote energy efficient modes of transportation.
  - (1) Promote and maintain remaining rail freight facilities.
  - (2) Integrate modes of transportation (pedestrian, bicycle and vehicular).
  - (3) Discourage the location of cargo or passenger transportation terminal along the Somerset waterfront.

- B. Plan and construct sites using energy efficient design. Energy efficient design includes consideration for solar utilization, protection from wind, and landscaping for thermal control.
  - C. Promote greater energy generating efficiency through design upgrades of existing facilities.
- 13.2 Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation
- A. Avoid interference with lakeshore resources and processes, including interference with migratory birds, when siting wind farm developments.
  - B. There are no existing hydroelectric power generation facilities on Lake Ontario in Somerset. There are no sites on Lake Ontario, in Somerset where the benefits of developing hydroelectric generating facilities are not outweighed by the economic costs and the potential adverse impacts on natural resources.
- 13.3 Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities
- A. A major energy generating facility (the AES power generating facility) is currently located on the Lake Ontario shoreline. Although it is understood that the original approval included an additional generating unit, at this time, expansion has not been proposed. However, if future need arises, siting of additional major energy generating facilities or expansion of existing facilities should be encouraged to be developed in the area north of Lake Road, but in a manner that minimizes impact along the bluffs and shoreline and a clear public benefit is established using the following factors:
    - (1) There is a demonstrated need for the facility or facility expansion;
    - (2) The facility or facility expansion will satisfy additional electric capacity needs or electric system needs;
    - (3) Alternative available methods of power generation and alternative sources of energy cannot reasonably meet the public need;
    - (4) Upgrades of existing facilities cannot reasonably meet the public need;
    - (5) The facility expansion project includes construction and maintenance of feasible public recreational uses, including development of the existing recreational components of the multiple use plan; and
  - B. Due to its high likelihood to significantly impact the steep slopes, highly erodible shoreline, and scenic resources, the establishments of off-shore loading/unloading of material is strongly discouraged. Should the establishment of off-shore loading/unloading facilities be proven to be required for the continued operation of the power generating station it must be designed and constructed in a manner that minimizes disturbance of the shoreline and bluff areas and minimize the impact on the scenic resource of the LWRA.

- C. Achieve maximum transmission efficiency by siting major energy generating facilities close to load centers.
- D. Preclude the potential degradation of lakeshore resources by siting and constructing new or expanded electric energy generating and transmission facilities so that they would not adversely affect:
  - (1) Agricultural lands;
  - (2) Habitats critical to vulnerable fish and wildlife species, vulnerable plant species, and rare ecological communities;
  - (3) Wetlands;
  - (4) Historic resources; and/or
  - (5) Scenic resources.

#### 13.4 Minimize adverse impacts from fuel storage facilities

In accordance with the standards of Title 17, Article 23 of the Environmental Conservation Law and the Federal Safety Standards (40 CFR Part 193):

- A. Ensure that the production, storage, or retention of petroleum products in the Town of Somerset LWRA is performed in accordance with NYS Department of Conservation standards.
- B. Liquefied Natural Gas facilities must be safely sited and operated. Factors to be used in determining the appropriateness of a location for Liquefied Natural Gas facilities include:
  - (1) The density of population in neighboring areas;
  - (2) The density of population of areas neighboring the delivery route;
  - (3) The risk of accident during transportation;
  - (4) The maximum distance that a liquefied natural or petroleum gas vapor cloud is projected to expand and pose a threat to the public;
  - (5) The flammability or explosiveness of a cloud formed by vaporizing liquefied natural or petroleum gas;
  - (6) One hundred-year flood zones;
  - (7) Areas with soils that cannot support static and dynamic loading without excessive lateral or vertical movement;
  - (8) Areas exposed to severe wave and wind forces;
  - (9) The geologic stability of the site;
  - (10) The need for the facility;
  - (11) The potential environmental impacts; and
  - (12) Reasonable alternative locations for the proposed facility.

Because of the high potential for hazard associated with liquid natural gas facilities, these facilities are subject to stringent regulation. The standards listed

here are derived from federal and state regulations that have been instituted to protect public safety.

- C. Protect natural resources by preparing and complying with an approved oil spill contingency plan.
- 13.5 Ensure that mining, excavation and dredging do not cause an increase in erosion, any adverse effects on natural resources or degradation of visual resources.

This sub-policy regulates land excavation and dredging activities in the Town of Somerset. All excavation activities shall be designed, permitted and conducted in conformance with the standards and procedures set forth in Chapter 96 of the Town of Somerset Code, regulating Excavations. Due to the disruptive nature of these activities, caution must be exercised to ensure that such activities do not adversely affect natural resources or disturb the human environment. The impact on visual resources is also important since the scenic character of the lakefront is important to preserving the rural character of the area.

- A. Additional factors to be used in determining the appropriateness of a commercial excavation operation within the LWRA include:
  - (1) Compatibility with adjacent uses;
  - (2) Loss of use of the site for other potential uses;
  - (3) Alteration of coastal geological landforms;
  - (4) Adverse impact on natural resources; and
  - (5) Degradation of visual quality.
- B. Removal of soils and overburden requires appropriate site preparation and subsequent site reclamation in accordance with an approved plan for the suitable use of affected lands, including:
  - (1) Drainage and water control to reduce soil erosion;
  - (2) Proposed future use of the affected lands; and
  - (3) Specific activities, including:
    - a. Revegetation;
    - b. disposal of refuse or spoil;
    - c. drainage and water control features;
    - d. grading and slope treatment; and
    - e. proposals for the prevention of pollution and the protection of the environment.
- C. Limit subaqueous sand and gravel extraction to activities necessary for erosion control.

## **SECTION IV – Proposed Land and Water Uses and Proposed Projects**

This section of the LWRP presents the proposed land and water uses for the Town of Somerset waterfront area. [Map 8 – Proposed Land Uses and Projects](#), illustrates the proposed land uses for this area, and identifies the location of proposed projects.

### **A. Proposed Land Uses**

#### 1. Waterfront Land Uses

Land uses in the Somerset LWRA are proposed in a manner that will continue the general patterns of existing development in the study area. Land use changes are proposed to protect waterfront resources, maintain the existing character of the community, and properly accommodate future development. In addition, the proposed land uses are partially based on the vision developed for the Town of Somerset as part of the Comprehensive Plan prepared in 2002. These land use recommendations are intended to support the policies promoted in Section III.

In general, the predominant land use along the waterfront is, and should continue to be, residential. The numerous in-fill lots (approximately 50) along Somerset Drive, Lakeshore Road, Huntington Beach Road and Lakeview Drive, should be developed for residential use, as allowed under the zoning code. New residential development outside the sewer district should occur at a low density to avoid the necessity of sewer extensions.

Existing vacant and underutilized properties situated east of the AES property, that are larger in size, should be developed or redeveloped for residential uses that are clustered near the shoreline. This would maximize access to the shoreline and preserve open space. It would also allow for development that is more in character with the surrounding community.

It is not anticipated that there will be a high demand in the future for commercial or commercial-recreation uses along the Somerset waterfront. Somerset has a strong residential character along its waterfront with few water-dependent or water-enhanced commercial uses. For these reasons, no new commercial uses are depicted on the Proposed Land Use map. Commercial uses should remain in and around the Village of Barker, which functions as the Town center and business district for Somerset.

While the Haight's Park Campground and Brown's Camp may be subject to development pressures in the future, it is recommended that these water-enhanced commercial campgrounds remain in use in some capacity as low intensity recreational uses, rather than being redeveloped commercially with permanent structures and associated site improvements. These sites provide open, unobstructed views and although privately owned, they provide a break between the denser residential developed areas. The Lighthouse Christian Camp should also remain as it is developed today, and should not increase its relatively high density of development. The area south of the access drive for the camp would be appropriate for low-density residential use.

The AES power station is the only non-recreational water-dependant use in the LWRA. AES owns vacant and agricultural property within the study area, including a 178-acre waterfront parcel that has approximately 2,000 feet of shoreline. There are no immediate plans for this parcel to be developed. In the future, should AES need to expand its power generation facilities, such expansion should occur in the area north of Lake Road. Any future expansion in this area should be situated so that the shoreline and bluff remain undisturbed and protected as open space, with building(s) located closer to Lake Road.

## 2. Upland Uses

It is anticipated and encouraged that existing agricultural lands within the LWRA remain in agriculture use. Agricultural lands strongly contribute to the rural character of the community and provide the backdrop for many of the scenic vistas that help define the LWRA.

Existing vacant upland parcels should be guided towards development as agricultural or low-density residential uses, which would be compatible with neighboring uses. As with the vacant waterfront parcels, development on larger upland parcels could be clustered in order to preserve large areas of contiguous open space and significant views of the lake.

## **B. Proposed Water Uses**

As previously described in the Inventory and Analysis (Section II), due to existing geologic conditions along the shoreline, there are no marinas or permanent docks in

the LWRA. This limits the potential for recreational boating activities in the area. In general, there are few existing water related uses along the shore. The boat ramp in Golden Hill State Park is the primary location for recreational boating. There are no plans to expand those facilities. Because of the steep bluffs it is unlikely that construction or reconstruction of docks or boathouses in other areas along the shore will occur in great numbers.

### **C. Proposed Projects**

[Map 8 – Proposed Land Uses and Projects](#), identifies the locations of several potential project sites that could further the LWRP policies set forth in Section III. These proposed projects are only conceptual at this time, but set the stage for further development in the future, as the need arises.

#### AES Multiple Use Site – Future Municipal Park

A multiple use plan, was prepared as part of the approval for the AES Somerset power generating station. The multiple use plan was adopted by the Town and New York State Electric and Gas (NYSEG) and various regulatory agencies. It sets aside this future parkland to meet the future recreational needs of the community. The multiple use plan provides for continued access to the lake and the implementation of a combination of active and passive recreational uses over the long-term. The Town of Somerset Planning Board has approved the multiple use plan, which reflects the policy of the Planning Board relative to the proposed future use of that portion of the power plant site (approximately 30 acres).

While there are no current plans to implement the multiple use plan, the Town wishes to retain its rights for the future recreational use of the site. The multi-use area was included in the recently completed comprehensive plan. The Town reaffirms this position by incorporating this plan into the LWRP and depicting it as a future municipal park on the [Proposed Land Use and Projects map](#).

#### Breakwall Repairs - Various locations

Shoreline protection for residential uses is in place along various portions of the waterfront, primarily east of Quaker Road. This shoreline protection consists of either large boulders armoring the bottom of the bluff or concrete seawalls. The seawalls, some of which include boathouses and stairways, are in various states of repair.

Some walls are cracked and leaning into the water. The majority of the seawalls and other shoreline protection structures are located on privately owned residential property.

Where existing erosion protection structures are in such disrepair that they pose potential safety hazards or create the potential to worsen or establish other erosion problems, they should be reconstructed or replaced in-kind, in conformance with New York State and Army Corps of Engineers permits and standards. These repairs would be the responsibility of the private property owners. Piers and jetties should not be encouraged, as they would result in long-term adverse changes in erosion/deposition patterns.

#### Golden Hill State Park – Secondary Access

Golden Hill State Park is one of the largest properties along the shoreline, with approximately 1.5 miles of waterfront. The park offers public access to the lake and includes an extensive trail system. There are two vehicular entrances to the park, each off Lower Lake Road.

A park sign/trail map and trailhead are located at the eastern end of the park, along its boundary with County Line Road, which is a Town of Yates road located in Orleans County. However, there is no formal parking lot, only a small grass/dirt parking area that can accommodate up to a maximum of three cars, forcing additional cars to park in the road. The Town should continue to support the further development of facilities in Golden Hill State Park, including enlarging and improving a secondary entrance on County Line Road.

#### Storm Water Collection and Discharge Improvements

There is an identified need for stormwater collection and drainage improvements as development or subdivisions occur within the LWRA. New subdivisions must be designed in order to manage storm water runoff in a manner consistent with Town and State standards.

#### Road Improvements

The extension of Lakeshore Road east of Johnson Creek Road is a private road, which provides access to Johnson Creek Road and the public highway network for waterfront

residences. At this time this private road is not constructed to town standards. If and when the property owners wish to dedicate this road to the Town, it must first be reconstructed to meet Town standards, including drainage.

## **SECTION V – Techniques for Local Implementation**

This section of the LWRP sets out implementation strategies for Somerset LWRP. This section considers existing laws and sections of Somerset Town Code that relate to the Policies, as well as identifying proposed laws, amendments and other Town actions necessary to support the Policies. A management structure for implementation and consistency review is presented, along with an outline of the financial resources that may be necessary to implement the LWRP.

### **A. Existing Laws**

#### 1. Chapter 80 – Campgrounds and Vehicle Parks

Chapter 80 of the Town Code regulates the occupancy and maintenance of Campgrounds and Recreational Vehicle parks. Permits are required to operate such facilities. Permit applications must include plans for the sewer and water systems and certification of their approval from the Niagara County Health department. The regulations also provide setback and site design requirements.

#### 2. Chapter 92 - Environmental Quality Review

This chapter of the Town Code outlines the local procedures for the State Environmental Quality Review (SEQR). This law requires that no action can be carried out without full compliance with the requirements of Chapter 92 of the Town Code and SEQR regulations (6 NYCRR Part 617). The last substantial amendments to the SEQR regulations went into effect on July 12, 2000.

#### 3. Chapter 104 – Flood Damage Prevention

The purpose of this chapter of the Town Code is to protect public health, safety, and welfare and minimize losses due to flood conditions in specific areas. In conformance with the requirements of the National Flood Insurance Program, and to qualify for participation in this program, this law outlines the standards for construction in areas of special flood hazard and restrictions on encroachments and other activities in designated floodways. The law also sets

forth a process for obtaining a permit for this development in the floodplain. [Appendix B](#) contains a copy of Chapter 104 – Flood Damage Prevention.

4. Chapter 109 – Freshwater Wetlands

Chapter 109 requires the Town to “exercise its regulatory authority” related to all activities regulated under the NYS DEC Freshwater Wetlands Regulations (Article 24 of the NYS Environmental Conservation Law). The purpose of the State regulations is to “preserve, protect and conserve freshwater wetlands... and to regulate use and development of wetlands to secure the natural benefits of these areas, consistent with the general welfare and beneficial economic, social and agricultural development of the state.

5. Chapter 125 - Mobile/Manufactured Homes

This chapter provides a clarification of the definition of mobile/manufactured homes, as they differ from factory manufactured homes. While factory manufactured homes are considered as typical residential home construction, mobile/manufactured homes are restricted to mobile home parks (a use allowed with Special Use Permit in the Agricultural District within the LWRP). Chapter 125 regulates the location, size, layout and design, use, water and sewer systems, and service/accessory uses and structures in a mobile/manufactured home park.

6. Chapter 152 – Sewers

This chapter regulates the connection to the public sewer system including, but not limited to, design, permitting and use of sewer connections. All existing and new homes and other buildings used for human occupancy are required to connect to the public sewer system if they are located in the Sewer District and abutting a road where there is a public sanitary sewer. Existing homes are required to connect after receiving official notice by the Niagara County Health Department. This law identifies the circumstances under which connection to the sewer system is required or under what circumstances alternate methods of sewage collection/disposal will be allowed. Where private disposal systems are utilized, this chapter requires their approval by the Niagara County Health Department. Connection to the sanitary sewer for disposal of storm water is not permitted. This chapter prohibits the discharge into the public sewer

system, wastewater that cannot be treated, or that interferes with the operation of the facilities or creates a health or safety concern.

#### 7. Chapter 161 – Solid Waste

This chapter establishes the town-wide refuse and garbage district for the Town of Somerset. It sets forth requirements for the Town to contract for garbage collection, disposal and recycling, (with the exception of commercial, industrial and institutional facilities) in compliance with the mandates of the New York State Solid Waste Management Act of 1988. The code identifies what materials must be recycled, and the proper preparation and disposal methods to be utilized.

#### 8. Chapter 171 – Subdivision of Land

Chapter 171 authorizes the Planning Board to review and approve plats for the subdivision of land in conformance with the Town of Somerset Zoning Code and Master Plan. The subdivision regulations set forth application/review procedures, plan specifications, design standards and required land improvements (road, drainage and utilities).

#### 9. Chapter 195 – Water

Chapter 195 regulates the connection to and use of the public water system including, but not limited to, hook-ups, meters, backflow prevention, use of hydrants. The chapter establishes rates and procedures for the approval of main extensions. The chapter prohibits connections to piping, vats, tanks, or other apparatus, which contain liquids that could endanger the water supply.

#### 10. Chapter 205 – Zoning

This chapter regulates and restricts, by district, the location, construction, and use of buildings and structures, and the use of land in the Town of Somerset. This code establishes districts, as well as uses and dimensional requirement for each district. This chapter of the Town Code also presents the rules and procedures for obtaining special use permits (telecommunications service facilities, motor vehicle service stations, cluster developments and Planned Unit developments), and site plan review. The code outlines the duties and

procedures for Code Enforcement Officer and Zoning Board of Appeals. The zoning districts and their corresponding land uses are listed in more detail in Section II.

#### 11. Consistency Review Law

Actions to be directly undertaken, funded or permitted within the local waterfront revitalization area must be consistent with the policies set forth in the Town of Somerset LWRP. Through the adoption of a consistency review law, the Town can establish the legal framework required for the review of direct and indirect actions with the LWRP.

### **B. Proposed Local Laws Necessary to Implement the LWRP**

#### 1. Planned Unit Development (PUD) District

If, in the future, AES proposes to expand the power generating station on property it owns within the LWRA, such development should be done under the Town's Planned Unit Development (PUD) provisions. Approval of this PUD would require the Town Board to amend the Zoning Map by Local Law in conformance with Article XV of the Town of Somerset Zoning Code.

#### 2. Flood Damage Prevention Law

The Town may wish to review the definitions and treatment of mobile homes in the Chapter 104 Flood Damage Prevention in order to make it consistent with the Chapter 125 – Mobile/Manufactured Homes.

### **C. Other Public and Private Actions Necessary to Implement the LWRP**

The Village of Barker is responsible for the maintenance and improvement of the Barker Bicentennial Village Park. The Village is encouraged to continue to provide the resources necessary to maintain this asset to the community. This facility is important for its public access to shoreline, visual access to the lake and for its positive addition to the character of the LWRA.

#### **D. Management Structure to Implement the LWRP**

The review of proposed actions for consistency with the policies and purposes of the Town of Somerset LWRP will be undertaken by the Town department or official that receives the application for funding or approval. Any such action proposed within the LWRA would require completion of a Waterfront Assessment Form. Prior to undertaking, approving, permitting or funding any Type I or Unlisted Action in the Town of Somerset, as defined by Chapter 92 – Environmental Quality Review, the respective local official shall review the Waterfront Assessment Form to determine if the action is consistent with the LWRP. [Appendix A](#) contains a copy of the Local Waterfront Revitalization Program Consistency Review Law, which more fully sets forth the local review process. All State and Federal actions proposed within the Town shall be reviewed in accordance with the guidelines established by the New York State Department of State, as noted below.

#### **E. Procedural Guidelines for Coordinating the NYS Department of State (DOS) and 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 Town of Somerset LWRP Coordinator and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the Town of Somerset has no opinion on the consistency of the proposed direct federal 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 Town, DOS will contact the Town 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 the DOS "agreement" or "disagreement" letter to the federal agency will be forwarded to the Town of Somerset LWRP 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 Town of Somerset LWRP Coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the Somerset LWRP Coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposed; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the Somerset LWRP 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 Somerset LWRP Coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussion possible problems of the proposed action with the principal reviewer for DOS, whichever is later, the Somerset LWRP Coordinator will notify DOS of the reasons why the proposed action may be inconsistent or consistent with the local coastal policies.
5. After the notification, the Somerset LWRP Program Coordinator will submit the Town's written comments and recommendations on the 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 Town

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 Town on the proposed permit action, DOS will contact the Somerset LWRP Coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of the DOS "concurrence" or "objection" letter to the applicant will be forwarded to the Town.

### **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 Somerset LWRP 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 consistency review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Somerset LWRP 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 Town of Somerset LWRP Coordinator must submit the Town's comments and recommendations on the proposed action to DOS within twenty (20) days (or other time agreed to by DOS and the LWRP Coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the Town 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 Town, DOS will contact the Somerset LWRP Coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency determination.
6. A copy of the DOS consistency decision letter to the applicant will be forwarded to the Town.

## **F. Guidelines for Notification and Review of State and Federal Agency Actions where Local Waterfront Revitalization Programs are in Effect**

### **Purpose of Guidelines**

1. 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 and federal agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). The guidelines are intended to assist these agencies in meeting that statutory consistency obligation.
2. The Act also requires that state and federal agencies provide timely notice to the Town of Somerset 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.
3. The Secretary of State is required by the Act to confer with state and federal agencies and Town of Somerset when notified by the Town that a proposed state or federal action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

## **Definitions**

1. Action means:
  - A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  - Occurring within the boundaries of the Town of Somerset Local Waterfront Revitalization Area (LWRA); and
  - Being undertaken pursuant to a state or federal agency program or activity that has been identified by the Secretary of State as likely to affect the policies and purposes of the Town of Somerset LWRP.
  
2. 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 the Town of Somerset LWRP, then the action must be one:
  - For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
  - That will minimize all adverse effects on the policies or purposes of the Town of Somerset LWRP to the maximum extent practicable; and
  - That will result in an overriding regional or statewide public benefit.
  
3. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by the Town of Somerset 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, and proposed land uses and specific projects that are essential to the implementation of the LWRP.

## **Notification Procedure**

1. When a state or federal agency is considering an action as described in Item 2 above, the agency shall notify the Town of Somerset.
  
2. Notification of an action proposed by a state or federal agency:

- Shall fully describe the nature and location of the action;
  - 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 agency and Town of Somerset; and
  - Should be provided to the LWRP Coordinator, as identified in the Town of Somerset LWRP, as early in the planning stages of the action as possible, but in any event at least thirty (30) days prior to the agency's decision on the action. The timely filing of a copy of a fully completed Waterfront Assessment Form (WAF) with the Town of Somerset LWRP Coordinator should be considered adequate notification of a proposed action.
3. If the proposed action will require the preparation of a draft environmental impact statement (EIS), the filing of the EIS with the Town Clerk can serve as the agency's notification to the Town of Somerset.

#### **Local Government Review Procedure**

1. Upon receipt of notification from a state or federal agency, the Town of Somerset will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the Somerset LWRP Coordinator, the agency should promptly provide the Town with whatever additional information is available that will assist the Town in evaluating the proposed action.
2. If the Town of Somerset cannot identify any conflict between the proposed action and the applicable policies and purposes of the LWRP, it should inform the agency in writing of its finding. Upon receipt of the Town of Somerset's findings, the agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the Town of Somerset does not notify the agency in writing of its finding within the established review period, the agency may then presume that the proposed action does not conflict with the policies and purposes of the Somerset LWRP.
4. If the Town of Somerset notifies the agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the agency shall not proceed with its consideration of, or decision on, the

proposed action as long as the Resolution of Conflicts procedures established in Item 5 below shall apply. The Town of Somerset shall forward a copy of the identified conflicts to the Secretary of State at the time when the agency is notified. In notifying the agency, the Town of Somerset shall identify the specific policies and purposes of the LWRP with which the proposed action is in conflict.

### **Resolution of Conflicts**

The following procedure applies whenever the Town of Somerset has notified the Secretary of State and applicable state or federal agency that a proposed action conflicts with the policies and purposes of the Somerset LWRP.

1. Upon receipt of notification from a local government that a proposed action conflicts with the Town of Somerset LWRP, the agency should contact the Somerset LWRP Coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of agency and Town representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within thirty (30) days of the receipt of a conflict notification from the Town of Somerset.
2. If the discussion between the Town of Somerset LWRP Coordinator and the agency results in the resolution of the identified conflicts, then, within seven (7) days of the discussion, the Town of Somerset shall notify the agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. That agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the Town of Somerset and the 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 fifteen (15) days following the discussion between the Town of Somerset and the agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within thirty (30) days following the receipt of the 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 resolution with appropriate representatives from the Town of Somerset and the agency.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within fifteen (15) days, notify both parties of his/her findings and recommendations.
6. The 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.

#### **G. Financial Resources Necessary to Implement the LWRP**

The implementation of the proposed projects identified under Section IV will require an undetermined amount of funding from public and private sources. Where applicable, the Town shall work diligently to secure funding through grants programs and other funding assistance programs to the greatest extent possible.

However, it is recognized that if the majority of the projects identified are implemented, they will be funded privately or by the State. Where grants are available from State and Federal agencies, the Town can seek these funds to support implementation of the identified LWRP projects.

The State of New York, particularly the New York State Office of Parks, Recreation and Historic Preservation, funds the continued maintenance of the Golden Hill State Park. This financial obligation is necessary to support recreational tourism, boating and fishing activities along this area of Lake Ontario.

## **SECTION VI - State and Federal Actions and Programs Likely to Affect Implementation**

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

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program and by the implementing regulations of the U.S. Coastal Zone Management Act.

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 (regional agency)**

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

**OFFICE OF CHILDREN AND FAMILY SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children's Services)
  - 3.03 Operating Certificate (Enriched Housing Program)

- 3.04 Operating Certificate (Home for Adults)
- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

**DEPARTMENT OF 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.

**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.

**EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License

- 2.04 Registered Manufacturer of Drugs and/or Devices
- 2.05 Registered Pharmacy Certificate
- 2.06 Registered Wholesale of Drugs and/or Devices
- 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
- 2.08 Storekeeper's Certificate

**NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

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

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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

- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

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

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses

- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

#### Hazardous Substances

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

#### Lands and Forest

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

#### Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel

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

#### Mineral Resources

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

#### Solid Wastes

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

#### Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
- 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 State Pollutant Discharge Elimination System (SPDES) Permit

- 9.56 Approval - Drainage Improvement District
- 9.57 Approval - Water (Diversion for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit - Article 15, (Protection of Water) - Dam
- 9.60 Permit - Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification

10.00 Preparation and revision of Air Pollution State Implementation Plan.

11.00 Preparation and revision of Continuous Executive Program Plan.

12.00 Preparation and revision of Statewide Environmental Plan.

13.00 Protection of Natural and Man-made Beauty Program.

14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

#### **ENVIRONMENTAL FACILITIES CORPORATION**

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

#### **FACILITIES DEVELOPMENT CORPORATION**

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

## **OFFICE OF GENERAL SERVICES**

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Administration of Section 334 of the State Real Property Law regarding subdivision of waterfront properties on navigable waters of the State to depict the location of riparian lines on property surveys that must be filed with the county clerk.

## **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

**INTERSTATE SANITATION COMMISSION (regional agency)**

- 1.00 Adoption and enforcement of air and water pollution standards within the Interstate Sanitation District.

**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 (regional agency)**

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

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

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

**POWER AUTHORITY OF THE STATE OF NEW YORK**

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

2.00 Facilities construction, rehabilitation, expansion, or demolition.

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

1.00 Corporation for Innovation Development Program.

2.00 Center for Advanced Technology Program.

**DEPARTMENT OF STATE**

1.00 Appalachian Regional Development Program.

2.00 Coastal Management Program.

3.00 Community Services Block Grant Program.

4.00 Permit and approval programs:

4.01 Billiard Room License

4.02 Cemetery Operator

4.03 Uniform Fire Prevention and Building Code

**STATE UNIVERSITY CONSTRUCTION FUND**

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

**STATE UNIVERSITY OF NEW YORK**

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

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

**DEPARTMENT OF TRANSPORTATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
  - (a) Highways and parkways
  - (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
  - 4.01 Approval of applications for airport improvements (construction projects)

- 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
- 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
- 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
- 4.05 Certificate of Convenience and Necessity to Operate a Railroad
- 4.06 Highway Work Permits
- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

**URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates**

- 1.0 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

1.0 Fisheries Management Plans

#### **DEPARTMENT OF DEFENSE**

##### Army Corps of Engineers

1.00 Proposed authorizations for dredging, channel improvements, breakwaters, 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 Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

## **DEPARTMENT OF ENERGY**

### 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.

### **NUCLEAR REGULATORY COMMISSION**

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

### **SURFACE TRANSPORTATION BOARD**

- 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.

### **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 Inter-modal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

#### **COMMUNITY SERVICES ADMINISTRATION**

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

#### **ENVIRONMENTAL PROTECTION AGENCY**

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

## **GENERAL SERVICES ADMINISTRATION**

39.002 Disposal of Federal Surplus Real Property

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

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

## **DEPARTMENT OF INTERIOR**

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

## **SMALL BUSINESS ADMINISTRATION**

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

## **DEPARTMENT OF TRANSPORTATION**

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

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

## **B. STATE AND FEDERAL PROGRAMS NECESSARY TO FURTHER THE LWRP**

### 1. Department of Environmental Conservation

Funding assistance with planning studies and/or design and construction of projects targeted to mitigate localized flooding problems in the Town.

### 2. Environmental Facilities Corp.

Funding assistance for the planning, design and construction of expansion or improvement projects within the Somerset-Barker Sanitary Sewer District.

3. Department of State

Funding approval for LWRP implementation of various planning, design and construction projects, as outlined in Section IV of this Program.

4. Department of Economic Development / Empire State Development Corporation

Assistance is needed for the preparation of economic feasibility studies for the reuse of various deteriorated and unutilized structures, as well as for the siting or improvement of public facilities.

5. Office of General Services

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

6. Office of Parks, Recreation, and Historic Preservation

Funding assistance for the planning, design and construction of expansion or improvement projects in Golden Hill State Park.

Funding approval under programs such as the Land and Water Conservation Fund and the Clean Water / Environmental Protection Fund for development of waterfront parkland.

7. Department of Public Service

Prior to any (re)approval of any permits for the AES Somerset Power Generating Station, permitting agencies must consider the LWRP to ensure consistency.

8. Army Corps of Engineers

Assistance with future proposed erosion control structures and repairs or ice management activities along Lake Ontario.

9. Department of Agriculture

Potential funding or other assistance with water, irrigation and/or drainage systems, or soil and water conservation.

## **SECTION VII – Local Commitment and Consultation**

### **A. Local Commitment**

The Town of Somerset initiated its efforts to prepare a Local Waterfront Revitalization Program in November 2002, at which time it established an Advisory Committee to oversee and guide the preparation of the program. The Advisory Committee was comprised of representatives from the Town government and local community, including local residents and business owners. This committee met six times during the planning process.

To strengthen local commitment for the Town's planning efforts, the Advisory Committee held a public information meeting to provide local citizens an opportunity to comments on significant issues and opportunities in the Town. The meeting was held on February 5, 2003. The purpose of this meeting was to introduce the LWRP and solicit initial comments from the public about their concerns for the waterfront. This meeting was attended by a total of eighteen people. The information gathered at this meeting was utilized to shape the LWRP policies, as well as the proposed projects and implementation measures outlined in the program.

The Somerset Town Board prior to adoption holds a public hearing on the LWRP. This hearing affords the general public an opportunity to hear a presentation of the study as well as provides the Town Board an opportunity to hear from the residents their general support or remaining issues.

### **B. Consultation**

The Advisory Committee forwarded draft sections of the LWRP to the Department of State for their review and comment. In addition, draft documents were distributed to a number of involved and interested agencies to gather their comments on program findings and recommendations. The agencies that were contacted for their input included the Niagara County Department of Planning, Development and Tourism, the New York State Department of Environmental Conservation, the surrounding municipalities (Town of Newfane, Town of Yates, Village of Barker and the Orleans County Planning Department.

The draft LWRP was reviewed and approved by the Somerset Town Board and forwarded to the New York State Department of State. The Department of State initiated a 60-day review period for the draft program pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the State Environmental Quality Review Act. Copies of the draft LWRP were distributed to all applicable Federal agencies, potentially affected State agencies, Niagara and Orleans Counties, and the Towns of Newfane and Yates and Village of Barker. Comments received on the draft LWRP were reviewed by the Town and the Department of State, and changes were made, as required, to reflect the substantive comments.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
FEB 11 2005

## **Local Law Filing**

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

MISCELLANEOUS  
& STATE RECORDS

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.

### **TOWN OF SOMERSET LOCAL LAW NO. 1 OF THE YEAR, 2005**

#### **A Local Law Entitled "Town of Somerset Waterfront Consistency Law"**

Be it enacted by the Town Board of the Town of Somerset as follows:

#### **GENERAL PROVISIONS**

##### **I. Title**

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

##### **II. Authority and Purpose**

1. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
2. The purpose of this local law is to provide a framework for the agencies of the Town of Somerset to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for private actions or direct agency actions which are located in the waterfront area; and to ensure that such actions are consistent with said policies and purposes.
3. It is the intention of the Town of Somerset that the preservation, enhancement and utilization of the natural and manmade resources of the waterfront area of the Town occur in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of fish and wildlife; adverse impacts to historic structures; diminution of open space areas or public access to the waterfront; erosion of shoreline; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
4. The substantive provisions of this local law shall only apply while there is in existence a Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

### III. Definitions

1. "Actions" means either Type I or Unlisted Actions as defined by the SEQRA regulations (6 NYCRR 617.2), which are undertaken by an applicant or agency and that include:
  - (a) projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
    - (i) are directly undertaken by an agency;
    - (ii) involve funding by an agency; or
    - (iii) require one or more, new or modified, approvals from an agency or agencies.
  - (b) agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
  - (c) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
  - (d) any combinations of the above.
2. "Waterfront area" means the Waterfront Revitalization Area delineated in the Town's Local Waterfront Revitalization Program.
3. "Waterfront Assessment Form (WAF)" means the form used by the Town of Somerset to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
4. "Code Enforcement Officer" means the Building Inspector and/or Code Enforcement Officer of the Town of Somerset.
5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions.
6. "Direct Actions" mean actions planned and proposed for implementation by an applicant or agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.
7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Somerset, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk of the Town of Somerset.
8. "Appropriate Municipal Agency" means the Town Board, Town Planning Board or Town Zoning Board of Appeals reviewing the Action.

#### IV. Review of Actions

1. Whenever an action is proposed to be approved, funded or undertaken in the Town's Waterfront area, a Waterfront Assessment Form (WAF) shall be prepared by either the applicant, or if the action is proposed by the Town Board, then the WAF shall be prepared by the Town Board. Applicants shall file the WAF with the appropriate Municipal Agency. The Town Board shall file the WAF with the Town Clerk.
2. All actions undertaken within the Waterfront area shall be evaluated by the appropriate Municipal Agency for consistency in accordance with the LWRP policy standards and conditions, as set forth in Section III of the Town of Somerset Local Waterfront Lakefront Revitalization Program, a copy of which is on file in the Town Clerk's office. In the case of direct actions, the Municipal Agency shall also consult Section IV of the LWRP when making their consistency determination.

As appropriate, an action shall be consistent with the following policies:

- (a) Foster a pattern of development in the Town of Somerset that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of waterfront locations, and minimizes potential adverse impacts of development.
- (b) Protect existing water-dependent uses in the Town of Somerset and work to locate new water-dependent uses in suitable locations.
- (c) Protect existing agricultural lands.
- (d) Promote the sustainable use of living marine resources in the Town of Somerset.
- (e) Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities.
- (f) Protect and improve water resources.
- (g) Minimize loss of life, structures and natural resources from flooding and erosion.
- (h) Protect and improve air quality.
- (i) Promote appropriate use of energy resources.
- (j) Minimize environmental degradation from solid waste and hazardous substances and wastes.
- (k) Improve public access to the waterfront and the use of public lands.
- (l) Enhance visual quality and protect outstanding scenic resources.

- (m) Preserve and protect historic resources.
3. After reviewing these policy considerations, the Municipal Agency shall make written findings of determination relating to the policies, as well as an appropriate SEQRA determination, prior to making a final determination on the action. If it is determined that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken, funded or approved, as proposed, unless the Municipal Agency finds that:
- (a) no reasonable alternatives exist that would permit the action to be undertaken in a manner that would not substantially hinder the achievement of such LWRP policy standards and conditions;
  - (b) the action would be undertaken in a manner that would minimize all adverse effects on such LWRP policy standards and conditions;
  - (c) the action will advance one or more of the other LWRP policy standards and conditions; and
  - (d) the action will result in an over-riding Town, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

4. The Town shall maintain a file for each action made the subject of a consistency determination. Such files shall be kept in the office of the Town Clerk and made available for public inspection upon request.

## **V. Enforcement**

The Town Code Enforcement Officer (Town of Somerset LWRP Coordinator) shall be responsible for enforcing this Chapter. No work or activity on a project in the waterfront area that is subject to review under this Chapter law shall be commenced or undertaken until the Code Enforcement Officer has issued a consistency review determination, or been presented with a written determination from the appropriate Municipal Agency that the action is consistent with the Town of Somerset LWRP policy standards and conditions.

In the event that any construction, action or other activity is being performed in violation with this Chapter or any conditions imposed hereunder, the Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. Posting of a stop work order at any work site, or delivery to any individual shall constitute issuance. Issuance of a stop work order shall not be a prerequisite to prosecution for violating this law.

**VI. Violations**

1. Non compliance with any of the provisions of this Chapter shall constitute a violation, punishable by a fine not exceeding \$350.00 or imprisonment for a period not exceeding six months, or both for a conviction of a first offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.
2. This law may be enforced by Civil Action and any violation thereof may be enjoined by a court or competent jurisdiction.

**VII. Severability**

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

**VIII. Effective Date**

This local law shall take effect immediately upon its filing in the office of the Secretary of State.

Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2005 of the Town of Somerset was duly passed by the Town Board on February 8, 2005, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 200\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 200\_\_, and was approved/not approved/repassed after disapproval by the (Elective Chief Executive Officer\*) and was deemed duly adopted on \_\_\_\_\_ 200\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the Local Law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 200\_\_ of the Town of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 200\_\_, and was approved/not disapproved/repassed after disapproval by the (Elective Chief Executive Officer\*) on \_\_\_\_\_, 200\_\_. Such Local Law was submitted to the people by reason of a mandatory/permissive referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general/special/annual election held on \_\_\_\_\_, 200\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the Local Law annexed hereto, designated as Local Law No. \_\_\_\_ of 200\_\_ of the County/City/Town/Village of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 200\_\_, and was approved/not approved/repassed after disapproval by the (Elective Chief Executive Officer\*) on \_\_\_\_\_ 200\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 200\_\_, in accordance with the applicable provisions of law.

\_\_\_\_\_  
\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_ of 200\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special/general election held on \_\_\_\_\_ 200\_\_, became operative.

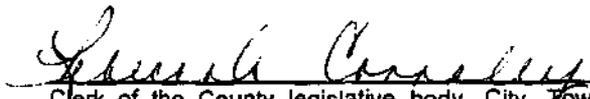
6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated at Local Law No. \_\_\_\_ of 200\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_, 200 \_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

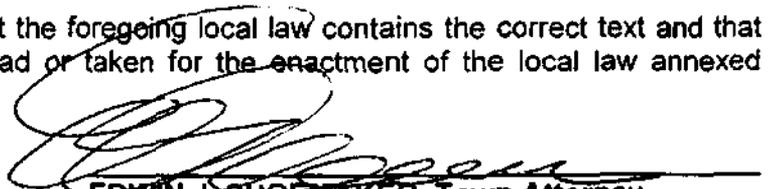
(Seal)

  
Clerk of the County legislative body, City, Town or Village  
Clerk or officer designated by local legislative body  
**REBECCA A. CONNOLLY, MMC**  
Town Clerk, Town of Somerset  
Date: February 8, 2005

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
**EDWIN J. SHOEMAKER, Town Attorney**  
Town of Somerset

Date: February 8, 2005

**FLOOD DAMAGE PREVENTION**

**Chapter 104**

**FLOOD DAMAGE PREVENTION**

- § 104-1. Findings.**
- § 104-2. Purpose.**
- § 104-3. Objectives.**
- § 104-4. Definitions.**
- § 104-5. Applicability.**
- § 104-6. Flood Insurance Study.**
- § 104-7. Interpretation, conflict with other provisions.**
- § 104-8. Warning and disclaimer of liability.**
- § 104-9. Designation of local administrator.**
- § 104-10. Development permit required.**
- § 104-11. Application; information required.**
- § 104-12. Floodproofing certificate required.**
- § 104-13. Duties of local administrator.**
- § 104-14. General standards.**
- § 104-15. Specific standards.**
- § 104-16. Floodways.**
- § 104-17. Zoning Board of Appeals.**
- § 104-18. Conditions for variances.**
- § 104-19. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of Somerset 4-14-1987 as L.L. No. 1-1987. Amendments noted where applicable.]**

## GENERAL REFERENCES

Subdivision of land — See Ch. 171.  
Zoning — See Ch. 205.

**§ 104-1. Findings.**

The Town Board of the Town of Somerset finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Somerset and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

**§ 104-2. Purpose.**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

§ 104-2 FLOOD DAMAGE PREVENTION § 104-4

- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

**§ 104-3. Objectives.**

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood-control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, sewer lines, streets and bridges, located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**§ 104-4. Definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- B. As used in this chapter, the following terms shall have the meanings indicated:

**APPEAL** — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** — That portion of a building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUILDING** — Any structure built for support, shelter or enclosure for occupancy or storage.

**CELLAR** — The same meaning as "basement."

**COASTAL HIGH-HAZARD AREA** — The area subject to high-velocity waters including, but not limited to,

hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

**ELEVATED BUILDING** — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

**FLOOD INSURANCE RATE MAP (FIRM)** — An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

**FLOODWAY** — The same meaning as “regulatory floodway.”

**FLOOR** — The top surface of an enclosed area in a building (including basement), i.e., the top of the slab in concrete-slab construction or the top of the wood flooring in wood-frame construction.

**FUNCTIONALLY DEPENDENT USE** — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**LOWEST FLOOR** — Lowest level, including basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building’s “lowest floor,” provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** — A structure, transportable in one (1) or more sections, which is built on a

permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred (100) consecutive days or longer and intended to be improved property.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** — The same meaning as "manufactured home."

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of this chapter.

**ONE-HUNDRED-YEAR FLOOD** — The same meaning as "base flood."

**PRINCIPALLY ABOVE GROUND** — At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 104-13B of this chapter.

**SAND DUNES** — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**START OF CONSTRUCTION** — The initiation, excluding planning and design, of any phase of a project or the physical alteration of the property and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.

**STRUCTURE** — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL IMPROVEMENT:**

- (1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:
  - (a) Before the improvement or repair is started; or
  - (b) If the structure has been damaged and is being restored, before the damage occurred.
- (2) For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - (a) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

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- (b) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

**§ 104-5. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of Town of Somerset.

**§ 104-6. Flood Insurance Study.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Town of Somerset of Niagara County, New York," dated February 3, 1982, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at Town Clerk's office.

**§ 104-7. Interpretation, conflict with other provisions.**

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other

lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

**§ 104-8. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Somerset, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 104-9. Designation of local administrator.**

The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

**§ 104-10. Development permit required.**

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 104-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials and drainage facilities and the location of the foregoing.

**§ 104-11. Application; information required.**

The following information is required where applicable:

- A. Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- B. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- C. When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 104-14C(1).
- D. Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 104-15.
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**§ 104-12. Floodproofing certificate required.**

Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

**§ 104-13. Duties of local administrator.**

Duties of the local administrator shall include but not be limited to:

- A. Permit application review. The local administrator shall review:
- (1) All development permit applications to determine that the requirements of this chapter have been satisfied.
  - (2) All development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - (3) All development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
    - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
    - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  - (4) All development permits for compliance with the provisions of § 104-14E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 104-6, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 104-14D(4) in order to administer § 104-15.

C. Information to be obtained and maintained. The local administrator shall:

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
  - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
  - (b) Maintain the floodproofing certifications required in §§ 104-14 and 104-15.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances when granted and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified

area of special flood hazard and actual field conditions.

- (2) Base flood elevation data established pursuant to § 104-6 and/or 104-13B, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 104-20 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the local administrator. Disregard of a stop work order shall be subject to the penalties described in § 104-19 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected,

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changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator, stating that the building or land conforms to the requirements of this chapter.

- (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to § 104-13F and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

**§ 104-14. General standards.**

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include but are not to be limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state

and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.

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- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 104-13A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard for which base flood elevation data is available pursuant to § 104-13B or 104-14D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 104-13B, the requirements of § 104-16 shall apply.

**§ 104-15. Specific standards.**

In all areas of special flood hazard where base flood elevation data has been provided as set forth in §§ 104-6 and 104-13B, the following standards are required:

A. Residential construction. New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for shall be provided for every square foot of enclosed area subject to flooding.
  - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
  - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting

hydrostatic and hydrodynamic loads and the effects of buoyancy.

(a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch shall be provided for every square foot of enclosed area subject to flooding.
- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(b) If the structure is to be floodproofed:

- [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of

resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

[2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

(2) The local administrator shall maintain on record a copy of all such certificates noted in this section.

C. Areas without base flood elevations.

(1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 104-13B or two (2) feet above the highest adjacent grade where no elevation data is available.

(a) New construction or substantial improvements of structures, including manufactured homes shall have the lowest floor (including basement) elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

(b) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

[1] A minimum of two (1) openings having a total net area of not less than one (1) square inch shall be provided for every square foot of enclosed area subject to flooding.

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- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [3] Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

**§ 104-16. Floodways.**

Located within areas of special flood hazard are areas designated as floodways. (See definition in § 104-4.) The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 104-6 and 104-13B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**§ 104-17. Zoning Board of Appeals.**

- A. The Zoning Board of Appeals, as established by Town of Somerset, shall hear and decide appeals and requests for variances from the requirements of this chapter.<sup>1</sup>
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

# APPENDIX A

## APPLICABLE EXCERPTS FROM 2004 COMPREHENSIVE PLAN

This Appendix presents excerpts from the Implementation section of the Comprehensive Plan for the Town of Somerset prepared in 2004. These actions may not be immediately relevant, and priority recommendations and action items are duplicated in Sections IV and V of the current Plan. However, there are some ideas that may be relevant, or may be of use in the future. They are included here in order to retain these ideas.

This section is presented verbatim from the 2004 plan without edits, except that recommendations that were no longer relevant have been deleted. They have not been adjusted or revised to reflect more current conditions, and additional research or verification of the support for these concepts may be necessary prior to their implementation. These ideas should be considered as a supplement to the priority concepts contained within the body of this Comprehensive Plan. The excerpts include recommendations (Section V) from the 2004 plan, as well as two appendices from that document.

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*(from 2004 Plan)*

## SECTION V

### IMPLEMENTATION PLAN

The following section summarizes and expands upon the Findings and Recommendations section of the plan. It first provides a general methodology for implementing the plan and then provides specific steps for implementing each of the goals and policies established by the community. These steps or actions were generated throughout the process by referring to previous efforts, through committee and public input, and from general planning principles.

It must be clearly understood that this plan is a guidebook for the community, and that the recommendations/actions that are given are suggested methodologies for achieving the Town's goals. Although given priorities, it shall be up to the Town Board to determine the applicability and/or timing of these actions. These actions are to be considered a "toolbox" to be utilized by the Town in achieving vision and responding to changes in the community. Each year, the Town Board (with recommendations from others) will decide on the need for any implementation actions, and address any updates to the plan.

### GENERAL IMPLEMENTATION PROCEDURES

1. Comprehensive Plan Adoption: The Town Board, after holding the appropriate public hearing(s) and completing the State Environmental Quality Review (SEQR) process, should adopt the comprehensive plan.
2. Form a Comprehensive Plan Implementation Committee: The Town Board should form a comprehensive plan implementation committee by resolution. This committee could be chaired by Town Board members and have representation of the Planning Board and others as necessary. This committee would meet at scheduled times throughout the year (2-4 times per year in the first couple of years after adoption and possibly reducing to 1-2 times per year thereafter). Their responsibility would be to help ensure that the plan is being implemented, evaluate results of actions, re-prioritize implementation actions as necessary, and suggest modifications to the plan as required.
3. Provide copies of the plan: The Town should provide copies of the plan to the Town's boards, departments and committees. When providing these plans, a meeting should be scheduled to explain the plan, and how it should be utilized.
4. Budget money and seek grants for implementation: The comprehensive plan implementation committee each year will provide an approximate budget needed for the coming year's implementation actions, to the Town Board (at budget time). The committee will also provide assistance to the Town Board in identifying and seeking grants for these actions. The Town Board will then budget for these actions and/or apply for grants.

# APPENDIX A

## IMPLEMENTATION ACTIONS PER GOALS OF THE TOWN

### A. Maintain the rural and agricultural character of the Town.

1. Review town zoning ordinances and modify as necessary to ensure that agriculture and its related activities are not restricted or hindered by the zoning law.

Priority: Low                      Responsibility: Planning Board could review and recommend revisions to the Town Board. Revisions would be adopted by local law.

Costs: Minimal: reproduction and mailing costs.

2. Removed this item

3. Consider adoption of a local right-to-farm law.

Priority: Low                      Responsibility: Town Board

Costs: Minimal: samples can be obtained from NYSDOS and others. Costs are for local law adoption.

4. Provide incentives for development in sewerred areas: expedited reviews, density bonuses, and prioritized public services.

Priority: Medium                      Responsibility: Town Board, Planning Board, Building Inspector

Costs: None

5. Establish and adopt rural development guidelines: these guidelines would be referenced in the zoning and subdivision regulations, and would be required in the agricultural zoning district.

Priority: Medium                      Responsibility: Town Board

Costs: Minimal: obtain samples, revise and adopt through local procedures.

6. Investigate agricultural preservation programs - the Town should evaluate transfer of development rights (TDR) and purchase of development rights (PDR) programs, and other programs that may be available (such as PACE [purchase of agricultural conservation easements], farm assistance programs, etc.).

Priority: Low                      Responsibility: Town Board through a committee

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Costs: Minimal: this is an investigation not implementation. (Implementation would be expensive.)

7. Maintain State agricultural districts.

Priority: High Responsibility: Town Board

Costs: None

8. Removed

9. Limit retail growth outside the Village to assist in the viability of the Barker Central Business District.

Consideration of zoning changes around the Village should consider the limitation of competing retail uses to the Barker Central Business District.

Priority: Medium Responsibility: Town Board

Costs: Minimal

- B. Achieve a pattern of development which minimizes travel time to meet daily needs and which meets a high standard of design and construction.

1. Modify the Town's zoning map to match the recommendations in this plan.

Priority: High Responsibility: Town Board through the Planning Board or committee

Costs: \$1,000 - \$2,000. Costs for amending map and adoption process.

2. Create an Access Management ordinance and assign to identified roads within the Town.

Priority: Medium Responsibility: Town Board through a committee (assistance from NYDOT)

Costs: Minimal - \$3,000. The NYSDOT has a sample Access management ordinance. It may need to be modified and then taken through an adoption process.

3. Create a rural development cluster development ordinance: this ordinance would apply to sewered areas and to non-sewered areas.

Priority: High Responsibility: Town Board

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Costs: \$1,000 - \$2,000. Obtain samples and work with a consultant to modify.

## 4. Removed

C. Meet the housing needs of the community by providing a variety of choices in new housing and by encouraging the improvement of existing housing.

1. Investigate a housing and property maintenance code: form a committee to research examples of these codes and how they are applied, and where and if they should be applied.

Priority: Low Responsibility: Town Board through a committee

Costs: Minimal

2. Publicize programs for Federal and State housing assistance programs, and programs for façade improvements and tax assessment issues.

Priority: Low Responsibility: Town Board

Costs: Minimal - \$1,000

3. Amend the zoning of the Town to match the vision of the plan in locating denser housing in the sewered areas.

Priority: High Responsibility: Town Board through the Planning Board or committee

Costs: \$1,000 - \$2,000. Costs for amending map and adoption process.

D. Protect important environmental resources from adverse effects.

1. Expand upon the work done in the Comprehensive Plan by identifying, quantifying and prioritizing important environmental resources in the Town: (the comprehensive plan and this resource would be referenced in the Town's codes).

Priority: Medium Responsibility: Town Board through a committee

Costs: \$1,000 - \$3,000. With volunteer and consultant assistance.

2. Create a lakeshore overlay district to provide additional requirements to developing in the lakeshore area. Requirements could include limitations on pole barns, height and location of structures, setbacks, etc. One of the important objectives would be to preserve views. This effort should be coordinated with the LWRP.

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Priority: Medium Responsibility: Town Board  
Costs: Associated with the LWRP creation.

3. Create and adopt updated stormwater and erosion control standards.

Priority: Medium Responsibility: Town Board  
Costs: Minimal - \$1,000. Acquire NYSDEC sample stormwater regulations.

4. Working with applicable adjoining communities, study the watersheds within the community for ways of protecting and improving water quality. Look into working with the Soil and Conservation service and their CEM (Community Environmental Management) program.

Priority: Medium Responsibility: Town Board  
Costs: Minimal - \$5,000. If acquire CEM assistance, costs could be minimal.

5. Removed wetlands ordinance recommendation.

6. Update/revise the zoning and subdivision regulations to require preservation/incorporation of important natural resources to any development proposal.

Priority: High Responsibility: Town Board through the Planning Board  
Costs: \$1,000

7. Addition of stream protection overlay areas: for identified streams (especially Golden Hill Creek), a stream protection overlay should be created. This zoning overlay would require development within its boundaries to meet structure regulations for setbacks from the creek, drainage and erosion control, and other issues such as viewshed protection.

Priority: Medium Responsibility: Town Board  
Costs: \$1,000 - \$2,000 for overlay creation

- E. Provide high quality community facilities and services at an acceptable cost to the local taxpayer.

1. Complete a Capital Improvements Plan: each Town department, board and committee should create a listing of improvements, needs, etc. for now and for the future (reasonable time period established).

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Priority: Medium Responsibility: All departments, boards and committees

Costs: Minimal

2. Create a grants plan for the prioritized capital improvements list.

Priority: Medium Responsibility: Town Board

Costs: \$3,000 - \$5,000. If consultant is necessary.

3. Monitor recreation needs in the Town: based on continued monitoring of these needs, the Town will determine when additional facilities/plans such as the multiple use plan should be implemented.

Priority: Low Responsibility: Town Board and Recreation Committee

Costs: Minimal

4. Based on watershed studies and possible assistance under a CEM program, determine those areas of the Town that need detailed drainage studies. A drainage committee could keep track of drainage problems and recommend studies/improvements to the Town Board. Assistance could also be sought through SEMO (State Energy Management Office) and FEMA (Federal Emergency Management Agency).

Priority: Low Responsibility: Town Board and Drainage Committee

Costs: Minimal through thousands of dollars.

5. Meet yearly with State Park officials to discuss Golden Hill State Park; their plans and the needs of the community.

Priority: Medium Responsibility: Town Board

Costs: None

- F. Provide for the future movement of traffic through the Town in a safe and efficient manner.

1. Focus should be on improving the existing highway system and not on constructing any new roads. Working with the NYSDOT and the County, the Town should identify areas for improvement.

Priority: Medium Responsibility: Town Board and Highway Superintendent

Costs: Minimal



# APPENDIX A

## APPENDIX FROM 2004 Plan:

### RESIDENTIAL DEVELOPMENT CONCEPTS

#### CLUSTER RESIDENTIAL DEVELOPMENT

The comprehensive plan recommends that the Town of Somerset consider the adoption of a policy whereby cluster residential or density control development would be permitted in the town's low and medium density residential areas. This alternative concept can offer several exciting advantages when compared with the typical lotting pattern in most conventional subdivision layouts. The clustering of homes in a compact service area permits the retention of large contiguous areas in their natural state. In addition, the developer has more flexibility in locating individual homesites, landscaping and vistas.

Under a cluster or development control concept the developer would be permitted to reduce the size of the building lot below the minimum zoning requirements provided that the number of homes in the subdivision is not increased and the overall density is maintained. Cluster residential development could have the following advantages for the Town of Somerset:

1. Cluster development emphasizes the preservation of open space and the development of park and recreation facilities. In this way, much of the natural vegetation and tree growth can be preserved and the town will be in a position to develop a complete park system which is functional to the town's population, and at little cost to the municipality.
2. Cluster development encourages new development schemes, which are exciting and aesthetically pleasing. It helps provide visual relief to the monotony of rows of dwellings lined up along residential streets. This could be an extremely important consideration in view of the fact that the majority of the land area within the town is level with very little relief.
3. Well designed cluster subdivisions can reduce the costs of construction and annual maintenance expenses by minimizing the lengths of streets, curbing, sewerage lines, storm drains, waterlines and other utilities. Thus the developer, the homeowner and the entire community should benefit from cluster development.
4. The clustering of homes permits significant latitude in preserving natural drainageways and special open spaces. This should serve to reduce the amount of surface runoff, to a level considerably below that which might be generated from typical subdivision developments; as well as encourage preservation of natural features.
5. Cluster development offers the long-range advantage of maintaining property values, which is a fundamental purpose of planning and zoning.

Attached examples (in Appendix D) indicate how a typical site can be developed under both conventional and density control systems. The more obvious advantages of cluster development include open space, easements and parklands, quiet residential streets and the provision of buffer areas between the cluster development and other adjacent uses of land. Though the required lot size is reduced under cluster requirements, the overall density of the entire tract would remain the same as the density prescribed under

# APPENDIX A

normal zoning requirements for the district in which the cluster is developed.

## PLANNED UNIT DEVELOPMENT

The concept of planned unit development is perhaps the most modern, forward-looking land development technique to be implemented in recent years. Instead of planning for the individual lot, planned unit development is a means of establishing a complete self-contained neighborhood or community unit. The planned unit development concept includes the provision of various uses within the same site, including various forms of housing (ranging from single-family dwellings to garden apartments) shopping areas and in some cases, industrial parks and community facilities.

Planned unit developments, differing from the typical subdivision plan, fixes land use relationships between buildings, allocation of open space, provisions for off-street parking and many other details which may or may not include such typical zoning regulations as setback, frontage and minimum lot size. Under the planned unit concept the yardstick for residential development is generally a density of dwelling units per acre rather than lot size specifications. It is a technique which gives the developer considerable flexibility in the design of the total site.

The institution of a planned unit development ordinance could require the developer to provide the following capital needs:

1. Water and sanitary sewerage systems which would connect into the public systems serving the area. If this is not feasible, the developer would be required to provide an individual system adequate to serve the planned unit development, which would be totally acceptable and approved by the County and State Health Department.
2. A certain percentage of the total land area to be retained for permanent open space. This could be dedicated to the town or maintained by a homeowner's association.
3. Land for elementary school sites at standards to be set by the school district in cooperation with the Town of Somerset. (this is very unlikely—school is adequate to absorb likely development)
4. Fire prevention sites to serve the projected planned unit development at standards to be set by the town. (ditto—more likely to require payment to existing fire department)
5. A street system which is adequate to serve the needs of the development, including the improvement of any existing highways which may serve the development.
6. A storm drainage system of sufficient size and design to carry off and dispose of all predictable surface water runoff within the development.

Each of the improvements listed above as well as the site design of the proposed development would be subject to approval by the Planning Board, the town engineer and the Town Board. A proposal for a planned unit development should also have the benefit of review of the County as well as that of a professional planner retained by the Planning Board, at the expense of the petitioner to review and analyze the proposal in relation to the town's development regulations.

# APPENDIX A

# APPENDIX A

## APPENDIX FROM 2004 Plan:

### LAND USE CONFLICTS

The plan recommends that large areas of Somerset should remain as rural or in agricultural use during the planning program. Farmland and agricultural land uses contribute significantly to the economic well being of the town as well as the county and the region. These areas serve to maintain economic stability, are a desirable scenic element in the local environment and help maintain an ecological balance. It is important that farming in Somerset be supported, so as to enhance the prime agricultural soils in the community and the micro-climatic conditions in this area of the state. It is also important that these soils which have been determined to be highly valuable for agricultural production be protected for such use. Once farmland has been taken out of production for residential or other types of development, the potential for reversion of the soil for agricultural purposes is generally lost forever.

Nationwide, a major cause for the decline in farming has been residential development "leapfrogging" throughout the rural farmland areas of every community. Although residential development has actually displaced relatively little farmland in Somerset, it has established a pattern of frontage development that could have potential conflicts with farming operations in the future. The most common types of conflicts with residents that tend to curb farming operations include aerial spraying of crops, nighttime harvesting operations and increased vandalism to field crops.

Strong support of local farming and agri-business activities cannot be over emphasized. This is due to the importance of agriculture as an income generator and employer and to its role in maintaining the rural character of Somerset. Pressures on viable farmland resulting from residential sprawl should be relieved and prevented through the establishment of development regulations that support farming. Similarly, public services and other capital improvements which would induce major non-farm development in productive farm areas should not be implemented. As part of the overall program to improve the maintenance and expansion of agricultural activities, favorable taxation and assessment policies should be continued through renewal of the state's Agricultural District program.

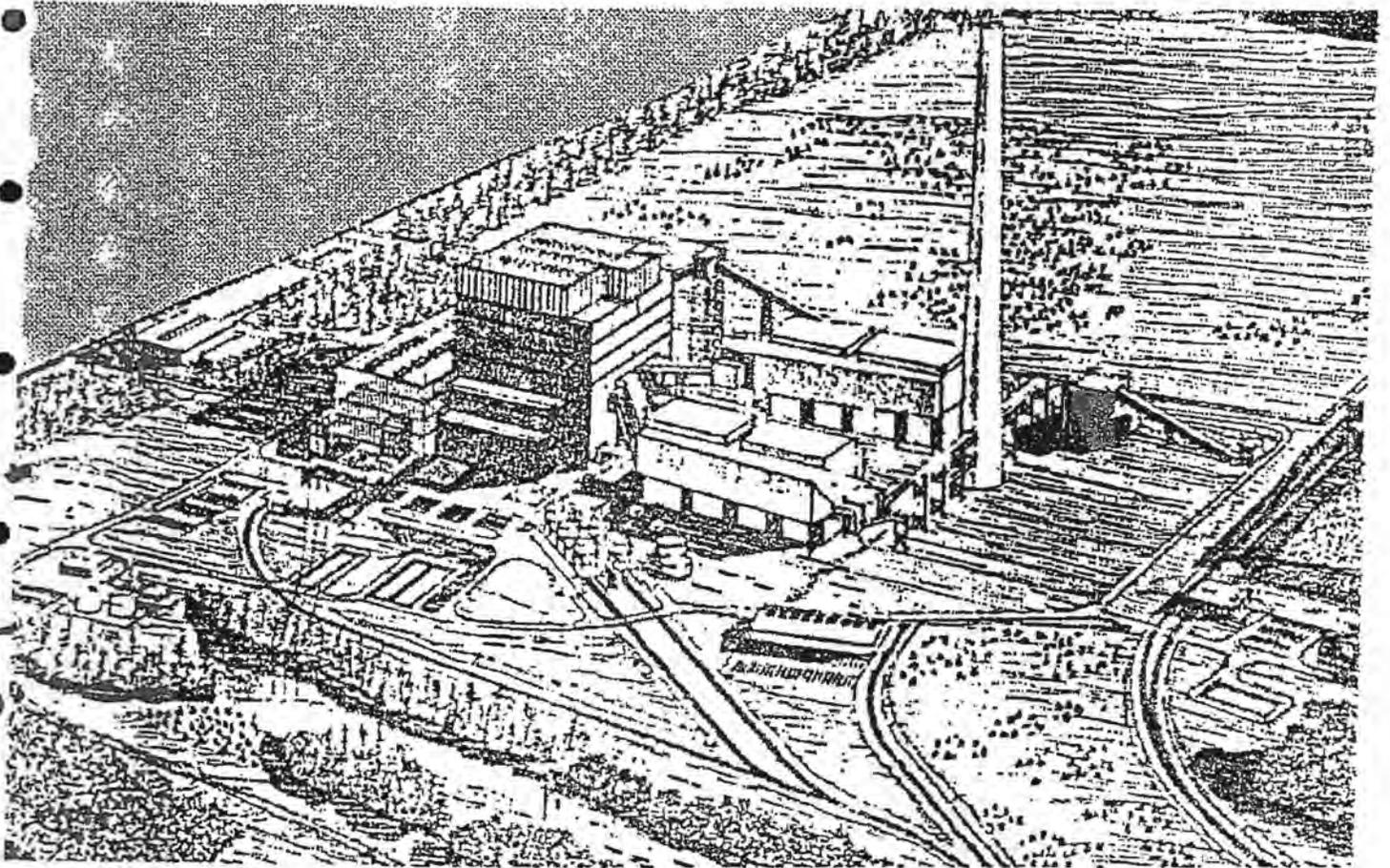
Permitted uses in designated agricultural areas should be limited to agricultural and related uses. Non-farm residential uses should be allowed in farming areas but maintained at low densities as recommended in the comprehensive plan. Further, permits to build in such areas should be carefully reviewed to plan the locations of dwellings to minimize the disruption of agricultural operations. Developers and homebuilders within areas designated for agricultural use should be made aware that farming will have priority consideration in such areas and that non-farm residents will be expected to make adjustments to live in harmony with adjacent farm users.

# APPENDIX B

## Somerset Power Plant Multiple Use Plan

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# **SOMERSET POWER PLANT MULTIPLE USE PLAN**



**NATURAL  
RESOURCES  
COMMITTEE**

**NOVEMBER 1979**

**ERIE AND NIAGARA COUNTIES REGIONAL PLANNING BOARD**

FINAL REPORT

SOMERSET POWER PLANT  
MULTIPLE USE PLAN

Prepared by the  
Erie and Niagara Counties Regional Planning Board

With the Assistance of the  
Somerset Power Plant Committee  
and  
Somerset Power Plant Multiple Use Subcommittee

The preparation of this report was financially aided through a Federal grant from the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration under the Coastal Zone Management Act of 1972, as amended. This report was prepared for the New York State Department of State and Erie and Niagara Counties Regional Planning Board and the Town of Somerset.

November, 1979  
Contract No. D142753  
Activity #4

BIBLIOGRAPHIC DATA SHEET		1. Report No. CEIP-04-8-MOI-88	2.	3. Recipient's Accession No.
4. Title and Subtitle Somerset Power Plant Multiple Use Plan			5. Report Date November, 1979	
7. Author(s) Erie and Niagara Counties Regional Planning Board			8. Performing Organization Rept. No.	
9. Performing Organization Name and Address Erie and Niagara Counties Regional Planning Board 3103 Sheridan Drive Amherst, New York 14226			10. Project/Task/Work Unit No. CEIP-1	
			11. Contract/Grant No. D142753	
12. Sponsoring Organization Name and Address United States Department of Commerce National Oceanic and Atmospheric Administration Office of Coastal Zone Management Washington, D. C. 20235			13. Type of Report & Period Covered Oct. 1978-Nov. 1979	
15. Supplementary Notes Developed in cooperation with the U. S. Dept. of Commerce and the New York State Department of State.			14.	
16. Abstracts The Regional Planning Board in cooperation with the Somerset Power Plant Committee and Somerset Multiple Use Subcommittee has put together a plan aimed at developing a municipal park on the New York State Electric and Gas Corporation power plant site in Somerset, Niagara County, New York. The Plan sets forth a phased development approach with strong emphasis toward shoreline access and winter recreation activities (e. g. sledding, cross country skiing). The Plan will be used as the basis for further discussion between the utility company and the Town of Somerset officials.				
17. Key Words and Document Analysis. 17a. Descriptors				
17b. Identifiers/Open-Ended Terms				
17c. COSATI Field/Group				
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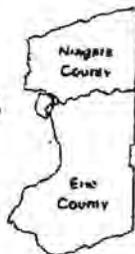
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Note: The Natural Resources Committee of the Regional Planning Board was in charge of this report as the Committee of Jurisdiction

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November, 1979

Dear Municipal Officials and Interested Citizens:

The Erie and Niagara Counties Regional Planning Board is pleased to present the Somerset Power Plant Multiple Use Plan. The report is the product of many months work by the Regional Planning Board and the numerous public and private organizations consulted during the study period. Due to the dedication and cooperation of these groups, a realistic plan is being put forward. This will form the basis for using a portion of the Somerset Power Plant site for recreational purposes.

Special thanks should go to the New York State Department of State, Office of Coastal Management for their initial foresight in funding the Board's First Year Coastal Energy Impact Program. This allowed the Multiple Use Plan to be developed and also allowed the Board to work with the New York State Department of State in identifying possible funding sources for future development of the multiple use facility.

The New York Department of Public Service also provided valuable technical assistance during plan development. Their knowledge of other multiple use facilities in New York State and their general technical skills provided a useful reference point for the Board during the study period.

The Niagara Frontier State Parks and Recreation Commission, Niagara County Department of Economic Development and Planning, and the Niagara County Environmental Management Council are also to be thanked for their valuable assistance and cooperation.

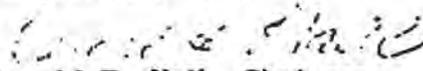
At the local level, the Somerset Town Board and Planning Board provided the Regional Planning Board with valuable knowledge, cooperation and encouragement. Without their help, the Multiple Use Plan could not have been developed.

In addition to the public agencies, special thanks should also go to Stuart I. Brown Associates and Krehbiel Associates, Inc. for their cooperation and assistance during the planning period. The New York State Electric and Gas Corporation also warrants our sincere thanks. The information provided by the NYSE&G regarding site characteristics and fly ash disposal areas proved invaluable.

Finally, members of the Somerset Power Plant Committee and the Regional Planning Board's Natural Resources Committee are to be congratulated for the excellent guidance and encouragement they provided to the staff. Their assistance provided ongoing direction to staff which insured a realistic plan capable of forming the basis for a valuable recreational resource in Niagara County.

The Erie and Niagara Counties Regional Planning Board sincerely hopes that the Somerset Power Plant Multiple Use Plan will provide a sound basis for an attractive and useful recreational area along the Lake Ontario shore. We sincerely thank all those who participated in the study for their time and assistance during the study process.

Very truly yours,

  
Gerald F. Hall, Chairman  
Erie and Niagara Counties  
Regional Planning Board

GFH:ch

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*Lon McAdam	Somerset Planning Board Member Representing Somerset Town Board
*Member, Multiple Use Subcommittee	

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Gary Nichols, Councilman	Town of Hartland
*Richard Robinson	Niagara County Fisheries Advisory Board
*Donald Sawyer, District Manager	New York State Electric and Gas Corporation
E. Kenneth Welker, Mayor	Village of Wilson
Dorson Wilson, Deputy Commissioner	Niagara County Department of Public Works

\*Member, Multiple Use Subcommittee

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# THE REGIONAL SETTING

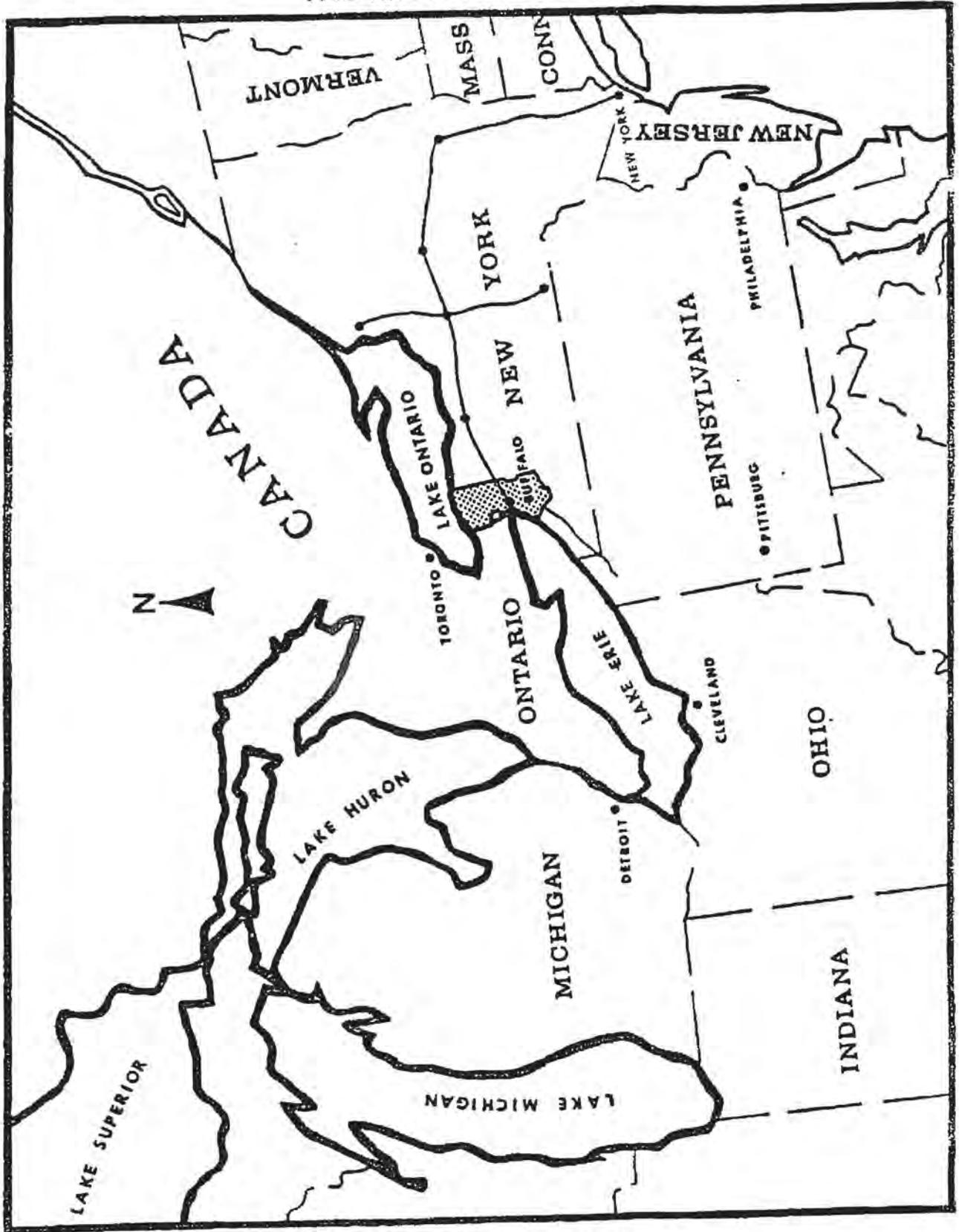


Figure 1. The Regional Setting  
-viii-

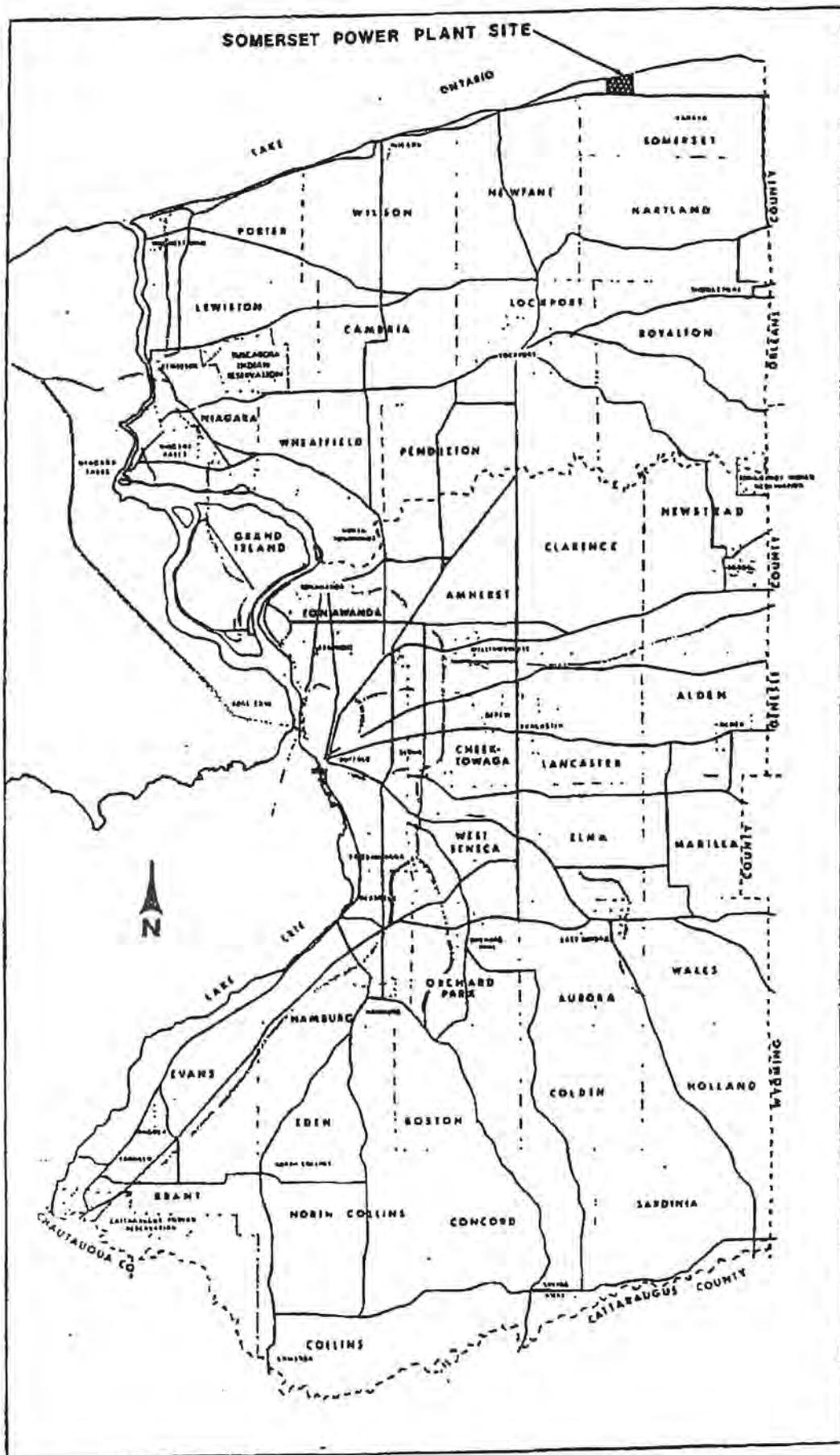


Figure 2. Somerset Power Plant - Regional Location  
Erie and Niagara Counties, New York

## FOREWORD

In October, 1978 the Erie and Niagara Counties Regional Planning Board received a grant from the New York State Department of State to carry out the Somerset Coastal Energy Impact Program. Funds were authorized for the program under Section 308 of the federal Coastal Zone Management Act of 1972, as amended. The program provided for numerous planning activities relating to the future construction by the New York State Electric and Gas Corporation (NYSE&G) of a 850 megawatt coal fired generating plant in the Town of Somerset, Niagara County (estimated \$1 billion (1980); 960 acre site). This included formation of a Somerset Power Plant Committee, an analysis of community impacts due to plant construction, an extensive review of the Somerset rail service issue, and the development of a multiple use plan for the power plant site. The latter activity is the focus of this report.

The power plant site is situated along the shore of Lake Ontario and has vegetative as well as terrain characteristics which offer good potential for various forms of recreational use. This fact was consistently brought forward during the numerous public hearings and reviews conducted by the New York State Board on Electric Generation and the Environment relative to the Somerset Plant prior to their granting certification to NYSE&G for construction of the plant under provision of Article VIII of the New York State Public Service Law. Therefore, as a condition of Article VIII certification, NYSE&G has been required by the Siting Board to investigate the recreational potential of the power plant site.

In addition to the positive physical features of the property and the Siting Board requirements, the Erie and Niagara Counties Regional Planning Board has an inherent interest in pursuing the site's recreational potential. The Board's adopted Regional Recreation and Open Space Plan and Program, as amended (1977) identifies the area as a future location of a municipal park. The Plan notes that recreational demand for the park would occur around 1980 and that proper measures should be employed to develop a park in the immediate area of the power plant site. With the above mentioned incentives, the Regional Planning Board included the multiple use activity as a key element of the Somerset Coastal Energy Impact Program. A positive action relative to the Board's multiple use activity occurred when NYSE&G cited the Board's multiple use activities as a key vehicle in their satisfying the State Siting Board's requirements relative to investigating the recreational potential of the site. This citation was reflected in NYSE&G's Initial Compliance Filing and Licensing Packages for Somerset Station (April, 1979), as presented to the New York State Board on Electric Generation and the Environment.

This report outlines the approach used in arriving at the recommended multiple use concept and also defines the various elements of the plan. The Multiple Use Concept has been reviewed by the Somerset Multiple Use Subcommittee, Somerset Power Plant Committee, Somerset Planning Board, Somerset Town Board and the Regional Planning Board's Natural Resources Committee and the full membership of the Regional Planning Board prior to submittal to the New York State

Electric and Gas Corporation and the New York State Public Service Commission for their approval.

It must be stressed that the following plan is only a conceptual presentation of the multiple use potential of the Somerset Power Plant site. The major purpose of the plan is to initiate discussion between the New York State Electric and Gas Corporation, the New York State Public Service Commission and the Town of Somerset or any other organization capable of sponsoring the development of a recreational facility on the Somerset property. The plan must not be used as an end in itself, but should serve as a catalyst toward further discussion and a refinement of the concepts as outlined on the following pages.

It should be stressed that should the Town of Somerset decide not to pursue sponsorship of the park, Niagara County or the Niagara Frontier State Parks and Recreation Commission should investigate the possibility of developing a County or State recreation facility on the site.

SECTION I  
PLAN RECOMMENDATIONS

This Plan proposes a series of actions to develop a municipal park on the New York State Electric and Gas Corporation's Somerset Power Plant site. Successful implementation of the Regional Planning Board's recommendations outlined in this Plan will provide a valuable recreational resource to the Town of Somerset and other Niagara Frontier residents. The following Plan recommendations are directed toward the Town of Somerset, New York State Electric and Gas Corporation, the Erie and Niagara Counties Regional Planning Board, Niagara County and the Niagara Frontier State Parks and Recreation Commission.

A. RECOMMENDED ACTION BY THE TOWN OF SOMERSET

1. SPONSOR - It is recommended that the Town of Somerset sponsor the implementation of the Recommended Multiple Use Alternative and consequent Municipal Park. By doing so, the Town would assume responsibility for the cost and liability resulting from the development and maintenance of the park.

2. ACQUISITION OF FULL OR PARTIAL INTEREST IN LAND NECESSARY FOR MULTIPLE USE ACTIVITIES - The Town of Somerset should acquire from New York State Electric and Gas Corporation a full or partial interest in land noted as Sub-Areas A, B, C, D, F and G in Figure 4, on Page 17 of this report. Such areas are necessary for recreation activities and should be purchased in phases over the life of the plant.

The following outlines various mechanisms available to the Town for purchasing a full or partial interest in the abovementioned property. The Town is authorized to undertake each mechanism pursuant to Section 247 of the New York State General Municipal Law.

a. Long-Term Lease (e.g. 25 years) - This would occur between NYSE&G and the Town of Somerset regarding the property needed for multiple use activities. Such leasing would occur in phases depending on the availability of the particular land in question.

b. Affirmative Easement - This would give the Town of Somerset use of the land for recreation activities.

c. Fee Simple - This approach would involve the direct sale of NYSE&G property to the Town of Somerset. Such sale would occur in phases depending on the availability of the particular parcels of land.

3. CONFORMANCE TO NEW YORK STATE PUBLIC SERVICE COMMISSION GUIDELINES - Development and maintenance of the proposed Municipal Park by the Town of Somerset must conform to all guidelines established by the New York State Department of Public Service relative

to multiple use of electric generating facilities. This includes assurance that no park facilities or activities would interfere with the safe and efficient operation of the power plant.

The Town of Somerset must further insure that no park facilities or activities would damage, destroy, degrade or in any way lessen the performance of the environmental protection measures undertaken by New York State Electric and Gas on the power plant site. An example of such a measure is the drainage ditches to be constructed around the three fly ash disposal sites. This would insure conformance with the conditions placed on NYSE&G by the New York State Board on Electric Generation Siting and the Environment in their Opinion and Order #80002 (Cayuga Station).

4. RIGHT-OF-WAY ACQUISITION - The Town of Somerset should pursue the acquisition of a road right-of-way of sufficient size to accommodate park related vehicular traffic. Such a road would run due west from the junction of Hartland Road and Lower Lake Road into the New York State Electric and Gas property. The approximate location is shown in Figure 9 on Page 34 (i. e. Multiple Use Plan-Phase I).

New York State Electric and Gas Corporation is currently in the process of negotiating the purchase of Potter Road and Hosmer Road (i. e. as they extend north of Route 18) from the Town of Somerset. During the course of these negotiations, the possibility of New York State Electric and Gas assuming some or all of the costs of acquiring and developing the above-mentioned right-of-way has been discussed. Such a provision of lakefront access would be in exchange for the loss of Hosmer and Potter Roads to the utility company. It is recommended that the Town of Somerset continue to pursue its negotiations with New York State Electric and Gas for the provision of access (via the abovementioned right-of-way) in exchange for the loss of Hosmer and Potter Roads.

5. REFINEMENT OF RECOMMENDED MULTIPLE USE ALTERNATIVE - The level of detail contained in the Multiple Use Plan and as reflected in Figures 9, 10, and 11 on Pages 34, 35, 36, respectively (i. e. Multiple Use Plan-Phase I, II, and III) is schematic. It is intended to serve as a general guide or framework for a more detailed landscape and engineering design. It is proposed that the Somerset Town Engineer (in the past Wendel Engineers has performed this function on a consulting basis) be employed to further develop the concepts outlined above. It is also recommended that the New York State Electric and Gas Corporation assist the Town in developing a more detailed landscape and engineering design for the area.

It should be noted that the Multiple Use Plan is very flexible. Various changes in the location of trails, access road and picnic areas could occur without changing the overall concept of multiple use. Thus, any organization

involved in refining the concepts outlined in this report would be encouraged to explore the possibility of altering the physical arrangements of the park area. The Regional Planning Board assumes that the more refined engineering analysis may actually necessitate such alterations.

6. ADOPTION OF LOCAL COASTAL ZONE MANAGEMENT PROGRAM - In order to be given high priority by the New York State Department of State for federal funding assistance authorized through the federal Coastal Zone Management Act, as amended 1976, the Town of Somerset should adopt a local coastal zone management program. The latter must be consistent with the New York State Coastal Zone Management Program upon its approval by the federal government in November, 1980. The key components of a local coastal zone management program involves the development of a local process for carrying out the State coastal zone policies through municipal authorities (e. g. zoning). More detailed guidelines for municipalities seeking to develop local coastal zone programs will be prepared in 1980 by the New York State Department of State. It should be noted that the above mentioned funding assistance can provide funds for partial acquisition and development of the proposed Municipal Park. The specific federal programs available through the federal Coastal Zone Management Act, as amended 1976, are outlined in Section X (i. e. Potential Funding Sources) of this report. In the event the Town of Somerset does not adopt a local coastal zone management program, it will not be eliminated from funding consideration, however, it is not likely that the application would be given a high priority by New York State Department of State.

7. AMENDMENTS TO TOWN OF SOMERSET COMPREHENSIVE PLAN - It is recommended that the Town of Somerset Comprehensive Plan (approved, 1972) be amended to include the phased development of a Municipal Park on the Power Plant site. Although such a facility is presently noted on the Town's Comprehensive Plan, it is referred to in general terms. A more refined description of the facility would be appropriate. This would serve as a concrete guide to the Town of Somerset regarding their commitment to the phase development of the recommended Municipal Park.

B. RECOMMENDED ACTION BY NEW YORK STATE ELECTRIC AND GAS CORPORATION

1. ASH DISPOSAL DESIGN ALTERATIONS - It is recommended that the New York State Electric and Gas Corporation alter their design plans regarding ash disposal. These are reflected in NYSF&G's Final Report on Cayuga Station Ash Disposal Application to the New York State Board on Electric Generation Siting and the Environment, Cayuga Station (1979). Such alterations would require the following:

a. The elimination of the proposed landscaping east of Potter Road and north of Solid Waste Disposal Area #1. This would be in accordance with the proposed landscaping depicted in Figure 9 (i. e. Multiple Use Plan-Phase I) of this report. By deleting the above mentioned vegetation, various recreation opportunities would be possible.

b. The elimination of the landscaping proposed for the perimeters of the Solid Waste Disposal Area #1 and #III in the areas where the Multiple Use Plan proposed sledding. Such sledding areas are depicted in Figures 10 and 11 of this report.

c. The buffer landscaping outlined by NYSE&G between the eastern most perimeters of solid waste disposal sites #I and #III and NYSE&G's eastern property line should be altered so as to accommodate the trails proposed for those areas by the Multiple Use Plan (see Figure 11, Multiple Use Plan-Phase III).

d. The projected slopes of the solid waste disposal sites #1 and #III should be modified by NYSE&G in order to permit sledding and cross country skiing.

**2. PURCHASE AND CONSTRUCTION OF MULTIPLE USE ACCESS ROAD -**

It is recommended that the New York State Electric and Gas Corporation assume the cost of purchasing and constructing an access road into the northeast section of the power plant site. This would basically extend from the junction of Hartland Road with Lower Lake Road and proceed west approximately 1,200 feet. The access road is depicted in Figure 9 of this report. Upon completion of the access road, the right-of-way would be deeded to the Town of Somerset. This would assist the Town in alleviating the loss of two Town roads (i. e. Hosmer and Potter) to the power company which previously provided access to Lake Ontario.

**3. PROVIDE ASSISTANCE TO THE TOWN OF SOMERSET -** It is recommended that the New York State Electric and Gas Corporation assist the Town of Somerset in finalizing the detailed design plans regarding the Multiple Use Plan. Such assistance should be provided through meetings between the Town of Somerset Engineer and NYSE&G staff familiar with the power plant site characteristics. This would provide a direct vehicle for an information exchange and also aid the Town in refining the conceptual design outlined in this report.

**4. PROVIDE LANDS NECESSARY FOR MUNICIPAL PARK TO TOWN OF SOMERSET -** It is recommended that NYSE&G make land in Sub-Areas A, B, C, D, F and G as depicted in Figure 4 of this report available to the Town of Somerset at a very low cost (e. g. lease agreement of one dollar/year). The areas in question reflect the land necessary for a successful Municipal Park.

C. RECOMMENDED ACTION BY THE ERIE AND NIAGARA COUNTIES  
REGIONAL PLANNING BOARD

1. AMENDMENT TO ENCRPB ADOPTED REGIONAL RECREATION AND OPEN SPACE PLAN AND PROGRAM (as amended, 1977) - The Regional Planning Board has included the proposed Municipal Park on the adopted Regional Recreation and Open Space Plan and Program, as amended, 1977. It is noted as MP108 on the Regional Recreation and Open Space Plan Map and referred to as Potter Road Park. However, the document notes that the land should be acquired by the Town of Somerset between 1973 and 1980. It is recommended that this be amended to note partial acquisition between 1981-1990 and remaining acquisition in future years. It is further recommended that the adopted Regional Recreation and Open Space Plan and Program be amended to include bicycling, picnicking, sledding, fishing, and nature study as proposed recreation opportunities in Potter Road Park.

D. NIAGARA COUNTY

1. ALTERNATE SPONSOR - In the event the Town of Somerset cannot pursue sponsorship of the multiple use facility, it is recommended that Niagara County pursue negotiations with the utility company regarding the development of a County Park on the power plant site.

E. NIAGARA FRONTIER STATE PARKS AND RECREATION COMMISSION

1. ALTERNATE SPONSOR - In the event neither the Town of Somerset or Niagara County do not wish to pursue sponsorship of the multiple use facility, it is recommended that the Niagara Frontier State Parks and Recreation Commission pursue negotiations with the utility company regarding the development of a State recreation area on the power plant site.

2. BOAT LAUNCH RAMP - Due to the steep shoreline and high cost, a boat launch ramp at the power plant site is not feasible. However, the power plant's warm water discharge pipe will increase the desire of local fishermen and boaters to fish offshore of the NYSE&G facility. Such areas have become fishing hotspots in other power plant locations. An example is Cayuga Lake adjacent to NYSE&G's Milliken Station in Tompkins County, New York. Such an increase in boating activity will further exacerbate the need for public boat launch ramps along the Niagara County-Lake Ontario shoreline. Such a need has been noted in the New York State Comprehensive Recreation Plan (1978) prepared by the New York State Office of Parks and Recreation, as well as in the report entitled Sport Fishing prepared by the Niagara County Economic Development and Planning Department in January, 1976 for the Niagara County Fisheries Advisory Board. Therefore, it is recommended that the Niagara Frontier State Parks and Recreation Commission give high priority to constructing the boat launch ramp at Golden Hill State Park in the Town of Somerset, New York. This would be consistent with the development of a proposed harbor of refuge at Golden Hill State Park as outlined in the New York State Comprehensive Recreation Plan (1978).

## SECTION II BACKGROUND

### A. NEW YORK STATE ELECTRIC AND GAS CORPORATION SOMERSET GENERATING STATION

In July, 1974, the New York State Electric and Gas Corporation (NYSE&G) submitted an application to the New York State Board on Electric Generation Siting and Environment for the construction of an 850 megawatt coal-fired electric generating plant. The Cayuga Station, Town of Lansing, Tompkins County, New York was identified as the prime site in this application, with the Somerset location identified as the alternate site.

In December, 1978, the Siting Board issued their Opinion and Order Granting Certificate of Environmental Capability and Public Need (Case #80002) to New York State Electric and Gas Corporation, and chose Somerset as the recommended site. The recommendations contained in the above document were based upon the New York State Hearing Examiners' recommended decision (May, 1978) to the Siting Board and followed extensive review and assessment of written and oral testimony presented during 25 days of public hearings held in Albany, Ithaca, Lockport, and New York City.

### B. THE MULTIPLE USE CONCEPT

During the public hearing process for State required permits under Article VII and Article VIII of the New York State Public Service Law, statements submitted by the Town of Somerset and the Erie and Niagara Counties Regional Planning Board identified a portion of the NYSE&G Somerset property as a future municipal park. The Town of Somerset Master Plan (1972) and the ENCRPB adopted Regional Recreation and Open Space Plan and Program as amended, 1977, both proposed the development of a 30 acre (approximate) municipal park adjacent to Lake Ontario at the foot of Potter Road. This park was projected to meet the recreational needs of the Town of Somerset for the period from 1980 to 1990.

In November, 1977, the New York State Department of Public Service submitted written testimony to the Siting Board at a public hearing held in Lockport, New York. The testimony pertained to the environmental impact of the proposed Somerset station and included a discussion of the multiple use potential of the site. The testimony also included a recommendation that the Siting Board endorse the multiple use concept for part of the proposed power plant site and require the applicant to explore the concept with the appropriate Town officials. As part of the testimony presented by the Department of Public Service, the following guidelines were presented and endorsed by the Hearing Examiner and Siting Board:

"Multiple recreational usage involves the adoption of an appropriate plan by the owners of property and appropriate community leaders. It is the recommendation of the PSC staff that an acceptable multiple use plan, in this particular case, have the following general features:

"1. The Applicant should make land available for multiple use (by lease, sale or easement) at nominal cost, so long as:

- a) that land is suitable for that purpose,
- b) it is not needed for activities related to generation, and
- c) recreational activities on that land will not interfere with activities related to generation;

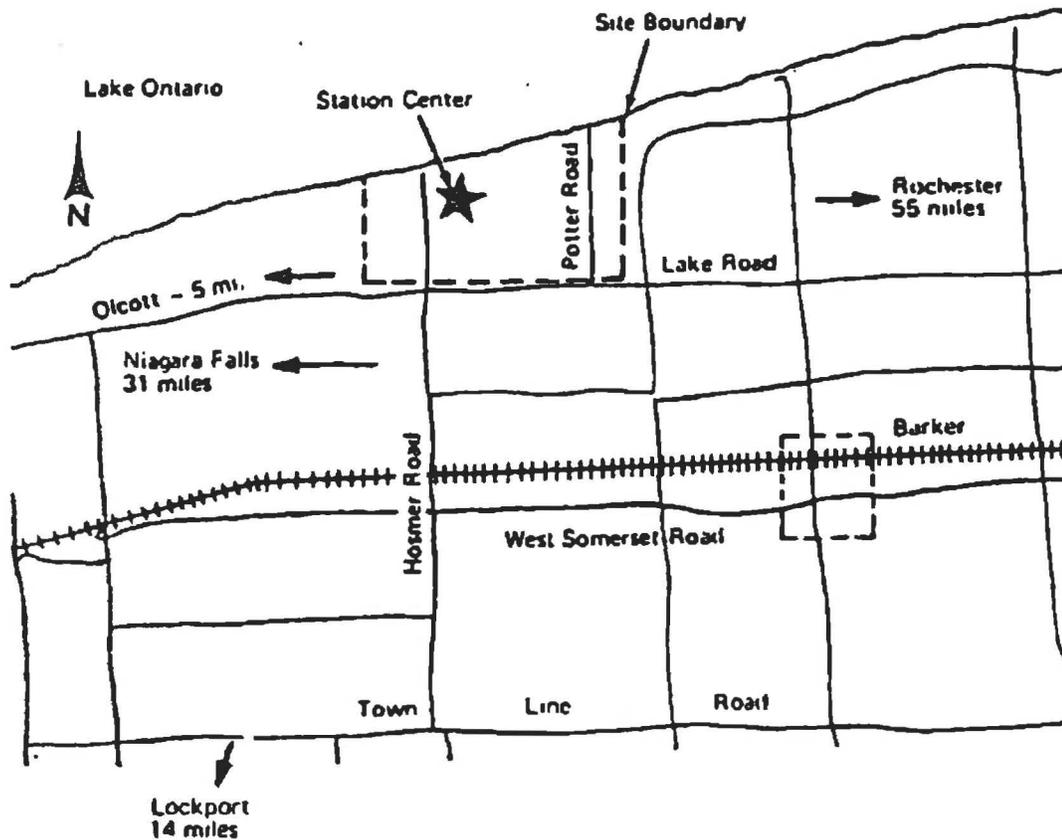
"2. The sponsor of the park shall assume all costs, responsibilities and liabilities related to constructing, maintaining and operating recreational facilities in the multi-use area."

In October, 1978, the Erie and Niagara Counties Regional Planning Board (ENCRPB) was awarded a grant from the New York State Department of State under the Coastal Energy Impact Program (CEIP) to conduct planning studies related to the proposed development of the NYSE&G Somerset generating station. One of the major activities outlined in the Board's program was Multiple Use Analysis. This activity was intended to further refine the analysis outlined in the NYS Department of Public Service testimony relative to the power plant's multiple use potential. In addition, the ENCRPB would assist the Town of Somerset and NYSE&G in exploring the concept and utilize the Somerset Power Plant Committee (which would be formed as part of the Board's first major activity under the Somerset CEIP) as an implementation mechanism.

### C. REGIONAL SETTING

The New York State Electric and Gas Corporation's Somerset station property is located in the Town of Somerset which is situated in northern Niagara County. Figure 2 illustrates the power plant location in relation to Erie and Niagara Counties. The 963-acre site is located along a two mile (approximate) stretch of Lake Ontario shoreline which forms the northern boundary, while New York State Route 18 forms the southern border. There are no distinguishable landmarks to indicate the east and west property lines, however, the site's western border begins approximately 1.5 miles eastward of the municipal boundary between Somerset and the Town of Newfane.

The Town of Somerset is predominately a rural community with a 1975 estimated population of 2,677 (Report 5, Population/Socio-Economic Analysis Present and Future, ENCRPB 208 Water Quality Management Program, October, 1978). The NYSE&G property is located approximately three miles north-west of the Village of Barker, and approximately 18 miles north-east of the City of Lockport. The following illustration was contained in a New York State Electric and Gas Corporation Brochure entitled "A Modern Coal-Fired Generating Station for Somerset (date unknown)". It shows the location of the power plant in relation to roads and other physical features in northern Niagara County.



### SECTION III METHODOLOGY

In order to complete the Multiple Use Plan, a study methodology was identified at the outset of the planning process. This consisted of eleven major elements which guided the Board's efforts in developing a feasible plan for recreational multiple use at the Somerset Power Plant site. Although the specific direction of certain elements was altered during the planning effort, the basic approach was maintained throughout the program.

More in-depth discussion of each element will be presented in the succeeding sections of the report. However, the following list notes the eleven steps in the multiple use planning process in the order in which they were developed.

1. Development of a Citizen Participation Structure
2. Data Collection
3. Identification of Recreational Preference and Projected Sponsor
4. Site Analysis
5. Selection of Alternative Multiple Use Concepts
6. Evaluation of Alternatives
7. Selection of Recommended Alternative
8. Cost Estimation for Recommended Alternative
9. Identification of Potential Funding Sources
10. Plan Presentation to Appropriate Organizations
11. Delivery of Recommended Multiple Use Plan to NYSE&G

## SECTION IV CITIZEN INVOLVEMENT

At the outset of the Regional Planning Board's Coastal Energy Impact Program, a Somerset Power Plant Committee was formed. The Somerset Power Plant Committee is composed of agencies and groups directly involved with the proposed power plant project, including officials from the Town of Somerset and other affected local municipalities, representative from the Niagara County Legislature, Niagara County Economic Development and Planning Department, Niagara County Environmental Management Council, New York State Department of Environmental Conservation, New York State Department of Public Service, the Utility-New York State Electric and Gas Corporation, and others. A complete membership list is included at the beginning of this report.

At the February 1, 1979 meeting of the Somerset Power Plant Committee it was decided that a Multiple Use Subcommittee should be formed to undertake the development of a Multiple Use Plan. The Subcommittee's major purpose was to: (1) assist the Regional Planning Board in developing a Multiple Use Plan; (2) exchange information regarding the opportunities and constraints of the Somerset site for recreational use; (3) determine the type of recreation activities for the area; and (4) aid in the eventual implementation of the study proposals. The majority of the Subcommittee members reside in the Town of Somerset and were therefore able to provide valuable insight and local perspective to the study. Also on the Subcommittee was a representative from the New York State Electric and Gas Corporation. This insured constant communication between the utility company and the Multiple Use Subcommittee during the plan development.

Subcommittee meetings were conducted bi-monthly at the Somerset Town Hall and were held at key phases in the planning process. The meeting dates were April 3, 1979; May 28, 1979; July 11, 1979; July 31, 1979; and September 17, 1979. The meetings were conducted as work shop sessions with the Regional Planning Board staff and Subcommittee members exchanging information regarding the status of various work items. A Multiple Use Subcommittee membership list is included at the beginning of this report. It is envisioned that the Subcommittee will continue to meet through the final review of the Multiple Use Plan by New York State Electric and Gas Corporation and the New York State Public Service Commission.

## SECTION V DATA COLLECTION

Data collection for the multiple use analysis was gathered in two phases. The first phase involved collecting general background information regarding other multiple use facilities developed in conjunction with power plant sites. During the second phase, data was gathered relative to the Somerset power plant site and applied to the specific Somerset multiple use analysis. The abovementioned data collection phases are explained more fully in the following paragraphs.

### A. BACKGROUND PHASE

The purpose of the background phase was to obtain general information regarding the issues and implications of the concept of multiple use. In particular, efforts were directed towards obtaining case studies of multiple use development at utility facilities similar to the proposed Somerset station. A major consideration was the legal implications of developing recreational opportunities on utility owned property, especially within the climate created by New York State Public Service Commission multiple use guidelines as noted in Section II of this report. Information was requested from utility companies, government agencies, and private consulting firms.

### B. APPLIED PHASE

Following completion of the background phase, data was collected regarding site characteristics of the NYSE&G property.

Sources for the applied phase included conversations with local officials, technical reports prepared by NYSE&G regarding the Somerset site and other government planning documents.

The ENCRPB staff conducted numerous site visits to the NYSE&G Somerset property for the purpose of obtaining first-hand knowledge of the site's physical characteristics and recreation potential. A site visit conducted on July 11, 1979 was also attended by members of the Multiple Use Subcommittee. The ENCRPB staff also visited NYSE&G's Milliken Station coal-fired generating plant on Cayuga Lake in Tompkins County, New York. NYSE&G officials conducted a tour of the facilities there, with particular attention given to ash disposal operations at a revegetated ash disposal mound. Information gathered during the Somerset and Milliken site visits was transmitted to Subcommittee members via slides, photographs, and verbal presentations.

SECTION VI  
IDENTIFICATION OF POTENTIAL RECREATIONAL  
USES AND PROJECT SPONSOR

Two key elements of the multiple use planning process were the identification of recreational uses for the site and the selection of a park sponsor. The latter element was very important because the park sponsor would become responsible for developing and maintaining the park facilities as well as applying for the necessary funding assistance through the federal government.

A. POTENTIAL RECREATION USES

Potential recreational uses for the site were determined at an early stage in the planning process. This was accomplished by reviewing relevant planning documents as well as discussing alternative uses with members of the Multiple Use Subcommittee.

It should be noted that the early identification of recreational uses for the power plant site was only intended to provide Regional Planning Board staff with a guideline to use during further site analysis. The future examination of the various land features present on the site would be the determining factor in deciding which recreation activities to recommend in the Multiple Use Plan. The following paragraphs identify pertinent documents and other appropriate sources which suggest possible recreation uses for the power plant site.

1. TESTIMONY PROVIDED BY THE NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE BEFORE THE NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT IN THE MATTER OF CASE 80002, NOVEMBER, 1977 - The New York State Department of Public Service staff submitted testimony to the State Siting Board regarding the recreational potential of the Somerset Power Plant site. The testimony concluded that the northeastern section of the site would be suitable for field games as well as hiking, touring trails.

2. ERIE AND NIAGARA COUNTIES REGIONAL PLANNING BOARD ADOPTED REGIONAL RECREATION AND OPEN SPACE PLAN AND PROGRAM, AS AMENDED 1977 - The Regional Recreation and Open Space Plan amended by the ENCRPB in 1977 identifies the site as a future municipal park. The Plan recommends development between 1973 and 1980 and suggests boating, fishing, athletic sports, picnicking, and a beach area as possible recreational activities.

3. TOWN OF SOMERSET MASTER PLAN (Approved, 1972) - The Somerset Master Plan identifies an area on the northeastern section of the power plant site as a future municipal park. Specific recreation activities were not identified for the area, however, the Master Plan does stress the need

to provide recreation areas along Lake Ontario. This points out the desire of the Town to provide water-oriented recreation activities.

4. MULTIPLE USE SUBCOMMITTEE - In order to supplement the data obtained from the abovementioned sources, the Regional Planning Board staff solicited information from the Multiple Use Subcommittee. Feedback gained from the Subcommittee members pointed out a desire to develop facilities for fishing, boating, camping, nature studies, scenic vistas and a beach area.

The recreational uses identified in the preceding paragraphs were accepted by the Regional Planning Board staff as major activities which should be given strong consideration during the multiple use planning process. Thus, the power plant site was reviewed with the idea of incorporating the abovementioned activities into the Multiple Use Plan wherever feasible.

#### B. PROJECT SPONSOR

The identification of a park sponsor was not a difficult task. As noted earlier, in this report, both the Erie and Niagara Counties Regional Planning Board's adopted Regional Recreation and Open Space Plan and Program, as amended (1977) and the Town of Somerset Master Plan (1972) recommended a municipal park for the power plant site. This suggested that the Town of Somerset would be the appropriate sponsor for developing the facility. Such a conclusion was reinforced by the approval of the Multiple Use Subcommittee regarding this approach at their July 31, 1979 meeting.

It should be stressed that should the Town of Somerset be unable to pursue project sponsorship, the various elements of the Multiple Use Plan should remain active. The Town of Somerset or other appropriate group should then seek an agreement with Niagara County or the Niagara Frontier State Parks and Recreation Commission regarding their involvement in sponsoring the Multiple Use facility.

## SECTION VII GENERAL SITE ANALYSIS

### A. GENERAL SITE CHARACTERISTICS

The New York State Electric and Gas Corporation's Somerset station property is on a 963-acre site bounded on the north by Lake Ontario, and on the south by New York State Route 18. There are no distinct east and west boundary characteristics. The west boundary is approximately 1.5 miles eastward of Newfane-Somerset Town Line, and the eastern boundary is approximately .25 miles west of Hartland Road. Two town roads-Potter and Hosmer-bisect the property in a north-south direction from Lake Road to the Lake Ontario shoreline. Both roads, which presently provide access to Lake Ontario, will be removed during the construction of the power plant facility. Figure 3 on page 15 (Somerset Power Plant Site), shows the location of these roads in relation to the eventual power plant facilities.

The site terrain is generally level (i. e. 0-2% slope) with a slight slope towards the lake in the northern half. The shoreline is characterized by high, sharp bluffs. Preliminary coastal erosion data gathered by Thomas Drexhage and State University of New York at Buffalo (SUNYAB) Faculty Advisor Parker Calkins for Mr. Drexhage's Master Thesis (unpublished) at SUNYAB indicate that long term (1875-1974) erosion rates for this section of Lake Ontario shoreline can be estimated at 0.5 feet/year.

Fish Creek and an unnamed stream traverse the property in a northeast direction from Lake Ontario. Fish Creek has been recognized as a major salmonid spawning stream by the New York State Department of Environmental Conservation in their Final Report on Significant Coastal Related Fish and Wildlife Habitats of New York State (June, 1977). The unnamed stream flows through a large wooded area in the north-central section of the site where it forms a small pond. Substantial tree and brush growth occurs along the banks of both streams in several places. The wooded area and abovementioned streams will be preserved throughout the lifetime of the power plant. It should be noted that, presently, a large portion of the site is being leased to local farmers for agricultural use.

The power plant facilities will occupy the western portion of the site with the actual generating facilities located at the foot of what is now Hosmer Road. Coal storage and a rail loop will be located to the south of the generating station. As depicted in Figure 3 (i. e. Somerset Power Plant Site) a majority of the site's eastern portion will eventually be occupied by three distinct Solid Waste Disposal Areas. It is anticipated that these will eventually rise 65-70 feet above grade, with expected slopes of approximately 25% around the landfill perimeters.

# SOMERSET POWER PLANT SITE

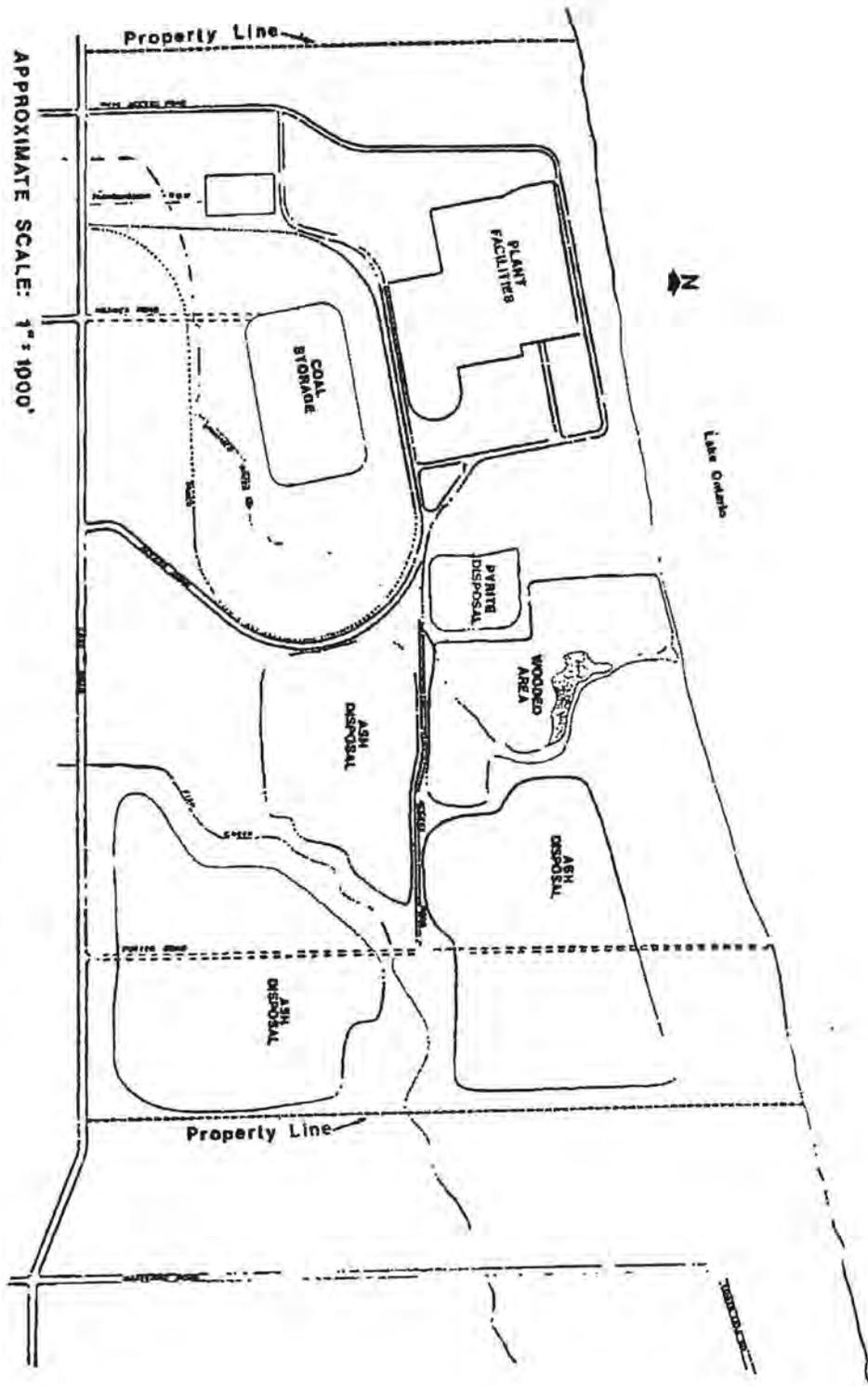


Figure 3. Somerset Power Plant Site

## B. SUB-AREAS

In order to analyze the site and thus identify conceptual multiple use alternatives, the New York State Electric and Gas Corporation property was divided by the ENCRPB staff into ten (10) sub-areas. The locations of these sub-areas are shown in Figure 4 (i. e. Somerset Power Plant Site Sub-Areas). The sub-areas were then analyzed against five criteria which are outlined below:

- Recreational Potential
- Distinct Natural Features
- Availability for Multiple Use Activities
- Availability of Public Access
- Major Constraints (e. g. Land area necessary for power generation facilities)

The following paragraphs summarize the results of the analysis conducted by the Regional Planning Board regarding each sub-area in relation to the above mentioned criteria.

### 1. SUB-AREA A

a. Recreational Potential - Opportunities exist for sledding, cross-country skiing, a wildlife refuge, a campground, toilets, a scenic vista and a playground.

b. Distinct Natural Features - Sub-Area A is presently generally level and is bordered by Fish Creek on the north and west. In the future, Solid Waste Disposal Area III will create an artificial flat-topped hill with steep slope and a height of approximately 60-70 feet above grade.

c. Availability for Multiple Use Activities - Sub-Area A will be available on an interim basis from the present until commencement of solid waste disposal operations, which are projected to occur in the year 2003. The sub-area would be available on a permanent basis upon completion of disposal operations-projected to occur around the year 2015.

d. Availability of Public Access - Sub-Area A has good access available via New York State Route 18 and the southern remnant of Potter Road.

e. Major Constraints - Sub-Area A may experience adverse environmental impacts from disposal operations if used on an interim basis.

### 2. SUB-AREA B

a. Recreational Potential - Opportunities exist for cross-country skiing, a wildlife refuge, a campground, and toilets.

b. Distinct Natural Features - Sub-Area B is generally level and is bisected by Fish Creek. The Sub-Area is presently in active agricultural use.

# SOMERSET POWER PLANT SITE SUB - AREAS

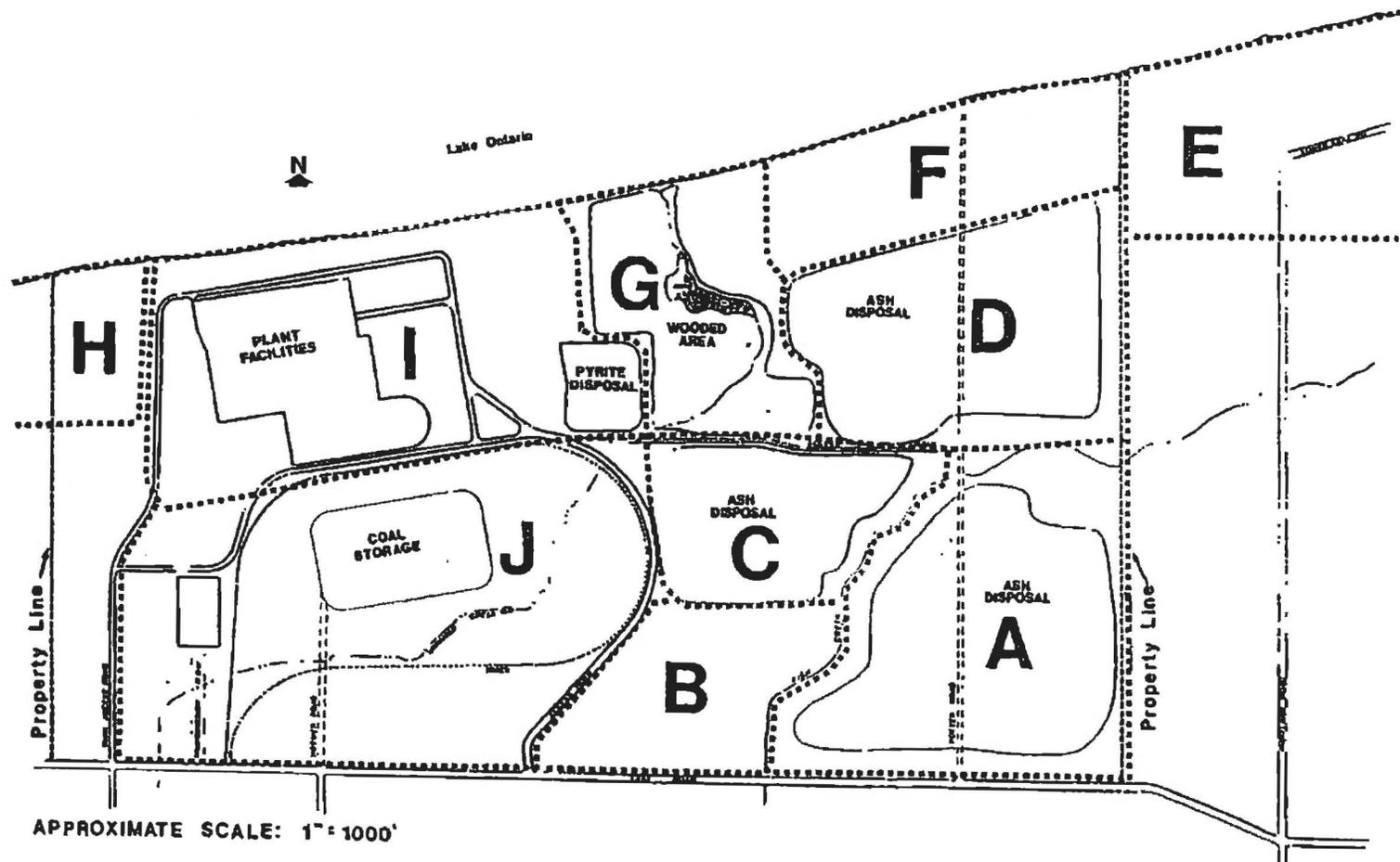


Figure 4. Somerset Power Plant Site - Sub Areas

c. Availability for Multiple Use Activities - Sub-Area B is available from the present throughout the life of the plant.

d. Availability of Public Access - Sub-Area B provides good access via New York State Route 18 and existing unimproved farm roads. Additional access could be provided via the power plant construction access road.

e. Major Constraints - Sub-Area B will be impacted from the north and east from solid waste disposal operations and may experience adverse environmental and safety impacts as a result of coal delivery and storage.

### 3. SUB-AREA C

a. Recreational Potential - Opportunities exist for sledding, cross-county skiing, a campground, toilets and a playground.

b. Distinct Natural Features - Sub-Area C is presently generally level and is bordered by Fish Creek to the east and by a large wooded area to the north. In the future, solid waste disposal will create a flat-topped hill with steep slopes and a height of approximately 60-70 feet above grade.

c. Availability for Multiple Use Activities - Sub-Area C will be briefly available on an interim basis from the present until the commencement of disposal operations around the year 1997. It will be available on a permanent basis upon completion of disposal operations around the year 2003.

d. Availability of Public Access - Sub-Area C's availability for public access is fair. Access could be provided via a portion of Potter Road until solid waste disposal operations commence in Sub-Area A. Public access via the power plant construction access road may be possible after commencement of plant operations.

e. Major Constraints - Sub-Area C will be adversely affected by coal delivery and storage operations throughout the life of the plant.

### 4. SUB-AREA D

a. Recreational Potential - Opportunities exist for hiking, cross-country skiing, sledding, and a scenic vista.

b. Distinct Natural Features - Sub-Area D is presently generally level and is bordered by Fish Creek on the south. Disposal operation will eventually create a hill similar to those in Sub-Areas A and C.

c. Availability for Multiple Use Activities - Sub-Area D will be available on a permanent basis upon completion of disposal operations which is presently projected to occur around the year 1997.

d. Availability of Public Access - Existing access via Potter Road will be removed.

e. Major Constraints - Sub-Area D will be impacted by solid waste disposal operations.

5. SUB-AREA E

a. Recreational Potential - Sub-Area E provides good opportunities for fishing, a boat launch ramp, swimming, cross-country skiing, a wild-life refuge, a campground, a scenic vista, a playground and motor boating.

b. Distinct Natural Features - Sub-Area E is generally level with a slight slope towards the lake.

c. Availability for Multiple Use Activities - Sub-Area F is not part of the New York State Electric and Gas Corporation's property. If acquired, it would be immediately available on a permanent basis.

d. Availability of Public Access - Access is available via Hartland Road.

e. Major Constraints - Acquisition would have to be negotiated with a separate party.

6. SUB-AREA F

a. Recreational Potential - Opportunities exist for fishing, a boat launch ramp, swimming, cross-country skiing, a wildlife refuge, picnicking, a campground, a scenic vista, a playground and motor boating.

b. Distinct Natural Features - Sub-Area F is generally level with a slight slope towards the lake. Solid Waste Disposal Area I will provide a good buffer when completed.

c. Availability for Multiple Use Activities - Sub-Area F is immediately available on a permanent basis.

d. Availability of Public Access - Availability of access is poor due to scheduled removal of Potter Road. Access would have to be acquired via Sub-Area E.

e. Major Constraints - Availability of access is the major constraint. Some impacts may be experienced as a result of disposal operations in Sub-Area D.

7. SUB-AREA G

a. Recreational Potential - Opportunities exist for fishing, a boat launch ramp, swimming, cross-country skiing, a wildlife refuge, picnicking, a campground and toilets.

b. Distinct Natural Features - Sub-Area G is generally level, entirely wooded and is bisected by an unnamed creek which forms a pond.

c. Availability for Multiple Use Activities - Sub-Area G is immediately available on a permanent basis.

d. Availability of Public Access - Public access is not presently available.

e. Major Constraints - The lack of access and impacts from disposal operations represent major constraints.

8. SUB-AREA H

a. Recreational Potential - Opportunities exist for fishing, a boat launch ramp, swimming, a campground, a scenic vista, a playground, and motor boating.

b. Distinct Natural Features - Area H is generally level with a slight slope towards the lake.

c. Availability for Multiple Use Activities - Availability is questionable due to a reserved area and power plant legal and safety considerations.

d. Availability of Public Access - No access presently exists although future access may be possible via the power plant's main access road.

e. Major Constraints - Questionable availability, poor existing access and direct safety and health impacts from the power plant represent major constraints.

9. SUB-AREAS I AND J - Minimal analysis was performed on these sub-areas due to the very questionable availability of the land during the operating lifetime of the plant. It was determined that extensive development of the sub-area for power plant purposes would change the natural features of the land.

A major constraint to identifying the best sub-area for multiple use was the coincidental needs of the New York State Electric and Gas for various sub-areas relative to power generation and/or plant construction activities. Due to safety reasons, such uses precluded any serious consideration of

the sub-areas labeled I and J for immediate multiple use development. It was the desire of the Multiple Use Subcommittee, however, to examine all areas, including I and J for possible future development in the event that New York State Electric and Gas would cease operation of its Somerset facilities. This is scheduled to occur in approximately the year 2015.

Based on the results of the preliminary site analysis, Regional Planning Board staff selected three multiple use conceptual alternatives. These are summarized in the succeeding section of this report.

It should be noted that a more comprehensive site analysis was conducted by Regional Planning Board staff relative to the recommended multiple use alternative. This is summarized in Section IX (i. e. Recommended Multiple Use Alternative).

## SECTION VIII MULTIPLE USE ALTERNATIVES

### A. BACKGROUND

Following completion of the preliminary site analysis, three conceptual multiple use alternatives were developed. Results of the analysis indicated that there existed a wide range of potential alternatives and variations for multiple use at the Somerset site. The potential for numerous alternatives was due to three factors. The first related to the many sub-areas (See Figure 4) which could accommodate some form of multiple use while the second factor pertained to the variety of recreational activities which could occur on the power plant site. The final factor was the various time periods when each sub-area would be available for multiple use. The need by the utility company for various sections of the property during varying time periods tended to foster a wide range of multiple use alternatives based solely on alternative times for their development.

While it was expected that some alternatives would be more feasible than others, it was the intent of the Regional Planning Board staff to depict the widest range of possibilities. Discussions of the alternatives with the Multiple Use Subcommittee were expected to reveal the strengths and weaknesses of each alternative and thereby yield a feasible and recommended alternative.

The following paragraphs outline three multiple use alternatives which were identified following the general site analysis discussed in Section VI of this report.

### B. MULTIPLE USE ALTERNATIVES

1. ALTERNATIVE A - Alternative A is illustrated on Figure 5 of this report. The alternative identifies a concentration of recreation uses for the southeastern portion of the power plant site with cross country skiing and a wildlife refuge for the shoreline along the eastern edge of the NYSE&G property. The primary activities are non-water dependent and take advantage of the terrain formed by the solid waste disposal mounds. Such activities include picnicking, camping, sledding, nature trails and a scenic vista. An advantage of Alternative A is the location of Fish Creek and two standing ponds in the area where most of the recreation activities would occur. These would provide useful natural resources adjacent to the proposed trails and picnic areas. The majority of development would occur upon completion of the Solid Waste Area III in the year 2015 which would also represent the approximate year that the plant would become non-operational.

2. ALTERNATIVE B - Alternative B is illustrated on Figure 6 of this report and identifies various recreation uses for the northeastern section

# SOMERSET POWER PLANT SITE

## CONCEPTUAL MULTI-USE ALTERNATIVE

A

### LEGEND:

- TRAIL
- I POST CONSTRUCTION
- II COMPLETION OF SOLID WASTE DISPOSAL AREA (SWDA) #1
- III COMPLETION OF SWDA # II
- IV COMPLETION OF SWDA # III
- V CLOSING OF PLANT

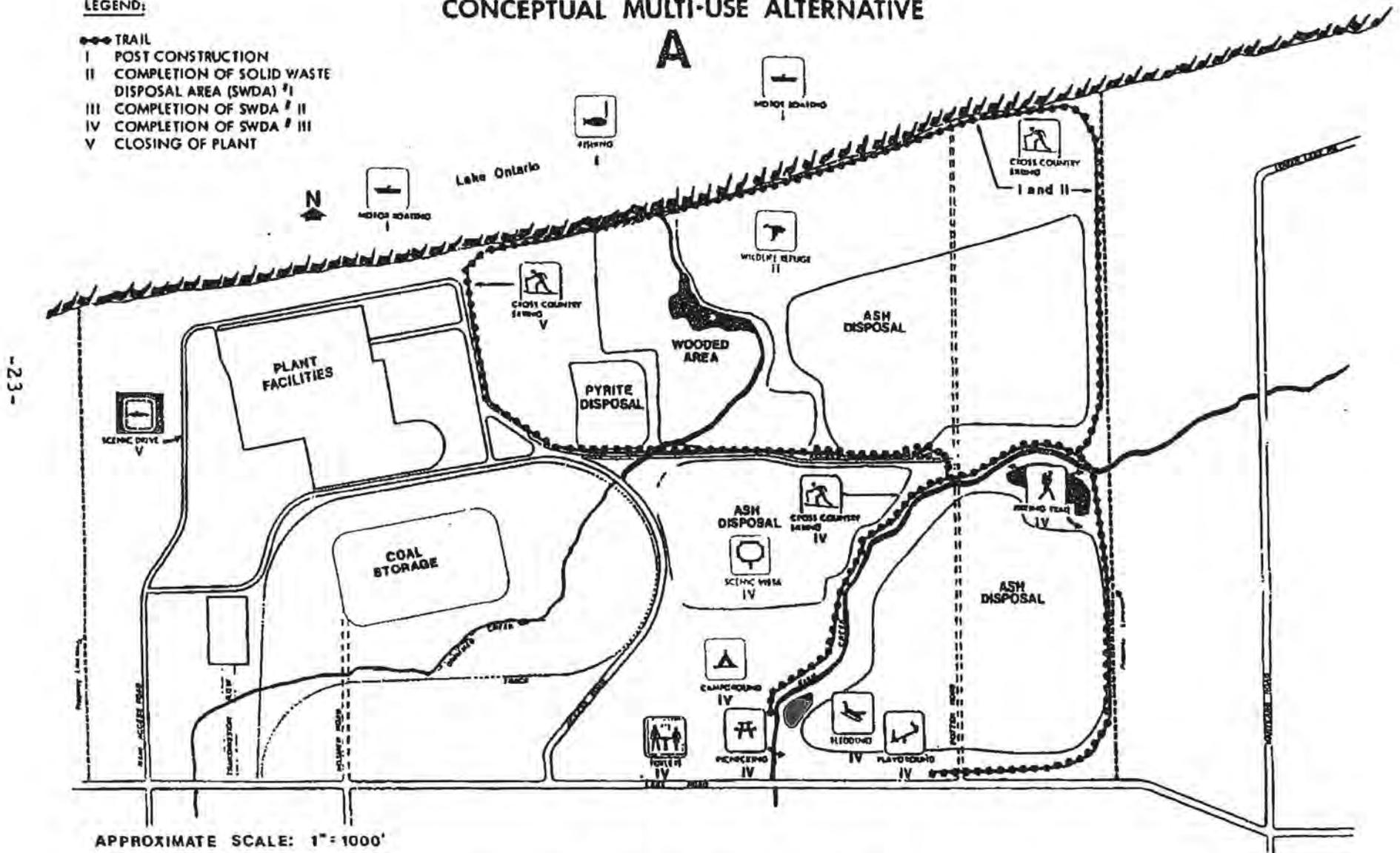


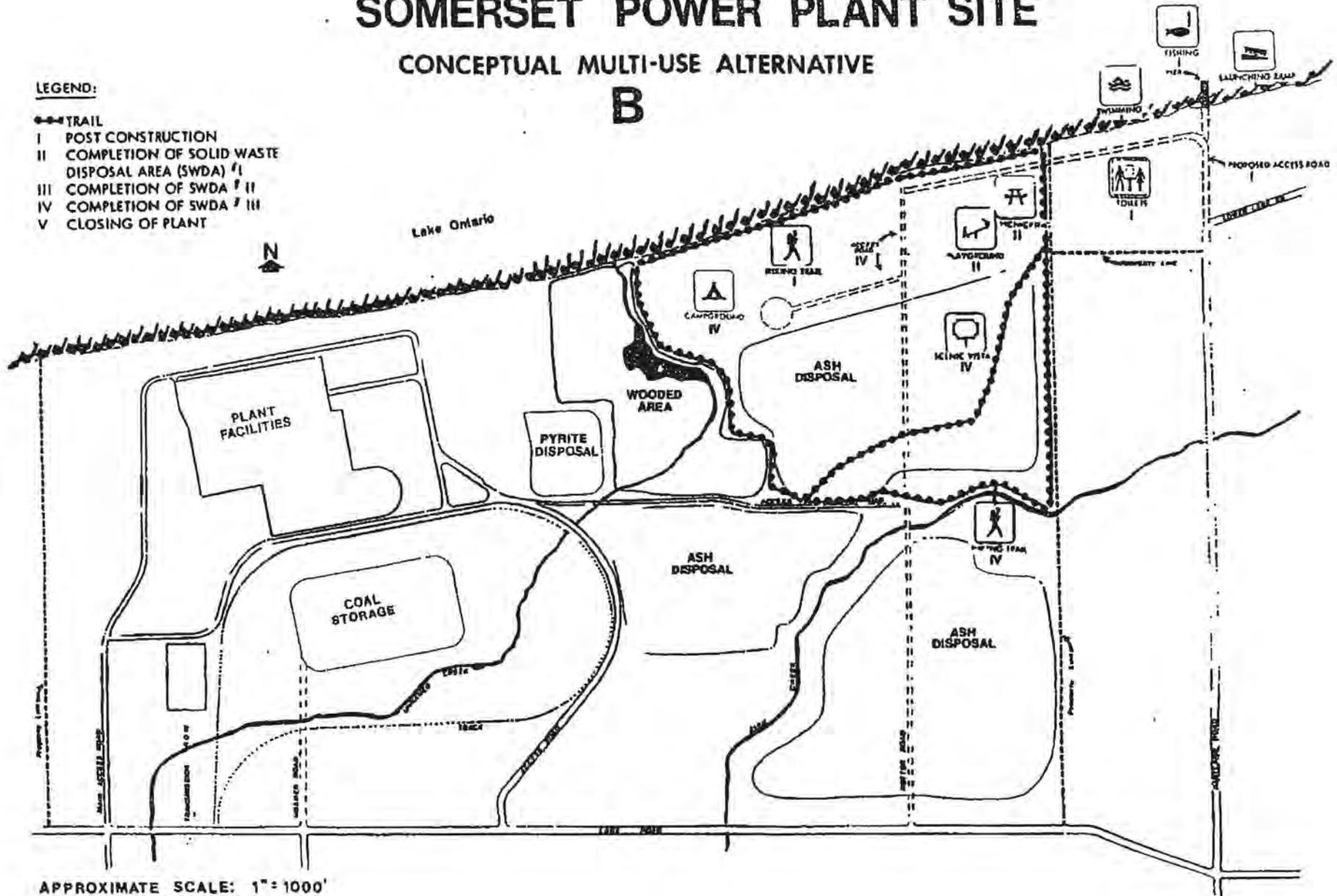
Figure 5. Multiple Use Alternative "A"

# SOMERSET POWER PLANT SITE

## CONCEPTUAL MULTI-USE ALTERNATIVE B

**LEGEND:**

- TRAIL
- I POST CONSTRUCTION
- II COMPLETION OF SOLID WASTE DISPOSAL AREA (SWDA) / I
- III COMPLETION OF SWDA / II
- IV COMPLETION OF SWDA / III
- V CLOSING OF PLANT



APPROXIMATE SCALE: 1" = 1000'

of the New York State Electric and Gas Corporation's property. In addition, Alternative B includes a 40-acre land parcel outside the power plant property and situated immediately adjacent to the extreme north-east corner of the utility company. The latter area is currently in private ownership and would necessitate fee or less than fee purchase by the Town of Somerset prior to its use as a recreation area. The reason for including the abovementioned land parcel in Alternative B is the access off of Hartland Road which the parcel would provide to the remaining land to be used for multiple use development.

The recreation activities identified under Alternative B are mainly water dependent and include a boat launch ramp, fishing pier, beach area, picnicking, camping, a nature trail and scenic vista. Development of the multiple use facilities would occur during or immediately after power plant construction (i. e. approximately 1985) and upon completion and revegetation of Solid Waste Disposal Area I (i. e. approximately 1997).

3. ALTERNATIVE C - Alternative C is illustrated on Figure 7 of this report and identifies a concentration of recreation uses in the northwest section of the site. These include a fishing pier, boat launch ramp, picnicking, power plant information center and a nature trail. Other non-intensive activities would occur in the areas east of the power generating structures and include trails for cross-country skiing and hiking as well as a wildlife refuge. The development of multiple use activities would occur upon the closing and dismantling of the plant facilities (i. e. approximately 2015). This is due to the closeness of the recreation activities to the power generating area.

## C. REVIEW OF MULTIPLE USE ALTERNATIVES

1. REVIEW CRITERIA - After identifying three multiple use alternatives, the Regional Planning Board staff reviewed each approach against four criteria which are noted below.

a. Opportunities For Vehicle Access - A key factor which must be available for a successful multiple use facility is adequate access for automobiles. This is especially true for areas which will be developed for public use. Thus, opportunities for vehicle access was a major criterion used during the review of each conceptual Somerset multiple use alternative.

b. Availability of Land For Recreational Development - This relates to the actual year in which the alternative could be developed given the power plant construction and operation constraints.

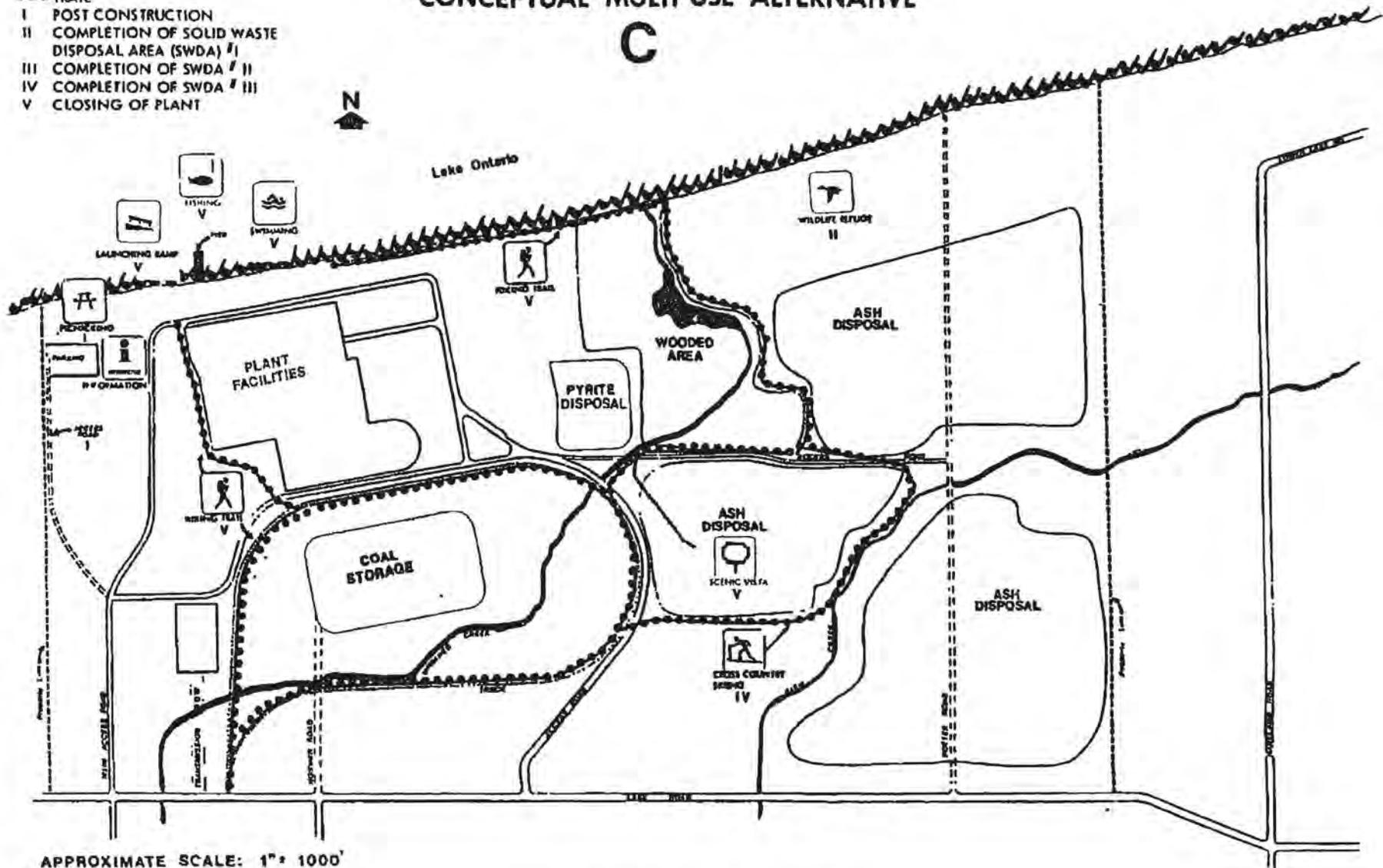
# SOMERSET POWER PLANT SITE

## CONCEPTUAL MULTI-USE ALTERNATIVE

### C

#### LEGEND:

- TRAIL
- I POST CONSTRUCTION
- II COMPLETION OF SOLID WASTE DISPOSAL AREA (SWDA) / I
- III COMPLETION OF SWDA / II
- IV COMPLETION OF SWDA / III
- V CLOSING OF PLANT



APPROXIMATE SCALE: 1" = 1000'

Figure 7 Multiple Use Alternative "C"

c. Cost - The cost of developing the multiple use facility was also a key criterion used during the review of each conceptual multiple use alternative. It should be noted, however, that detailed cost figures were not defined for each alternative. However, approximate costs of various recreation facilities were determined, thus allowing ENCRPB staff to identify the facilities which would tend to increase the overall cost of an alternative to a great extent. This basically pertained only to a boat launch ramp which was estimated at \$2,000,000. This approximate figure was obtained from the Niagara Frontier State Parks and Recreation Commission, and New York State Sea Grant. Thus, by determining the recreation activities proposed for each alternative and identifying those with boat launch ramps, a sound judgment could be made regarding cost.

d. Ability to Fulfill Recreational Preferences - As noted in Section VI (i. e. Identification of Potential Recreational Uses and Project Sponsor) of this report, a determination of recreational preferences for the area was made by referring to the ENCRPB adopted Regional Recreation and Open Space Plan and Program as amended (1977), as well as the Town of Somerset Comprehensive Plan (approved 1972). In addition, feedback regarding the desired recreational activities for the area was obtained from the Multiple Use Subcommittee. The abovementioned sources noted a strong desire for water oriented activities. Thus, each alternative was reviewed regarding its ability to provide activities such as fishing, boating, swimming, and other water oriented opportunities.

2. EVALUATION - The following paragraphs summarize the Regional Planning Board staff review of the multiple use alternatives relative to the abovementioned criteria. It should be stressed that the Somerset Multiple Use Subcommittee assisted the ENCRPB staff in evaluating the three alternatives.

a. Alternative A

(1) Opportunities for Vehicle Access - As noted earlier in this report, Alternative A reflects a concentration of recreation activity in the southeast section of the site. Thus, opportunities for vehicle access and parking facilities are easily available off New York State Route 18.

(2) Availability of Land for Recreational Development - Since the majority of recreation uses would be located in close proximity to Solid Waste Disposal Area III, the complete development of the alternative could not occur until the disposal area is filled due to safety reasons. This would mean multiple use development in the year 2015. However, it should be noted that the hiking trail and wildlife refuge area in the north-east section of the site could be developed immediately.