
Final Generic Environmental Impact Statement

LAKE ERIE INDUSTRIAL PARK

Bay View Road and Route 5

Town of Hamburg, Erie County, New York

Lead Agency:

HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (HIDA)

6122 South Park Avenue
Hamburg, New York 14075

Developer:

KROG CORPORATION

5505 Main Street
Williamsville, New York 14221

Prepared by:

NUSSBAUMER & CLARKE, INC.

3556 Lake Shore Road
Buffalo, New York 14219
(716) 827-8000

June 21, 1999

Date of Acceptance by Lead Agency:

Filing Date:

For further information contact:

Mr. Michael J. Bartlett, Executive Director
Town of Hamburg Industrial Development Agency
6122 South Park Avenue
Hamburg, New York 14075
Telephone: (716) 648-4145
Fax: (716) 648-0151

LAKE ERIE INDUSTRIAL PARK - FGEIS

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Cover Sheet	I
Table of Contents	ii
Exhibits	vi
Appendices	vii
Introduction	viii
1 SUMMARY	1
1.1 Description of Action	1
1.2 Significant Impacts	3
1.2.1 Beneficial Impacts	3
1.2.2 Adverse Effects	3
1.3 Mitigation Proposed	4
1.4 Alternatives Considered	6
1.5 Matters to be Decided	6
1.6 Agency and Other Abbreviations	8
2 ENVIRONMENTAL REVIEW PROCESS	10
2.1 Purpose of SEQR	10
2.2 SEQR Status of Whole Project	11
2.2.1 Whole Action vs. Segmentation	11
2.2.2 Determination of Significance	12
2.2.3 Scoping	12
2.2.4 Draft GEIS, Public Hearing, & Comment Period	13
2.3 Using a Generic Environmental Impact Statement	14
2.4 Review of Future Site Development Actions	16
2.4.1 Assumptions/Thresholds	16
2.4.2 Procedures/Criteria	16

TABLE OF CONTENTS (CONTINUED)

<u>Section</u>	<u>Page</u>
3 DESCRIPTION OF PROPOSED ACTION	19
3.1 Project Location and Description of Action	19
3.1.1 Site Location	19
3.1.2 Surrounding Land Use and Zoning	19
3.1.3 Total Site Area	19
3.1.4 Existing Development On-Site	20
3.1.5 Project Phasing	20
3.2 Project Purpose, Need, and Benefits	20
3.2.1 Municipal Objectives and Public Need	20
3.2.2 Objectives of Project Sponsor	29
3.2.3 Beneficial Impacts of the Action	30
3.3 Required Actions, Funding, Permits, and Approvals	30
3.3.1 HIDA Actions	31
3.3.2 Site Infrastructure Approvals	31
3.3.3 Individual Facility Development and Site Plan Approvals	32
4 DESCRIPTION OF RELATED PROPOSALS	34
4.1 Creation of Special Improvement Districts	34
4.2 Closing of Bayview Road	34
4.3 Reconfiguration of Town Roads	34
4.4 Horizons Proposals in the Area	34
4.5 NYSDOT Proposals in the Area	35
5 ENVIRONMENTAL SETTING, POTENTIAL IMPACTS, AND SIGNIFICANT ENVIRONMENTAL CONCERNS	36
5.1 Geology and Topography	36
5.1.1 Subsurface Geology - Bedrock and Fossils	36
5.1.2 Surficial Geology - Soils	37
5.1.3 Topography	42
5.1.4 Potential Impacts and Mitigation	46
5.2 Hydrology and Water Resources	47
5.2.1 Ground Water	47
5.2.2 Surface Water	48
5.2.3 Potential Impacts and Mitigation	52
5.3 Terrestrial and Aquatic Ecology	54
5.3.1 Vegetation	54
5.3.2 Wetlands	57
5.3.3 Wildlife	63
5.3.4 Potential Impacts and Mitigation	64

TABLE OF CONTENTS (CONTINUED)

<u>Section</u>	<u>Page</u>
5.4 Air Resources and Noise Levels	67
5.4.1 Air Quality	67
5.4.2 Noise Levels	72
5.4.3 Potential Impacts and Mitigation	73
5.5 Cultural Resources	74
5.5.1 Historic and Archaeological Resources	74
5.5.2 Visual Resources and Aesthetics	77
5.5.3 Potential Impacts and Mitigation	78
5.6 Solid Waste	79
5.6.1 On-Site Waste Issues	79
5.6.2 Solid Waste Generation	79
5.6.3 Potential Impacts and Mitigation	81
5.7 Community Facilities, Services & Utilities	81
5.7.1 Sewage Disposal/Wastewater Facilities	81
5.7.2 Water Supply	82
5.7.3 Emergency Flow & Fire Protection	82
5.7.4 Potential Impacts and Mitigation	84
5.8 Energy Resources	85
5.8.1 Electricity and Natural Gas	85
5.8.2 Energy Use and Conservation	85
5.9 Transportation	85
5.9.1 Phase I, II, & III Traffic Study Assumptions and Traffic Scenarios	85
5.9.2 Response to Comments on Phases I, II, and III	92
5.9.3 Existing Land Uses and Traffic Generators	96
5.9.4 Highway System and Traffic Volumes	97
5.9.5 Potential Traffic Impacts and Mitigation Recommendations	101
5.9.6 Intersection Analysis	102
5.9.7 Recommendations	106
5.10 Coastal Zone Consistency	108
6 ALTERNATIVES	110
6.1 No Action Alternative	110
6.1.1 No Build Alternative	111
6.1.2 As-of-Right Alternative	111
6.2 Alternative Magnitude	111
6.2.1 Maximum Yield Alternative	112
6.2.2 Restricted Land Use Alternative	112

TABLE OF CONTENTS (CONTINUED)

<u>Section</u>	<u>Page</u>
6.3 Design Alternatives	112
6.4 Alternative Land Uses	116
7 DESCRIPTION OF MITIGATION MEASURES	117
7.1 Erosion and Sediment Control Plans	117
7.1.1 Erosion and Topsoil Loss	118
7.1.2 Limitation of Sediment	118
7.2 Storm Water Management	118
7.2.1 Design of Facilities	118
7.2.2 Maintenance of Storm Water Quality	118
7.3 Vegetative Buffers and Landscaping	119
7.3.1 Development of a Landscaping Scheme	119
7.3.2 Limitations on Plantings	119
7.4 Site or Plot Plan Reviews	119
7.4.1 Waste Water/sewage	119
7.5 Transportation Improvements	120
7.6 Health, Safety, and Aesthetic Considerations	120
7.6.1 Restrictive Covenants	120
7.6.2 Signs	120
8 GROWTH INDUCING FACTORS	121
9 UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS	122
AND COMMITMENT OF RESOURCES	
9.1 Anticipated Unavoidable Adverse Effects	122
9.2 Irreversible and Irretrievable Commitment of Resources	122

**LAKE ERIE INDUSTRIAL PARK FGEIS
TABLE OF CONTENTS**

EXHIBITS

<u>Number</u>	<u>Section</u>	<u>Exhibit</u>	<u>Page</u>
1	1.1	General Project Location Map	2
2	3.1.5	Development Plans (Phase Location)	21
3	3.2.1	2010 Land Use Plan	23
4	3.2.1	Town of Hamburg Zoning Map	25
5	5.1.2	EDIs Simple Soil Site Map	39
6	5.1.2	Erie County Soil Survey	40
7	5.1.3	USGS Topographic Quadrangle	43
8 (A & B)	5.1.3	Site Topographic Map	44-45
9	5.2.2	FEMA - Flood Insurance Rate Map	51
10 (A & B)	5.3.1	EDIs Simple Vegetation Map	55-56
11	5.3.2	NYSDEC Freshwater Wetlands Map	58
12	5.3.2	National Wetlands Inventory Map	59
13 (A & B)	5.3.2	EDIs Wetlands Delineation Map	61-62
14	5.4.1	NYSDEC Air Quality Monitoring Sites	68
15	5.4.1	NYSDEC Total Suspended Particulates (TSP)	71
16	5.5.1	NYS Archaeological Site Location Map	76
17	5.6.2	Erie County Solid/Hazardous Site Map	80
18	5.7.2	ECWA Hydrant Flow Test & Location Map	83
19	5.9.1	Phase I Traffic Scenario (EMS - Figure 2)	88
20	5.9.1	Phase II Traffic Scenario (EMS - Figure 3)	89
21	5.9.1	Phase III Traffic Scenario (EMS - Figure 4)	91
22	5.9.3	Average Annual Daily Traffic (AADT) & Peak Hour Volumes	98
23	6.2.1	Maximum Yield Alternative	113
24 (A & B)	6.2.2	Restricted Land Use Alternatives	114-115

TABLES

1.5 - 1	Lake Erie Industrial Park - Preliminary Permit List	7
---------	---	---

FIGURES

Figure 1	Plan View of Northern Portion of Subject Property (follows page 81)
Figure 2	Plan View of Southern Portion of Subject Property (follows page 81)

LAKE ERIE INDUSTRIAL PARK FGEIS
TABLE OF CONTENTS

APPENDICES

APPENDIX:

- I *Stage 1B Cultural Resource Investigation of Bayview Road, Hamburg, Erie County, New York (Spaulding Archaeological Services, September 1992)*

- II *Coastal Consistency
Town of Hamburg's Local Waterfront Revitalization Program*

- III *Restrictive Covenants
Town of Hamburg's General Industrial (M-3) Zoning Requirements*

- IV *Drainage Assessment and Calculations*

- V *Solid Waste -
Erie County Dept. of Environment & Planning's Complaint File*

- VI *TRAFFIC IMPACT STUDY and Capacity Analysis Summary Sheets:
Lake Erie Industrial Park, State Route 5 & Bay View Road,
Town of Hamburg, New York (EMS Consulting, December 1993)
[Under separate cover at Hamburg's Town Clerk's Office.]*

LAKE ERIE INDUSTRIAL PARK FGEIS
TABLE OF CONTENTS

APPENDICES

APPENDIX:

- I *Stage 1B Cultural Resource Investigation of Bayview Road, Hamburg, Erie County, New York* (Spaulding Archaeological Services, September 1992)

- II Coastal Consistency
Town of Hamburg's Local Waterfront Revitalization Program

- III Restrictive Covenants
Town of Hamburg's General Industrial (M-3) Zoning Requirements

- IV Drainage Assessment and Calculations

- V Solid Waste -
Erie County Dept. of Environment & Planning's Complaint File

- VI *TRAFFIC IMPACT STUDY and Capacity Analysis Summary Sheets:
Lake Erie Industrial Park, State Route 5 & Bay View Road,
Town of Hamburg, New York* (EMS Consulting, December 1993)
[Under separate cover at Hamburg's Town Clerk's Office.]

INTRODUCTION

This document is a ~~draft final~~ generic Environmental Impact Statement (~~F~~G~~E~~I~~S~~) prepared in accordance with the requirements of the *New York State Environmental Quality Review Act (SEQRA)* and issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the Environmental Conservation Law.

The action under consideration is the development of an industrial park on an approximately 140 ± acres adjacent to Lakeshore Road (NYS Route 5) in the Town of Hamburg, Erie County, New York. The *Hamburg Industrial Development Agency (HIDA)* as lead agency has caused the preparation of ~~this DGEIS a Draft GEIS (DGEIS)~~. According to the implementing regulations (6 NYCRR Part 617) pertaining to Article 8 (SEQRA) of the Environmental Conservation Law, upon the filing of ~~this document the DGEIS on May 27, 1994~~ the lead agency ~~will have~~ ~~has~~ made the determination that ~~this the~~ document is ~~was~~ adequate in terms of scope of content and is ~~was~~ adequate for the purposes of commencing public review. ~~Revisions, changes, and supplements are often required and, if necessary are included in the final generic EIS. The DGEIS was made available for public review and comment. A public hearing was held on June 28, 1994 at 8:00 a.m. at the Hamburg Town Hall.~~

~~As the DGEIS is filed and made available for public review, it is anticipated that the HIDA will schedule a public hearing. The comments received during the comment period and at the hearing will be included in the final generic EIS (FGEIS) and all substantive comments will be considered by the HIDA, as legal agency, and their responses will be included in that document.~~

~~In accordance with 6 NYCRR §617.14(I), reprinted June 1992, the applicable regulations for a project having a determination of significance prior to January 1, 1996, this FGEIS incorporates the DGEIS. Revisions are indicated by striking out text to be removed, (i.e. text to be removed) and red-lining revised text (i.e. revised text shown highlighted). This FGEIS incorporates responses to all substantive comments received during the comment period and at the public hearing.~~

SECTION 1 SUMMARY

1.1 DESCRIPTION OF ACTION

This proposed action is currently referred to as the *Lake Erie Industrial Park*. However, since the site has been considered for industrial development several times in the past, it has been referred to as both the *Route 5 Industrial Park* and *The Hoover Parcel*. This action is the phased development of an industrial park of approximately 145 ± acres located in the Town of Hamburg, Erie County, New York (Exhibit 1). The ~~Zaepfel-Krog Corporation~~¹ has proposed to develop the Lake Erie Industrial Park on two parcels east of NYS Route 5 (Lake Shore Road) on the north (75.2 ± acres) and the south (70.5 ± acres) of Bayview Road. The proposed industrial park will involve the design and construction of basic infrastructure (i.e. water lines, sewer lines, and roadways) followed by individual site development by firms which locate in the park.

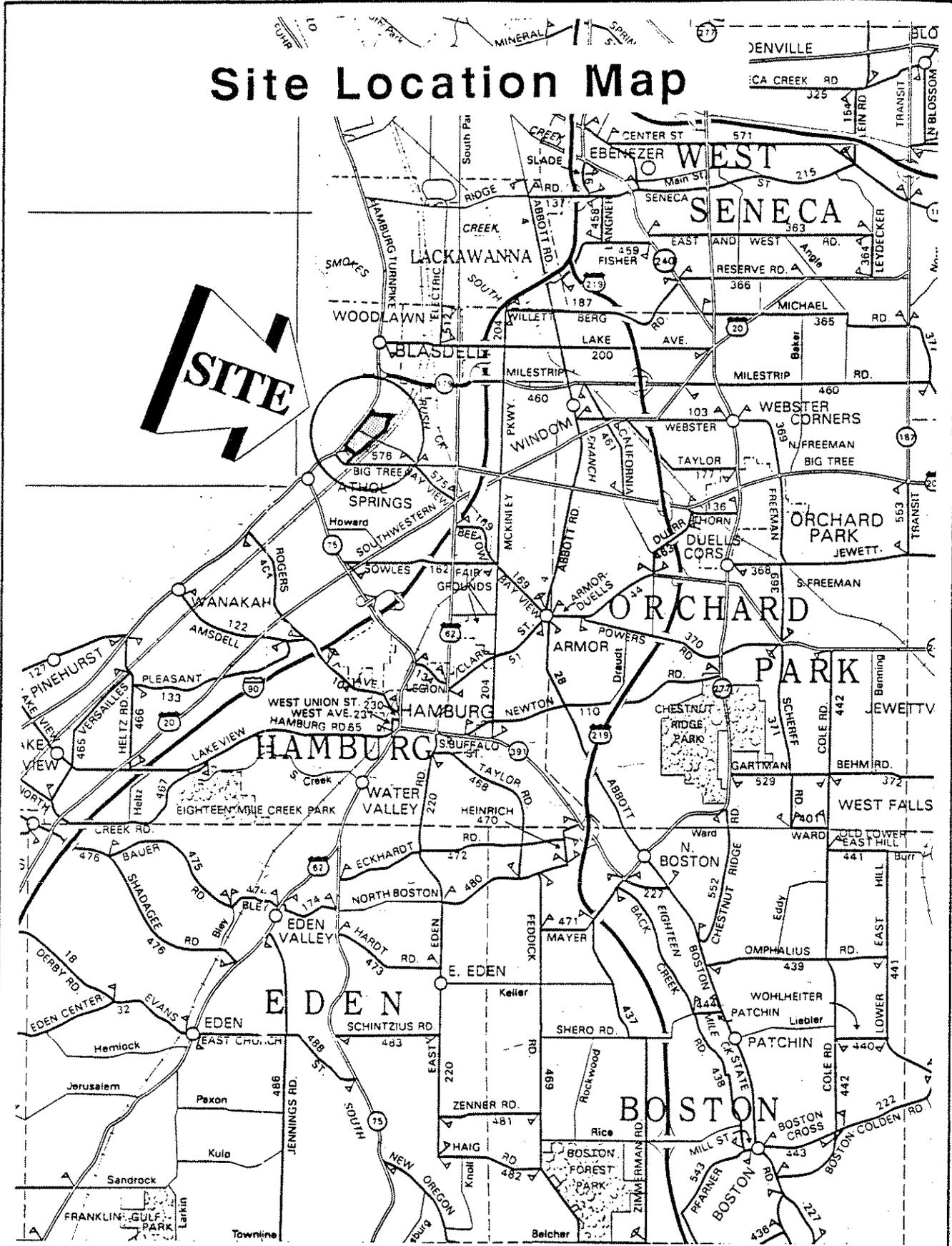
This area of the Town of Hamburg is zoned **M-3 General Industrial**. Within this zoning district allowable uses include industrial, warehousing, distribution, office, research and development, and commercial uses. The concept of the park is to provide a variety of companies an attractive park setting with flexible lot sizes and configurations.

In accordance with this concept, lots in the park will be marketed and made available in sizes that meet the needs of firms locating within the park. Since final build-out of the industrial park will be market driven, the developer will provide the necessary infrastructure as each phase is developed. During Phase I, one or two lots may be developed on the north side of Bayview Road without the provision of any additional infrastructure. The remainder of this northern parcel will then be developed as Phase II. Phase III will incorporate the development of the parcel on the south side of Bayview Road.

It is anticipated that the average lot size will be about 10 ± acres (minimum of 2 ± acres) and that at full build-out the park will accommodate industrial type users in buildings totaling 977,486 gross square feet of floor area. Although the build-out of the industrial park will be

¹Since the acceptance of the DGEIS, the Zaepfel-Krog Corporation has been dissolved and The Krog Corporation has been established, assuming development rights for the proposed development of the Lake Erie Industrial Park.

Site Location Map



NUSSBAUMER & CLARKE, INC.
 Consulting Engineers
 Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT 1

market driven, the developer has estimated job creation for HIDA in phases: 610 new jobs for Phases I and II (the northern parcel) to be build-out by year 5, and 700 new jobs for Phase III (the southern parcel) by year 15.

1.2 SIGNIFICANT IMPACTS

1.2.1 Beneficial Impacts

Although the build-out of the industrial park will be market driven, this project will provide a substantial economic impact as a result of the increased employment and substantial capital investment. The economic impact alone justifies this proposed action as *Special Economic Impact Project*. The anticipated benefits (refer to Section 3.2.3 for more details) include:

- ◆ Phase I & II:
 - ◇ 72 ± acres
 - ◇ \$ 26,000,000.00 of new construction in years 1 - 5
 - ◇ 610 new jobs (\$ 12 - 20 M annual payroll)

- ◆ Phase III:
 - ◇ 70 ± acres
 - ◇ \$ 38,000,000.00 of new construction in years 6 - 15
 - ◇ 700 new jobs \$ 15.00 to \$ 25.00 per hour annual payroll

- ◆ Build-out will accommodate industrial type users in buildings totaling 977,486 gross square feet of floor space.

- ◆ Based on HIDA's new construction abatement policy:
 - Phase I \$ 26,000,000.00 on new construction will result in an increase in taxable assessment value (Phase I only).
 - ◇ \$ 7,080,000.00 of new assessment by year 5
 - ◇ \$ 10,830,000.00 of new assessment by year 10

- ◆ There will be no net loss of Town funds related to project development.

- ◆ HIDA involvement is needed during the recent trends in the economy, and to allow Hamburg to benefit by the Free Trade Agreement which has heretofore alluded Hamburg.

- ◆ Due to the geographic proximity to the City of Buffalo, as well as the limited availability of space in the North Towns, there is a significant demand for new Industrial space in the South Towns.

- ◆ A Storm Water Management Plan will be implemented for the industrial park which will improve water quality and regulate water volumes.

1.2.2 Adverse Effects

Based on the analysis and information presented in this the DGEIS, the following

adverse environmental impacts cannot be avoided or adequately mitigated if the proposed industrial park is developed on these parcels:

- ◆ Loss of vegetation and wildlife habitat;
- ◆ Topographic and drainage modifications required for development of each parcel;
and
- ◆ A relatively small increase in the level of traffic (in and around the park), as well as noise and air emissions associated with traffic increases.

1.3 MITIGATION PROPOSED

The following mitigation measures are proposed by the developer: (Refer to Section 7, "Description of Mitigation Measures," of this DEGEIS.)

Mitigation Measures:

1. Restrictive Covenants, "Restrictions and Standards," included as Appendix III of the DGEIS, will be developed by the Zaepfel-Krog Corporation, as developer, which place controls on items such as: junk storage, incompatible land uses, maximum building height, building construction materials, signs, the location of parking and loading docks, property maintenance responsibilities, and landscaping requirements. Design standards of the Park are established (Article V) and include minimum lot size, minimum lot width, minimum lot depth, yards/setbacks, maximum building coverage, as well as restrictions on design, building materials, and roof top units.
2. In accordance with the Town of Hamburg's Zoning Ordinance, Section 29-10, no industrial facilities will be located within the 100-year floodplain as delineated on the Town's official Flood Insurance Rates Maps (FIRMs).
3. No facilities will be constructed within the 100-year floodplain area of the industrial park site in accordance with the delineation of this area as part of the green space/open corridor concept outlined in the Town's Master Plan.
4. Clusters of mature trees will be considered and included when practicable in the design and development of each site.

5. A natural buffer area will be retained along the eastern boundary (the railroad tracks) of the southern parcel. This buffer area will serve several functions: the preservation of a federally delineated wetland area, of open space, of a portion of a "floodplain forest" ecological community; and will screen nearby residential areas (Bayview and Steelton) from dust, odors, and noise from the industrial operations and their associated traffic.
6. The design and development of the industrial park will be undertaken in accordance with the Town's LWRP policy (25) to "protect, restore, or enhance the natural and manmade resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal areas." (~~See Section ** on page ** of the "Restrictions and Standards."~~)
7. All sanitary sewer discharges from industrial operations in the Lake Erie Industrial Park will comply with the approved pretreatment program for the Southtowns STP (sewer treatment plant).
8. A "Storm Water Pollution Prevention Plan" shall be prepared and implemented for all development, including infrastructure as well as individual sites, within the Lake Erie Industrial Park. Such plans will be prepared in accordance with the NYSDEC's guidance for preparing "Stormwater Management and Erosion Control Plans" and filed in accordance with the NYSDEC regulations and SPDES General Permit (for storm water discharges from construction activities) issued subject to the Clean Water Act and the Federal storm water regulations.
9. A "Storm Water Pollution Prevention Plan" will be developed by the operator for each facility locating within the Lake Erie Industrial Park and filed in accordance with NYSDEC regulations and, if appropriate, the SPDES General Permit (for storm water discharges from industrial activity) issued subject to the Clean Water Act and the Federal storm water regulations. Each plan will identify the potential sources of pollution and ensure the implementation of practices which will reduce the pollutants in storm water associated with industrial activities at the facility.

These plans for facilities within the proposed Lake Erie Industrial Park will provide for compliance on or before the submission or filing of the required Notice of Intent (NOI).

1.4 ALTERNATIVES CONSIDERED

The following alternatives are described and evaluated in Section 6 of this ~~DGEIS~~(FGEIS), and include the following:

- ◆ no action
- ◆ as-of-right development
- ◆ alternative magnitudes
 - maximum yield
 - restrictive land use
- ◆ three (3) design alternatives with respect to lot lay-out and size, storm water management, road and infrastructure configuration, and green space arrangement (refer to Exhibits 23 and 24 A & B in Sect. 6)
- ◆ transportation as outlined in the *Traffic Impact Study* (Appendix VI, ~~under separate cover of the DGEIS~~ and Section 5.9 of this ~~DGEIS~~ FGEIS)

1.5 MATTERS TO BE DECIDED

Since this is a generic environmental impact statement it is reasonable to assume that all future permits, funding, and approvals can be detailed with less certainty at this stage of project conceptualization. However, Table 1 (see following page) summarizes the potential involvement of various agencies and their potential jurisdiction(s) with respect to the proposed development of the Lake Erie Industrial Park.

**Table 1.5 - 1
Lake Erie Industrial Park Preliminary Permit List**

Agency	Permit Name/Citation	Reason Required	Comments
<i>Federal</i>	U.S. Army Corps of Engineers (ACOE)	Section 404 Permit (Clean Water Act)	Required for activities that involve discharge of dredge or fill material into the waters of the US, including navigable waters and wetlands. Wetland delineation indicates that activities on this project will qualify for ACOE Nationwide Permit.
<i>State</i>	NYSDEC - Division of Regulatory Affairs	Environmental Assessment Form (EAF)	The EAF was submitted in May 25, 1992.
	State Environmental Quality Review Process (SEQR)	Environmental Impact Statement (EIS)	Required to evaluate the environmental impacts of the project. The project received a positive declaration on July 10, 1992.
	Dept. of State (DOS)	Coastal Consistency Certification	Federal Coastal Zone Management Act requires that federally permitted activities affecting the coastal zone be conducted in a manner consistent with state and local coastal management programs. DOS will not begin its review until SEQR process is complete.
	New York State Dept. of Transportation (NYSDOT)	Highway Work Permits	Required for use of roadways for oversized construction vehicles, connections to existing state highways, and when crossing or entering highway rights-of-way. A permit also may be required for use of the highway storm sewer systems. NYSDOT regulations provide special accommodations for utilities needing a highway work permit.
<i>County/Local</i>	Erie Co. Dept. of Public Works (DPW) - Division of Highway	Highway Work Permit	Required for work affecting town and county county and town roads.
	Town of Hamburg's Highway Dept.	Special Improvement District	Special Improvement District may be formed.
	Town of Hamburg Building Inspector	Building Permit (accompanying site plan) Certificate of Occupancy	The Building Permit application must show the necessary building details and any other pertinent information. Local authorities must review the permit in accordance with State Uniform Fire Protection and Building Code Regulations, as well as other local requirements. Granted following issuance of Building Permit.

1.6 AGENCY AND OTHER ABBREVIATIONS

Federal Agencies and Abbreviations

EPA	Environmental Protection Agency
ACOE	U.S. Army Corps of Engineers
FHWA	Federal Highway Administration
SCS	Soil Conservation Service
NWI	United States Department of the Interior, Fish and Wildlife Service; the Office of Biological Services prepares the National Wetland Inventory maps.
USGS	United States Geological Survey

State Agencies, Laws, and Programs

NYSDEC	New York State Department of Environmental Conservation
NYSED	New York State Department of Economic Development
SBAP	Small Business Assistance Program (SBAP)
NYSDOS	New York State Department of State
CZM	Coastal Zone Management Program
NYSDOT	New York State Department of Transportation
NYSOPRHP	New York State Office of Parks, Recreation and Historic Preservation
NYWRCRA	New York State Waterfront Revitalization and Coastal Resources Act

Local Agencies, Programs, and Committees

ECDEP	Erie County Department of Environment and Planning
ECS	Environmental Compliance Services
DSM	Division of Sewage Management
ECDPW	Erie County Department of Public Works
HFDAP	Hamburg Future Development Advisory Panel
HIDA	Hamburg Industrial Development Agency
Horizons	Horizons Waterfront Commission
LWA	Local Waterfront Area
LWRP	Local Waterfront Revitalization Program
SRC	Town of Hamburg's Shoreline Revitalization Committee

Consultants

EDI	Earth Dimensions, Inc.
EMS	EMS Consulting - Traffic Studies
NCI	Nussbaumer & Clarke, Inc.
URS	URS Consultants

SEQR Related Abbreviations

DEIS	Draft Environmental Impact Statement
DGEIS	Draft Generic Environmental Impact Statement
EIS	Environmental Impact Statement
FEIS	Final Environmental Impact Statement
FGEIS	Final Generic Environmental Impact Statement
Findings	Findings Statement
GEIS	Generic Environmental Impact Statement
Neg Dec	Negative Declaration
Pos Dec	Positive Declaration
SEIS	Supplemental Environmental Impact Statement
SEQR	State Environmental Quality Review [Act]
SEQRA	State Environmental Quality Review Act

SECTION 2
ENVIRONMENTAL REVIEW PROCESS

2.1 PURPOSE OF SEQRA

In adopting the State Environmental Quality Review Act (SEQRA), the New York State Legislature mandated a process that incorporates the consideration of environmental factors into the planning, review, and decision-making processes of governmental agencies. The intention of SEQRA is that a suitable balance of social, economic, and environmental factors be considered and weighed in reaching decisions on proposed activities or actions. Therefore, agencies must determine whether a proposed action may have a significant effect on the environment, and if so, prepare or request an Environmental Impact Statement (EIS).

According to the SEQRA regulations: "The EIS provides a means for project sponsors to systematically consider environmental effects along with other aspects of their project planning and design, and to identify and mitigate identified adverse environmental effects." ² The draft EIS (DEIS) should also evaluate all reasonable alternatives.

Since SEQRA is both a procedural and substantive law, agencies must act on the information assembled through the environmental review process and presented in the draft and final EISs. Reasonable alternatives must be considered and the action approved must be consistent with social, economic and other essential considerations, and also must be one which minimizes or avoids adverse environmental effects to the maximum extent possible. Mitigation measures may be imposed as conditions to agency decisions. The goal is that each action approved will "achieve a balance between the protection of the environment and the need to accommodate social and economic considerations." ³

² 6 N.Y.C.R.R. § 617.14 (a).

³ 6 N.Y.C.R.R. § 617.21 app. I.

2.2 SEQR STATUS OF PROJECT

2.2.1 Whole Action vs. Segmentation

During the SEQR review process, the Lead Agency should consider the environmental impacts of the entire (or whole) action. ⁴ "Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance and any subsequent EIS the supporting reasons and must demonstrate that such review is clearly no less protective of the environment." ⁵ Since the Hamburg Industrial Development Agency (HIDA) believes that the environmental review of this proposal and the cumulative impacts associated with full build-out (i.e. traffic, drainage, etc.) will be more, not less, protective of the environment, and segmented review will not be implemented.

As a result of preliminary scoping sessions with all involved parties, the preparation of this generic EIS (GEIS) focused on specific actions that were identified as potential environmental concerns. These actions include impacts to the following:

- ◆ traffic impacts to local and state highway systems
- ◆ existing physical characteristics of the environment
 - cultural and historical resources
 - flood plains
 - state and/or federal wetlands
- ◆ LWRP - Local Waterfront Revitalization Program

Since ~~of all~~ all of these actions are currently being addressed in this GEIS (and in any Supplemental EISs, if necessary) prior to site plan reviews and approvals by the Town's Planning Board, the issue of segmentation is not applicable to the proposed action.

⁴ Agencies are often faced with a series of applications (zone change, extension of sewer service, subdivision approval) or phases (residential or mixed use development to be constructed over a number of years) that may not be presented or applied for at the same time. *In The SEQR Handbook*, November 1992, NYSDEC, p. 21.

⁵ 6 N.Y.C.R.R. § 617.3 (k)(1).

2.2.2 Determination of Significance

On June 1, 1992, the Town of Hamburg Industrial Development Agency (HIDA) classified this action as Type I, and solicited for lead agency. At this time, the project was named *Route 5 Industrial Park* and described as: "a new Industrial Park on land zoned industrial." Letters recognizing HIDA's Solicitation of Lead Agency were received from Steven J. Doleski, Regional Permit Administrator, NYSDEC Region 9; Westley Floyd for John W. Morris, Colonel, Buffalo District, U.S. Army Corps of Engineers; and Paul E. Knab, Planning & Program Manager for Robert J. Russell, Regional Director, NYSDOT Region 5.

After assuming lead agency status, the HIDA Board issued a Positive Declaration on July 10, 1992. This Positive Declaration, Determination of Significance, Notice of Intent to Prepare a Draft EIS, embodied their decision to require ~~this~~ the DGEIS, which was based on the determination that the proposed development of the *Route 5 Industrial Park* may have a significant effect on the environment. This notice described the action as: "Proposed development of a Light Industrial Park on approximately 140 ± acres of land along Lakeshore Rd. (N.Y. Route 5) in the Town of Hamburg;" the project number was noted as 1992-29 & HIDA 92-2.

The HIDA Board as lead agency determined that due to the size of the project, "there is a potential for a substantial adverse change in traffic." Other reasons supporting this determination included the need to study the land to determine the potential impact of the proposed industrial park development on physical characteristics such as wetlands, floodplains, archaeological and historic resources. An additional reason supporting this determination was that the land falls within the Town of Hamburg Coastal Management Zone.

2.2.3 Scoping

Scoping is the process that identifies important environmental issues of a project to be addressed in a draft EIS, with respect to both the extent and quality of information needed to address relevant environmental concerns and reasonable alternatives. The purpose of scoping is to ensure that the EIS is a concise, accurate, and complete document that is adequate for public review. A formal scoping process is optional and may be accomplished through various methods that allow agreement upon a written scope of issues in a timely manner. Two of the methods most frequently used are meeting(s) and exchanges of written materials.

Due to the nature of this project, it was determined that scoping would involve a combination of meetings and discussions with involved and interested agencies, as well as solicitation of input through written comments. Agencies were notified of a scoping session upon the issuance of the Positive Declaration by the HIDA. The session was held on July 31, 1992 at the HIDA offices.

In response to the Positive Declaration and Scoping Notice responses were received from Thomas Zyskowski, Coastal Resource Specialist, NYSDOS; Paul E. Knab, Planning & Program Manager for Robert J. Russell, Regional Director, NYSDOT Region 5; and David S. Gillespie, Director, Field Services Bureau, NYS Office of Parks, Recreation and Historic Preservation (OPRHP). The response from NYSDOT stated that they will require a traffic impact study for the project and that this analysis should include the traffic generated by the nearby Ravenwood North Industrial Park.⁶ OPRHP gave their opinion that the project area may contain an archaeological site and recommended that "unless substantial ground disturbance can be documented, an archaeological survey is warranted".⁷

Additional meetings were subsequently held with representatives of Region 5 of NYSDOT, representatives of the Town of Hamburg, and HIDA, the Erie County DPW - Highways Division, the Horizons Waterfront Commission, the applicant, and consultants also met informally to discuss the proposed project and the scope of the draft environmental impact statement and traffic study.

2.2.4 Draft GEIS, Public Hearing, and Comment Period

~~Upon following acceptance of this the Draft Generic Environmental Impact Statement for Lake Erie Industrial Park by the lead agency, this document will be the DGEIS was made available for public review at: Town of Hamburg (Town Clerk), HIDA Office, and at the Blasdell, Hamburg, and Lakeshore Libraries. The HIDA will plan provided a public comment period during which it is expected that a public hearing will be scheduled was held on June 28, 1994.~~

⁶ Letter dated July 27, 1993.

⁷ Letter dated August 7, 1992 from David S. Gillespie, Director Field Services Bureau, State Historic Preservation Officer, New York State Office of Parks, Recreation, and Historic Preservation.

The purpose of the public hearing ~~will be~~ was to provide a forum and an efficient mechanism for the collection of public comments. The role of public participation is an integral part of the SEQR process. Commenting on a draft EIS is a valuable way for agencies and the public to have a direct input into the decision-making process. In this process, some of the most useful comments are those which offer additional information about impacts, provide reasonable alternatives, and suggest measures which will reduce adverse environmental effect.

2.3 USING A GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS)

The HIDA staff agreed that the preparation of a generic environmental impact statement (GEIS) would be appropriate. According to the SEQR regulations, a generic EIS may be used to assess the environmental effects of separate actions in a given geographic area, to assess their cumulative effects, to evaluate a sequence of actions and/or assess generic or common impacts of an action.⁸ The proposed development of this corporate park will involve a sequence of approvals as each parcel is sold and developed. GEISs include most of the same elements as site or project specific EISs. However, as the NYSDEC explained, this option can provide benefits to both the project sponsor and regulatory agencies. The NYSDEC has explained that generic environmental impact statements⁹ are useful when there is a need to:

- ◆ Account for the cumulative impacts, regional influences, and secondary effects of an overall group of actions or overall program;
- ◆ Allow for the evaluation of impact-related actions being proposed by unrelated project sponsors;
- ◆ Set forth conditions, criteria, or thresholds under which future site-specific actions may be undertaken;
- ◆ Provide sound environmental planning, particularly the consideration of mitigation and alternatives at a time when there is greater flexibility;

⁸ 6 N.Y.C.R.R. § 617.15(a).

⁹ *The SEQR Handbook*. November 1992. New York Department of Environmental Conservation. p. 77 - 78.

- ◆ Establish baseline data for reference and scoping of supplemental site-specific EISs, thus avoiding duplication, reducing costs and paperwork;
- ◆ Limit extent of future project reviews by providing guidance on significant determinations; and
- ◆ Provide public disclosure of agency considerations used in environmental decision making.

The identification of cumulative impacts of various site development options can result in the selection of mitigation measures that are effective and that can be applied fairly. These mitigation measures can be performance standards, impact thresholds, and/or monitoring requirements which serve as minimum development standards. These standards serve as guidance for subsequent applicants who are interested in developing sites within the area or scope of the GEIS. They are given advance notice of the conditions they must meet. This approach should also ensure greater consistency in the reviews by regulatory agencies.

NYSDEC has suggested that ~~the definition of~~ "such conditions before development is undertaken will avoid a first-come, first-serve approach to use of limited resources." For example, if there are limits to available sewer, drainage, or traffic capacities, this uncontrolled approach to development of an area can result in the "last comers" or last builder having to mitigate a greater share of impacts.¹⁰ Worse, the resource may have been utilized to the point that mitigation is not practicable.

~~As a The Draft Generic EIS (DGEIS), this document describes~~ described specific thresholds or conditions as well as mitigation measures which ~~are~~ were proposed to act as criteria for future site development. The Hamburg Industrial Development Agency Board ~~will~~ determined what criteria and mitigation measures ~~are~~ were appropriate with respect to this proposed corporate park; these ~~will be~~ were included in the ~~this~~ Final Generic EIS. Additionally, the Final GEIS ~~will~~ indicates the procedures and criteria for supplements (if necessary), and ~~will~~ provides guidance for involved agencies making findings.

¹⁰ *Assessing Development Impacts Using a Generic Environmental Impact Statement*. January 30, 1990. NYSDEC, Division of Regulatory Affairs, Albany, New York.

2.4 REVIEW OF FUTURE SITE DEVELOPMENT ACTIONS

The SEQR regulations state:

"Generic EIS's and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved, and shall include procedures and criteria for supplements to reflect impacts, such as site specific impacts, which have not been adequately addressed or analyzed in the generic EIS."¹¹

2.4.1 Assumptions/Thresholds

This section outlines the conditions or criteria and procedures to be followed in subsequent site specific actions. The analysis contained in this ~~D~~FGEIS is based on the following assumptions which are established as thresholds. Additionally, several assumptions were made by EMS in order to complete the Traffic Impact Study (refer to Section 5.9.1 of ~~this the~~ DGEIS and ~~this~~ FGEIS).

It should be noted that the use restrictions and assumptions are not proposed as inflexible standards for future park development. Rather, they are the assumptions that have been used in the DGEIS to complete the required analysis of environmental effects and identify when mitigation would be appropriate. ~~Additional assumptions and/or mitigation measures may be considered appropriate and added during the FGEIS process by the HIDA Board as lead agency.~~

If, during property transfers by HIDA or site plan review by the Planning Board, any site development proposed within the Lake Erie Industrial Park ~~which would exceed~~ the identified thresholds, ~~(would require additional environmental review~~ would be required. The Hamburg Industrial Development Agency and the Town of Hamburg Planning Board will assure that additional review (under SEQR) is undertaken to determine whether the specific change(s) would have the potential for significant adverse environmental effects.

2.4.2 Procedures/Criteria

Following the filing of the Final Generic EIS (FGEIS), it is anticipated that Hamburg Industrial Development Agency Board as lead agency will make findings to undertake the proposed action. The Town of Hamburg Planning Board may choose to make findings at this

¹¹ 6 N.Y.C.R.R. § 617.15(b)

time or may choose to wait until a site specific review (the initial subdivision and roadway/infrastructure plans) is undertaken. The findings statement of each involved agency should indicate the conditions and thresholds that each agency has established for subsequent land transfer or site development actions.

Section 617.8, "Environmental Impact Statement Procedures," includes a section titled "Supplemental EISs." This section identifies the three circumstances when a lead agency may require the preparation of a supplemental EIS (SEIS) prior to the filing of a findings statement. Section 617.8(g)(1) explains the three circumstances in which an SEIS would be required (project changes, newly discovered information, and a change in circumstances). Therefore, a SEIS may be required to address specific issues that were either omitted or inadequately addressed in the EIS and when a significant adverse environmental effect may result.

(Future) sites that are developed within the Lake Erie Industrial Park will be considered under this Generic EIS. During the review of each subsequent approval or funding of an action involved in the park, the agency or board responsible for the approval/funding must review the proposal under SEQR. In this case, where a final generic EIS was accepted and filed, one of the four scenarios described below will be selected as appropriate by the involved agency. After the filing of a FGEIS and findings, there are four scenarios outlined in Section 617.15(c) of the SEQR regulations:

- (1) No further SEQR compliance is required if a subsequent site specific action will be carried out in conformance with the conditions and thresholds established for such actions in the findings statement resulting from the generic EIS
- (2) A supplemental findings statement must be prepared if the subsequent proposed action was adequately addressed in the generic EIS but was not addressed or was not adequately addressed in the findings statement for the generic EIS
- (3) A supplement to the final generic EIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action involves one or more significant environmental effects
- (4) A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action will not result in any significant environmental effects

NYSDEC has recently suggested that the following criteria be considered in developing a supplement to a generic EIS. *The SEQR Handbook*¹² states that a supplement should:

- ◆ Only be required for environmentally significant impacts not adequately addressed in the generic EIS
- ◆ Reference the generic EIS, summarize its relevant sections and state where a copy of the generic EIS is available
- ◆ Incorporate mitigation and alternatives recommended in the generic EIS as requirements for the supplemental action, in addition to any new mitigation measures or alternatives developed within the supplemental EIS
- ◆ Relate to conditions, criteria and thresholds established in the generic EIS and adopted in findings.

If an involved agency determines that a supplement to this GEIS is necessary prior to an approval, issuing a permit, or a funding decision, it is suggested that this guidance be utilized.

¹² *The SEQR Handbook*. November 1992. NYSDEC, p. 80.

SECTION 3 DESCRIPTION OF PROPOSED ACTION

3.1 PROJECT LOCATION AND DESCRIPTION OF ACTION

3.1.1 Site Location

The project sponsor has proposed to develop an industrial park on approximately 145 ± acres of mostly vacant land located in the Town of Hamburg, Erie County, New York. The proposed park is located east of NYS Route 5, approximately 8 ± miles south of the downtown area of the City of Buffalo (refer the Exhibit 1 on page 2). The project site is comprised of two parcels of land, on the northern (75.2 ± acres) and southern (70.5 ± acres) sides of Bayview Road.

3.1.2 Surrounding Land Use

Viewing the surrounding land in a 360 degree rotation from the project site, a variety of different land uses are apparent. To the southwest, in the Hoover Beach/Athol Springs area a mixture of residential, lakeside subdivisions and commercial uses exist which include several restaurants, gas stations, and convenient stores, as well as a nursing home, truck terminal, an abandoned sewage treatment plant, and a miniature golf/go-cart track. To the south/southeast a well-established residential subdivision lies adjacent to Bayview Road. Directly to the east, the Ravenwood Industrial Park provides light industrial and commercial land use. Finally, to the north, prominent heavy commercial and industrial uses such as the Southtowns Sewage Treatment Plant, the Gateway Executive Park, the Ford Motor Co. Stamping Plant, and Synder Snyder Tank Fabricator are visible from the proposed site.

3.1.3 Total Site Area

The proposed action to develop the Lake Erie Industrial Park involves approximately 145 acres located in the Town of Hamburg. The proposed park is located on two parcels east of Lake Shore Road (NYS Route 5) and to north and south of Bayview Road. Development anticipated during Phases 1 and 2 will occur on the north parcel (75.2 ± acres). The south parcel (70.5 ± acres) will be developed as Phase 3.

3.1.4. Existing Development On-Site

Currently, two structures exist within the proposed project area: a residential home and a storage garage. These structures will be purchased as soon as possible within the development process to allow adequate time for demolition, clearing, and grading of the site. The remainder of the property (both parcels) is vacant land that has received several infrastructure improvements within its boundaries and highway right-of-ways in recent years.

3.1.5 Project Phasing

Although the build-out of the industrial park will be market driven, the developer will provide infrastructure in phases. During the first phase, one or two lots may be developed on the north side of Bayview Road without the installation of any additional infrastructure. The remainder of this northern parcel will be developed as phase two. Phase three will be the development of the parcel on the south side of Bayview Road (refer to Exhibit 2).

3.2 PROJECT PURPOSE, NEED, AND BENEFITS

3.2.1 Municipal Objectives and Public Need

The objectives of the Town of Hamburg and the "public need" are reflected in the following plans, reports, and documents:

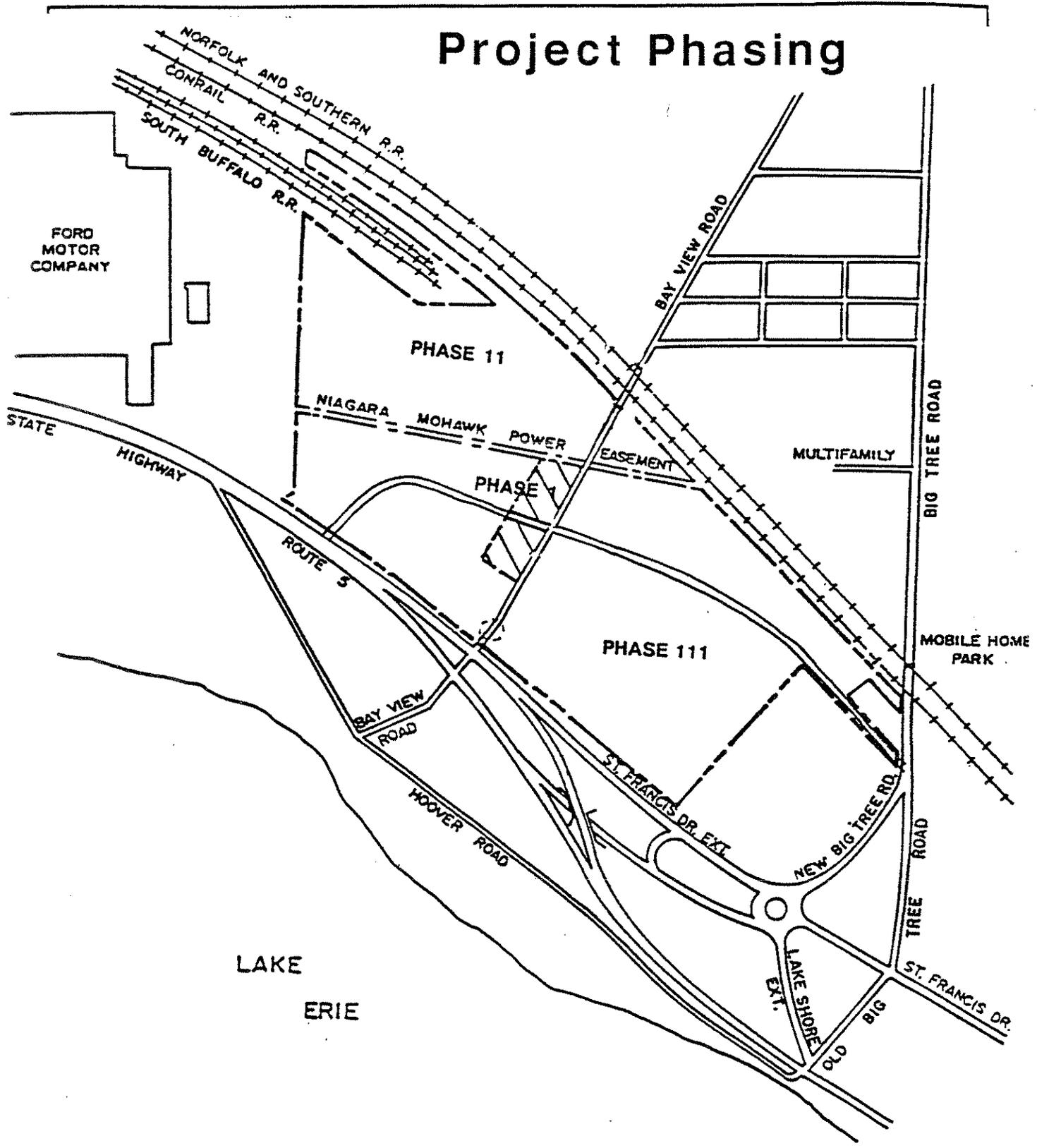
- ◆ **Town of Hamburg 2010 Master Plan: *A Guide for Future Development*;**
- ◆ **Town of Hamburg Zoning Law of 1986; Zoning Chapter 29 Local Law, 1987;**
- ◆ **The Hamburg Future Development Advisory Panel (HFDAP) Report;**
- ◆ **Town of Hamburg Local Waterfront Revitalization Program (LWRP);**
- ◆ **Horizons Waterfront Action Plan; and**
- ◆ **Athol Springs Waterfront Revitalization Plan.**

In summary, the review of these land use planning documents indicates that the Town of Hamburg has clear and consistent municipal objectives with respect to the project site: the site should be developed for industrial uses. However, there has been no agreement on a comprehensive solution to the traffic circulation problems in the Athol Springs area.

2010 Master Plan

The current comprehensive master plan was adopted by the Town Planning Board on March 16, 1983. In response to the changing development and demographic trends, the Town of Hamburg undertook this update effort to "redefine its development objectives and adopt a

Project Phasing



comprehensive master plan to adequately respond to ... anticipated shifts in future land use." ¹³ The result of this effort was the *Town of Hamburg 2010 Master Plan* which noted that the primary components of the Town's economic base is formed by commercial and industrial employment and that the Town is expected to follow the national trends of declines in heavy manufacturing and growth in office, research and development, and light industry. ¹⁴ With respect to industrial activities, the Plan notes that future development should focus on "industrial parks which provide economies-of-scale in land development and can be appropriately buffered to protect from intrusion into incompatible uses." ¹⁵

The project site is within the area identified in the Town's Master Plan as appropriate for the location of medium type industries. The Plan states:

"Current trends in manufacturing are moving towards the improvement of the entire production process to become more competitive on the international market. These trends include inventory reduction, improvement of production scheduling and the externalization of many manufacturing costs. The result has often been the desire to shorten the distance between the manufacturer and their suppliers or other industries that perform pre- or post-manufacturing operations to better coordinate the production process. The area in the northwest portion of the Town adjacent to Bethlehem Steel and the Ford Stamping Plant is appropriate for these types of medium industries. It possesses rail and expressway access and is convenient to existing manufacturers. It is also well isolated from residential land uses by the Conrail Railroad and New York Route 5. It is anticipated that complimentary suppliers, intermediate manufacturers and industrial support services (truck transfer, storage, etc.) can be attracted to this area." ¹⁶

The *2010 Land Use Plan* (see Exhibit 3) designates the majority of the project site as **General Industry** (shown on the original map as dark blue in color) which corresponds to this "medium" industry. At the southern end of the site, a small area is designated as open

¹³ *Town of Hamburg: 2010 Master Plan - A Guide for Future Town Development*. March 1983. Economic Consultants Organization, Inc., Buffalo, New York. (65 p.). - p. 1.

¹⁴ *Ibid.*, p. 18.

¹⁵ *Ibid.*, p. 20.

¹⁶ *Ibid.*, p. 56.

2010 LAND USE

TOWN OF

HAMBURG

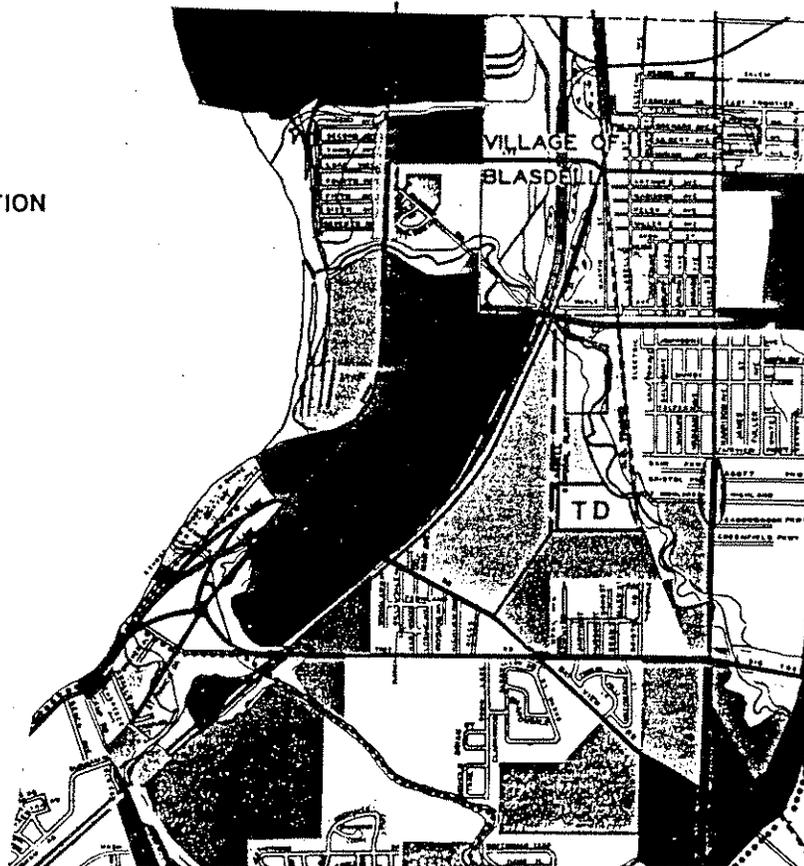
PLAN



-  AGRICULTURAL/RURAL
-  LOW DENSITY RESIDENTIAL
-  MEDIUM DENSITY RESIDENTIAL
-  HIGH DENSITY RESIDENTIAL
-  NEIGHBORHOOD COMMERCIAL
-  GENERAL COMMERCIAL
-  OFFICE / WAREHOUSE
-  LIGHT INDUSTRY
-  GENERAL INDUSTRY
-  TRANSIT DISTRICT
-  COMMUNITY FACILITY
-  OPEN SPACE / RECREATION
-  WETLAND
-  WOODLAND

-  PROPOSED ROAD
-  TRANSIT CORRIDOR
-  TRAILWAY

ADOPTED BY THE
HAMBURG PLANNING BOARD
MARCH 16, 1983



space/recreation land. This area appears to be adjacent to a proposed open space corridor along the stream channel of Foster Brook (also shown on Map 8 - *Open Space Plan*¹⁷).

Town Zoning Ordinance

The Town Board of the Town of Hamburg enacted a new *Comprehensive Zoning Law* in December of 1986. It was the intent of the Town Board to establish zoning to implement the *2010 Master Plan* and *Land Use Plan* adopted by the Planning Board and subsequently accepted and endorsed by the Town Board.

Through the zoning ordinance and zoning district map, the Town establishes the right to use property for various uses by permitting and prohibiting various land uses, regulating the intensity of uses, and the siting of development on individual parcels. The project site has been zoned for industrial use. The entire project site is zoned as a **M-3 General Industrial District** (Exhibit 4).¹⁸ Within this zoning district allowable uses include industrial, warehousing, distribution, office, research and development, and commercial uses. This zoning classification allows the widest range of industrial uses within the Town. Therefore, all industrial uses that are allowed in the Town of Hamburg are permitted by existing zoning in the project area. Additionally, the M-3 District is the least restrictive with respect to area and bulk requirements (i.e., yard requirements). A summary of these requirements by industrial zoning district is provided in Appendix III of this the DGEIS.

HFDAP Report

In 1990, the Hamburg Future Development Advisory Panel (HFDAP) was created to determine the status of development in the Town and to provide recommendations for future growth management. The panel noted that the Town's population growth conformed to that predicted in the *2010 Master Plan*. Industrial land use was considered and a survey indicated that 540 ± acres of vacant land within the Town was zoned for industrial development. The Panel HFDAP agreed upon the following findings and recommendations for future development:

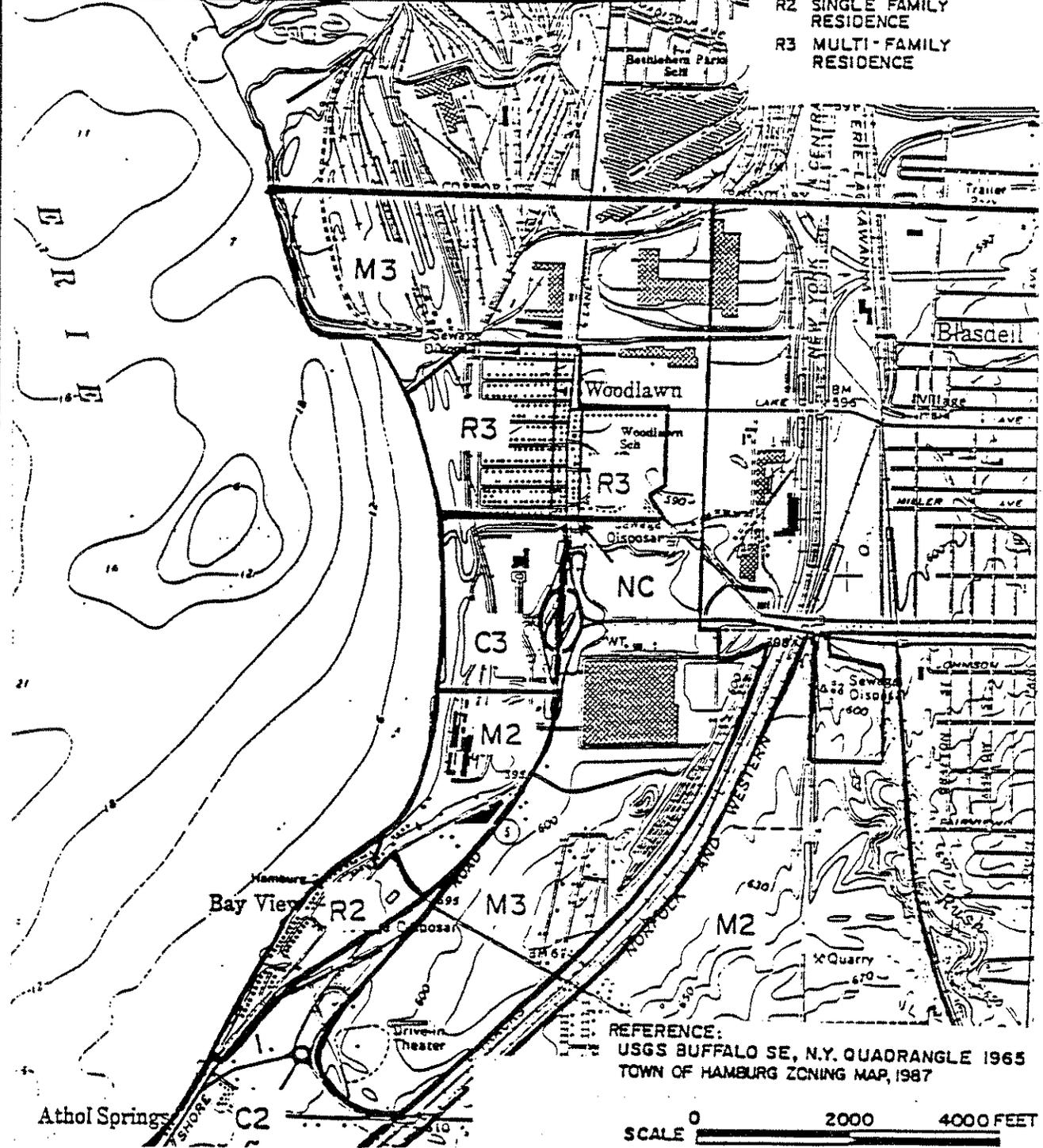
¹⁷ *Ibid.*, p. 34.

¹⁸ *Zoning Chapter 29 Code of the Town of Hamburg, Local Law 1987*. November 11, 1991. Article XVIII - M-3 General Industrial District, Sections 29-101 through 107. p. 52 - 55.

WOODLAWN BEACH VICINITY ZONING MAP

LEGEND

- C2 GENERAL COMMERCIAL
- C3 OFFICE DISTRICT
- M2 LIGHT INDUSTRIAL
- M3 GENERAL INDUSTRIAL
- NC NEIGHBORHOOD COMMERCIAL
- R2 SINGLE FAMILY RESIDENCE
- R3 MULTI-FAMILY RESIDENCE



REFERENCE:
USGS BUFFALO SE, N.Y. QUADRANGLE 1965
TOWN OF HAMBURG ZONING MAP, 1987



TC **NUSSEBAUMER & CLARKE, INC.**
Consulting Engineers
Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT
4

- Industrial:**
- ◆ Maintain what we have and provide for more, especially for small users.
 - ◆ Extensive areas exist adjacent to railroads where residential development should not be permitted.
 - ◆ Industry should be of a type compatible with good environmental planning.

The panel also found that the need for green space was one of the major concerns expressed from all areas of the Town. They recommended that the lineal corridors shown on the Master Plan be acquired as development occurs.

Local Waterfront Revitalization Program

The State of New York through the Department of State's regulations ¹⁹ has adopted a number of coastal policies to implement the provisions of the New York State Waterfront Revitalization and Coastal Resources Act of 1981. ²⁰ The purpose of this legislation is "to insure the proper balance between natural resources and the need to accommodate the needs of population growth and economic development." ²¹ In accordance with this law, New York State local communities have been encouraged to prepare their own Local Waterfront Revitalization Programs (LWRPs) to determine their own waterfront objectives and adapt statewide approaches, both policies and programs, to their local circumstances and needs. A completed and approved LWRP provides the local controls to guide waterfront development as well as the legal ability to ensure "consistency." The Town of Hamburg has prepared such a LWRP in cooperation with the Erie County Department of Environment and Planning and the New York Department of State. Following the adoption by the Town Board on March 24, 1987, the Final LWRP was forwarded to the New York State Secretary of State for review and approval under the provisions of the New York State Waterfront Revitalization and Coastal Resources Act.

Section 5.10 of ~~this the DGEIS and this FGEIS~~ contains the required identification of the applicable policies and purposes of the Town of Hamburg Local Waterfront Revitalization Program (LWRP). Policies and an analysis of the anticipated project impacts (the policies which do not apply are excluded from the discussion in this section since they ~~are~~ were discussed in detail in Appendix II ~~of the DGEIS~~). This review indicates that not only will the development of

¹⁹ 19 N.Y.C.R.R. Part 600.

²⁰ Exec. L. § 910.

²¹ *Ibid.*

this industrial park not substantially hinder the achievement of any of the policies but this proposal will advance several of these local policies.

According to the Town's LWRP, the project site is located within the "Hoover Beach/Athol Springs" sub-area.²² A significant future development opportunity has been identified in the largely undeveloped "Route 5/Big Tree/Bayview area" which includes the site. Attributes of this area were listed as: excellent accessibility (along Route 5 and to the New York State Thruway via Routes 75 and 179), high visibility to passers-by, several outstanding scenic vistas of Lake Erie, and proximity to specialty restaurants. Obstacles to development were also identified which focused on the confusing pattern formed by the numerous roads in the area and the floodplain of Foster Brook which covers portions of the area. As a solution the LWRP noted that the following²³ should be considered:

- ◆ Selective road closings and re-alignments;
- ◆ Channel improvement to Foster Brook (in both depth and alignment); and
- ◆ Creation of a permanent pond that could serve as a scenic focal point for development (as well as a stormwater retention facility).

The LWRP also includes proposed land and water uses which are described on Map 7A, *Land Use Plan*, as well as in the text of Section IV of the LWRP. The text notes that portions of the "Hoover Beach/Athol Springs" sub area (primarily along the northeastern perimeter near the Ford Stamping Plant which includes the project site) have been identified by the Town of Hamburg Master Plan as appropriate for industrial development. However, although the LWRP land use plan map identified the entire northern parcel as industrial, portions of the site's southern parcel were identified as commercial (the western portion) and recreation/open space (the southern portion along Foster Brook). This pattern of land uses, the inclusion of a commercial use zone and the extent of the open space are not reflected in either the Town's zoning ordinance or the comprehensive master plan. Since commercial uses are allowed within the M-3 zoning district and their appropriate location will be encouraged throughout the park by the developers, the development of this entire site, both north and south parcels, as an industrial park is "consistent to the maximum extent practicable" with the policies and purposes of Hamburg's LWRP because

²² LWRP: IV-4.

²³ LWRP: IV-5.

it will not substantially hinder the achievement of any of the policies and purposes and, whenever practicable, will advance one or more of such policies.

Horizons Waterfront Action Plan

The Horizons Waterfront Action Plan was adopted by the Commission and the New York State Urban Development Corporation (NYSUDC) in January of 1992. This Plan proposes a land use plan for the entire waterfront of Erie County. It was anticipated that once this Plan was adopted the individual Local Waterfront Revitalization Plans (LWRP) would be reviewed as revised by each municipality as appropriate. Additionally, that the local municipalities would participate in the implementation of the projects identified in various components of the overall plan.

The Transportation Component of the Horizons Waterfront Action Plan (HWAP) identified the portion of Lake Shore Road/NYS Route 5 adjacent to the proposed Lake Erie Industrial Park parcels as the "Route 5/Lake Shore Road Scenic Corridor" which would include a waterfront boulevard. This boulevard was conceptualized as a four lane parkway type highway with a landscaped median and an offset dedicated bikeway. The Development Component of this Action Plan included the Woodlawn Beach/Marina and the upgrade of the Athol Springs commercial center within the project vicinity. A promenade was identified to serve as a catalyst for the Athol Springs area's revitalization.

Athol Springs Waterfront Revitalization Plan

As an outgrowth of the HWAP, the Horizons Waterfront Commission (HWC) and Town of Hamburg entered into a joint effort to formulate a comprehensive waterfront revitalization plan for the Athol Springs area. The Athol Springs plan involves an area bounded primarily by Bayview Road, Camp Road, the rail corridor, and Lake Erie and consists of a mix of uses with much under-utilized land. Its' "restaurant row" along Lake Shore Road/NYS Route 5 is considered one of its strengths which, if built upon, could become part of a "waterfront village."²⁴

The Athol Springs Waterfront Revitalization Plan included two major work products: (1) a comprehensive plan with three components (land use, open space, and pedestrian and vehicular circulation plans) and an implementation plan with zoning recommendations, and (2)

²⁴ Memorandum dated September 17, 1992 from Ruta Dzenis, Project Director, Horizons Waterfront Commission, Inc.

a preliminary design and outline of specifications for the proposed promenade along Lake Shore Road.

The land use plan identified three key under-utilized sites for focusing private development efforts in a proposed waterfront commercial zone of "specialty and convenience retailing with a recreational and visitor orientation." ²⁵ One of these sites was the park and ride lot at Routes 5 and 75. The report proposed a "land swap" which would result in the relocation of the park and ride to a larger lot. At this time, several of the recommendations within this plan are being reconsidered. For example, the potential relocation of the NFTA's park and ride and the report's recommendations with respect to circulation and the retention of the St. Francis traffic circle. Dialogue was initiated with involved agencies on these issues as part of the scoping of the traffic study prepared for this project.

The traffic issues and concerns in the Athol Springs area are numerous and complex. The EMS traffic study for this industrial park has addressed several of the roadways within this area. Key decisions by various agencies and individual property owners will be required to resolve these long standing problems. However, while the development of the northern parcel (Phases I and II) of the proposed Lake Erie Industrial Park can proceed without resolution of the issues, it appears that Phase III development of the park will require some interagency agreement with respect to the traffic issues and development of the Athol Springs area. The developer is confident that development of this southern parcel can provide opportunities for improving traffic patterns and roadway configurations and that the information provided in the Traffic Study prepared as part of this Generic EIS will be useful to the agencies and property owners that will need to be involved in the resolution of the areas's traffic issues.

3.2.2 Objectives of Project Sponsor

The concept of the park is to provide a variety of companies an attractive park setting with flexible lot sizes and configurations. Parcels will be sold to manufacturers, warehousing and distribution companies, offices, and users that are consistent with the Town of Hamburg's zoning ordinance, and restrictive covenants specifically developed for the park. In accordance with this

²⁵ *Ibid.*

concept, lots in the park will be marketed and made available in sizes that meet the needs of firms locating within the park. The developer will provide the necessary infrastructure in phases, and/or as build-out of the park progresses.

3.2.3 Beneficial Impacts of the Proposal

Although the built-out of the industrial park will be market driven, this project will provide a substantial economic impact as a result of the increased employment and substantial capital investment. The geographic proximity to the City of Buffalo, as well as the limited availability of space in the North Towns, has created a significant demand for new Industrial space in the South Towns. As a result, the developer will be offering an average lot size within the park of approximately $10 \pm$ acres (minimum $3 \pm$ acres) that at full build-out will accommodate industrial type users. The industrial facilities built within the park have been estimated to total 977,486 gross square feet of floor space.

The developer has estimated job creation for the HIDA in phases: 610 new jobs for Phases I and II (the northern parcel - $75.2 \pm$ acres) to be completed by year 5, and 700 new jobs for Phase III (the southern parcel - $70.5 \pm$ acres) by year 15. Phase I will involve \$ 26,000,000.00 of new construction in years 1 - 5, and Phase II estimates \$ 38,000,000.00 of new construction in years 6 - 15. The new jobs created by the industrial facilities will generate an estimated payroll of \$ 12 to 20 million annually, with wages ranging between \$ 15.00 to \$ 25.00 per hour.

Based on HIDA's new construction abatement policy, Phase I (\$ 26,000,000.00 on new construction) will result in an increase in taxable assessment value of \$ 7,080,000.00 of new assessment by year 5 and a \$ 10,830,000.00 of new assessment by year 10. In addition, the Town of Hamburg will not experience any net loss of Town funds related to project development.

3.3 AGENCY ACTIONS, FUNDING, PERMITS AND APPROVALS

The following section lists the agencies involved in the final approval, funding, and/or permitting of the Lake Erie Industrial Park development. A brief discussion is given for each agency, addressing some of the potential concerns each may have regarding the project.

3.3.1 Hamburg Industrial Development Agency (HIDA)

Since the HIDA attained lead agency status, they have been involved with the project through the inducement resolution, PILOT agreement, and ownership of the 145 ± acre parcel. Future involvement will include the release of properties to individual purchasers or, if they are interested in using a tax abatement, the execution of a land lease. Many other procedures may need to be completed as outlined in *HIDA's Agency Procedures* (December 18, 1991) for Industrial Revenue Bond/Industrial Tax-Exempt Mortgage, Taxable Mortgage, and State and Local Exempt Lease (sale) Financing.

3.3.2 Site Infrastructure Approvals

Depending upon the final site development plans, water will extend from the Town of Hamburg's Central Water District or the Erie County Water Authority's mains on Route 5. Sanitary sewers are expected to extend from the existing mains on Bayview Road or the trunk line located in a right-of-way near the southern boundary of the project site. Major storm water components will be dedicated to the Town of Hamburg and may require formation of a Special Improvement District.

Other approvals from county and state agencies regarding road, sewer, water, storm water system infrastructure Include:

- County: ♦ Erie Co. Department of Environment & Planning
 - Environmental Compliance Services (ECS)
 - Division of Planning
 - Division of Sewerage Management (DSM)
- ♦ Erie Co. Health Department
- ♦ Erie Co. Department of Public Works
 - Highway Division
- ♦ Erie Co. Water Authority
- ♦ Erie Co./Southtowns Sewage treatment
- State: ♦ NYS Department of Transportation
- ♦ NYS Department of Environmental Conservation
 - Division of Water Resources

These agencies will become involved through the submittal of infrastructure plans and application for permits.

3.3.3 Individual Facility Development and Site Plan Approvals

The Town of Hamburg Planning Board must review and approve site plans prior to development of any parcel within the park. As outlined in the *Requirements for Site Plan Review*, the project review and approval process includes a pre-set submittal appointment, completion and submittal of an application along with complete set of plans, drawings, and other information to the Planning Department, and then a Planning Board Review.

Once the application for a review has been initiated, several other Town departments and committees may also evaluate the project and issue a recommendation to the Planning Board. Some of the other parties involved in the review process include:

- ◆ Engineering Department
- ◆ Traffic Safety Board
- ◆ Building Inspector
- ◆ Conservation Advisory Board (CAB)
- ◆ Highway Department
- ◆ Fire Safety Planning Committee
- ◆ Shoreline Committee

The HIDA may also review and coordinate the application depending upon their level of involvement in project financing and land ownership.

The Town Planning Board will issue the final approval of the project based upon the final assessments of all the Town's departments and committees, as well as any pertinent county, state and federal jurisdictional determinations.

In addition, the Design Review Committee (DRC) will review and issue a statement on consistency in accordance with the restrictions and standards pursuant to the restrictive covenants as developed and imposed on the industrial park by the developer. The DRC will make their recommendations directly to the Town Planning Board for consideration in the plan review process.

As mentioned above, several county, state, and federal agencies must also review the project in order to issue a final jurisdictional determination. Important concerns these agencies may have include coastal consistency, cultural and historical resources, natural wetlands, as well as rare, endangered, or threatened species. Specifically, the agencies that have already been contacted for their comments include:

- State:
- ◆ NYS Office of Parks, Recreation, & Historic Preservation
 - ◆ NYS Department of State
- Federal:
- ◆ U.S. Army Corps of Engineers
 - ◆ U.S. Fish and Wildlife Service

These agencies may require final development plans and/or local approvals to be issued prior to their issuance of any jurisdictional determinations.

SECTION 4 DESCRIPTION OF RELATED PROPOSALS

4.1 Creation of Special Improvement District

The developer will petition the Town of Hamburg for the creation of a **Special Improvement District** within the industrial park in order to assess the property for reasonable charge for the infrastructure costs (i.e., construction, maintenance). Establishment of the special improvement district is outlined in the New York State Town Law in Chapter 62 of the Consolidated Laws of 1932 under Section 200 and 202b.

4.2 Closing of Bayview Road

A complete discussion and corresponding exhibits of the different traffic scenarios presumed for Bayview Road during each phase of development within the industrial park ~~are~~ were outlined in Section 5.9 of ~~this the DGEIS and Section 5.9 of the FDGEIS.~~

4.3 Reconfiguration of Town Roads

During several of the preliminary meetings regarding the proposed industrial park, several related proposals were discussed. Specifically, the road reconfiguration was mentioned during discussions related to traffic, as well as consistency with the LWRP and the 2010 Master Plan. The main goal of the reconfigurations would be to provide better traffic circulation and traffic safety for the local town residents. Details of the actual reconfiguration were not available at the time this ~~DGEIS~~ FGEIS was published. However, possible re-alignments may occur at the intersection of Bayview and Big Tree Roads, as well as an extension of Jeffrey Boulevard to intersect with Big Tree Road.

4.4 Horizons Proposals in the Area

The Horizons Waterfront Commission has proposed a waterfront revitalization plan for the Athol Springs area. Athol Springs consists of a mixture of uses with much under utilized land. The area is bounded by Bayview and Camp Roads, Lake Erie, and the railroad corridor. HWC plans on capitalizing on the existing lake shore restaurant and commercial facilities by promoting a lakefront promenade for pedestrians that will run from the lake shore to a proposed waterfront plaza (located within approximately 1000 feet of Lake Erie). No advanced design plans are under consideration by Horizons at this time.

4.5 NYSDOT Proposals in the Area

Currently the NYSDOT has plans to upgrade the surface of NYS Route 5. They will be soliciting bids for maintenance repavement only in February of 1995. The NYSDOT has recently upgraded the surface of NYS Route 5. Other projects being considered in the area of the proposed industrial park include the reconfiguration of the St. Francis circle scheduled for construction late in 1999 (NYSDOT Project Number 5545-13). Preliminary plans for St. Francis Circle include converting the circle to a conventional four-way intersection. A number of alternate solutions are being considered at this time.

In addition, work is being planned for the same construction period late in 1999 for the traffic circle at Routes 179 (Milestrip Road) and Route 5 (Lake Shore Road). Work proposed for this traffic circle includes the removal of the two redundant ramps, rebuilding of the main ramps, and the removal or relocation of bus bays (NYSDOT Project Number 5215-04).

During the winter of 1997 through fall of 1998 reconstruction of Camp Road from the Thruway interchange to Scranton will be occurring (NYSDOT Project Number 5545-11).

SECTION 5
ENVIRONMENTAL SETTING, POTENTIAL IMPACTS,
AND SIGNIFICANT ENVIRONMENTAL CONCERNS

5.1 GEOLOGY AND TOPOGRAPHY

5.1.1 Subsurface Geology - Bedrock and Fossils

The project area is located on the Lake Erie Plain of the Erie-Ontario lowlands. The bedrock in this area is primarily composed of sedimentary rock layers deposited in the northern arm of an inland sea about 360 to 408 million years ago during the Devonian Age of the Paleozoic Era. Sedimentary bedrock in the Western New York area contains layers of well preserved fossils. The sea that covered the area supported both plant and animal life which remain preserved in various rock layers as fossils. In fact, the "abundance and quality of preservation of the Devonian aged fossils in this area is world renowned." ²⁶

The uppermost layer of bedrock consists of the Ludlowville Formation which is part of the Hamilton Group. This formation consists of grey limestone (Tichenor and Centerfield members) and fissile grey shale members (Deep Run, Wanakah and Ledyard members). ²⁷ The Tichenor Limestone member is characterized as "thick-bedded (about 1.5 feet), grey crinoidal limestone with a crystalline structure." ²⁸ This limestone contains numerous corals, brachiopods, bryozoans, and large pelecypod valves. ²⁹

²⁶ Bastedo, Jerold C. *Fossil Localities of Western New York. In Field Series: Geology.* Buffalo: Buffalo Museum of Science. p. 58

²⁷ Buehler, E.J. & I.H. Tesmer. 1963. *Geology of Erie County, New York.* Buffalo Society of Natural Sciences. Vol. 21, No. 3., 118 p., plus plate.

²⁸ *Ibid.*, p.58.

²⁹ Brett, Carlton E. 1974. *Contacts of the Windom Member (Moscow Formation) in Erie County, New York.* New York State Geological Association 46th Annual Meeting, Fieldtrip Guidebook.

The Wanakah Shale Member, which underlies the Tichenor Limestone, is approximately 30 to 45 feet thick in this area and is characterized as "a medium gray to light blue-gray calcareous shale which weathers to clay." ³⁰ Fossils are abundant; near the top of the Wanakah, such a zone has been called the "Demissa bed" in the geological literature. Several limestone bands a few inches thick are also fossiliferous, some of which are called "Trilobite beds." ³¹

Outcrops of the Tichenor Limestone Member of the Ludlowville Formation extend from the Lake Erie shore near Pinehurst to Pike Creek northeast to the south branch of Smokes Creek near Windom in the Town of Hamburg, which then can be traced eastward to Tichenor Point Ravine (its type locality on Canandaigua Lake in Ontario County). Creeks flowing northwest from the hills of the Allegheny Plateau have cut gorges which have exposed these fossiliferous rock layers. The Wanakah Shale and the Tichenor Limestone can be seen at the mouth of Eighteen Mile Creek on Lake Erie as well as along other portions of the lake shore and creeks in the County (i.e., south branch of Smokes Creek, Cazenovia Creek, Northrup Road bridge, Buffalo Creek, Cayuga Creek, and Spring Creek) as well as many further east. ³²

The project site includes a spoil pile of bedrock (primarily Wanakah Shale) at the northeast portion of the site adjacent to the railroad tracks. This material was excavated from the area adjacent to the Ford Plant site to build the railroad sidings. Due to the fossiliferous nature of the bedrock in this area, which includes both the layer of Tichenor Limestone and the underlying deeper layer of Wanakah Shale, fossils can be found on and in this spoil pile. Brachiopods were particularly numerous at ground surface.

5.1.2 Surficial Geology - Soils

During the Middle Devonian period, bedrock layers were deposited as silts and sands in the ancient seas that covered the area. During the Pleistocene Ice Age which began about 300,000 years ago, Western New York experienced several glacial retreats and advances that drastically altered the surficial geology in the area. ³³ As the glacial ice advanced and retreated

³⁰ Buehler & Tesmer, p. 53.

³¹ *Ibid.*, p. 53 - 54.

³² *Ibid.*, p. 60.

³³ *Ibid.*, p. 7 - 15.

across Western New York, soil material and pieces of bedrock were picked up and carried by the glacier and re-deposited elsewhere as unconsolidated material, or glacial till. The predominant soil types mapped on site by soil survey crews were formed in glacial till deposits that had a high clay content, and were underlain by calcareous shaly glacial till in some areas.

According to the *Soil Survey of Erie County, New York*³⁴, the project site primarily includes Remsen silty clay loam soil units with 0 to 3% slopes (RfA) and 3 to 8% slopes (RfB) and Canadice silt loam, shaly till substratum (Cb). The Remsen soils are shown as covering central eastern portions of the site, whereas the Canadice soil series is mapped along the western segment of the site. Areas within the site that were previously disturbed, were classified by the *Soil Survey* as Pits, borrow (Pt). The largest pit was located at the northeast corner of the site, and includes the spoils pile. In addition, the survey indicated several small areas of different soil units located along the site boundaries which were designated as Urban Land (Ud), Brockport silty clay loam (BrA), 0 to 3 percent slopes, and Niagara silt loam (Nh).

As part of the wetlands delineation study at the site, Earth Dimensions, Inc. (EDI) conducted a field examination of the soil on the project site. The wetlands report³⁵ included a "Simple soil site map" (refer to Exhibit 5). Although these maps appear to be somewhat different, the Wetland Delineation report states:

"Field examination of the soils on the site showed general agreement to the published SCS soils map (Exhibit 6). Churchville and Remsen were the predominant soils delineated during the investigation, being over most of the southern and eastern portion of the property. Udorthents, Darien, Canadice, and Wayland were also identified in various spots across the project site."³⁶

The major difference appears to be the classification of the soil covering most of the western side of the site as "Churchville" by EDI and as Canadice silt loam, shaly till substratum (Cb) in the *Soil Survey*.

³⁴ *Soil Survey of Erie County, New York*. December 1986. United States Dept. of Agriculture - Soil Conservation Service. Sheets Nos. 59 & 60.

³⁵ Earth Dimensions, Inc. August 27, 1992. *Wetland Delineation of The Hoover Parcel (Bayview and Lake Shore Roads), Town of Hamburg, Erie County, New York*. 42 p., plus appendices.

³⁶ *Ibid.*, p. 20.

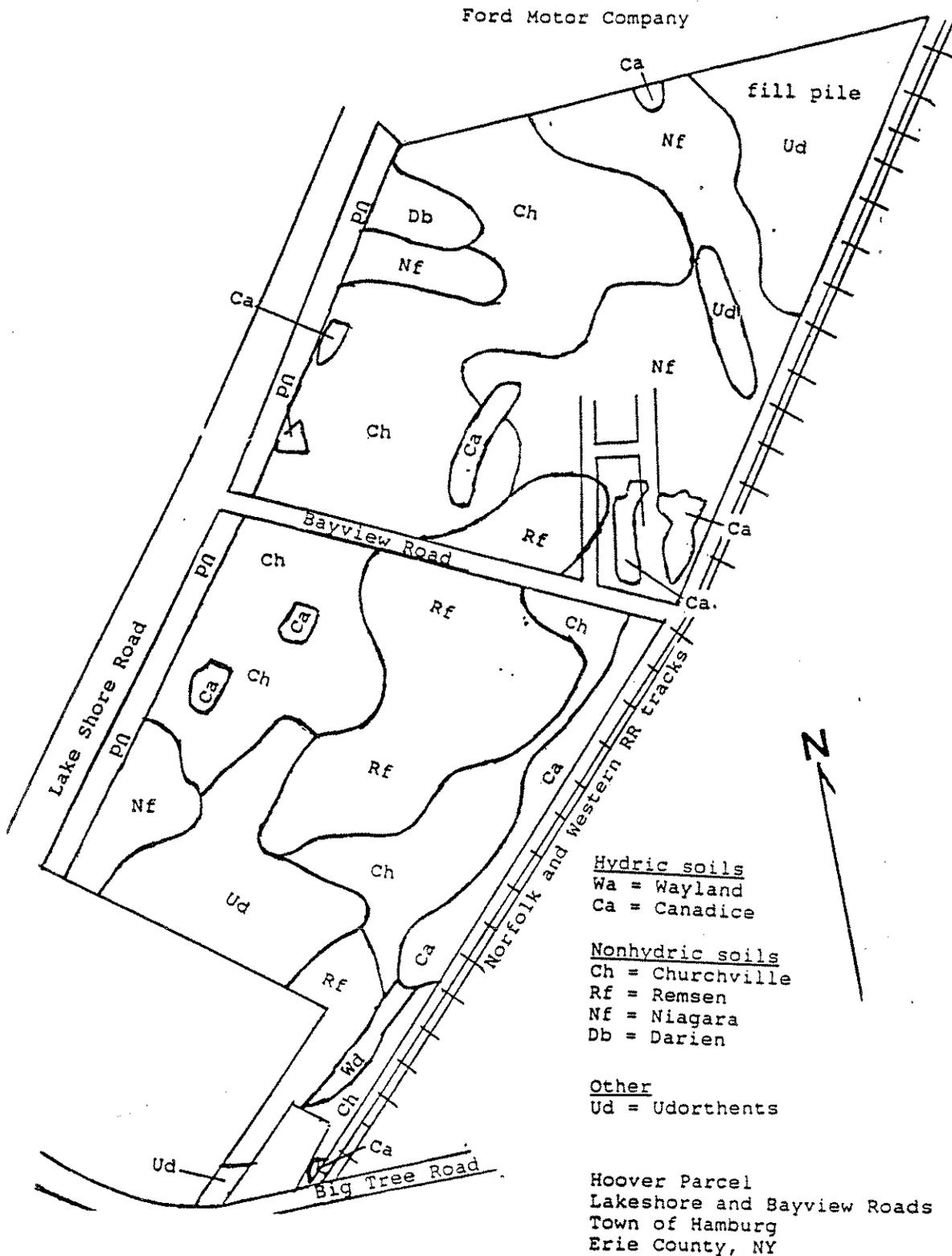
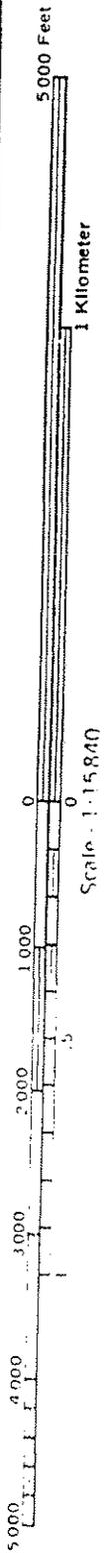
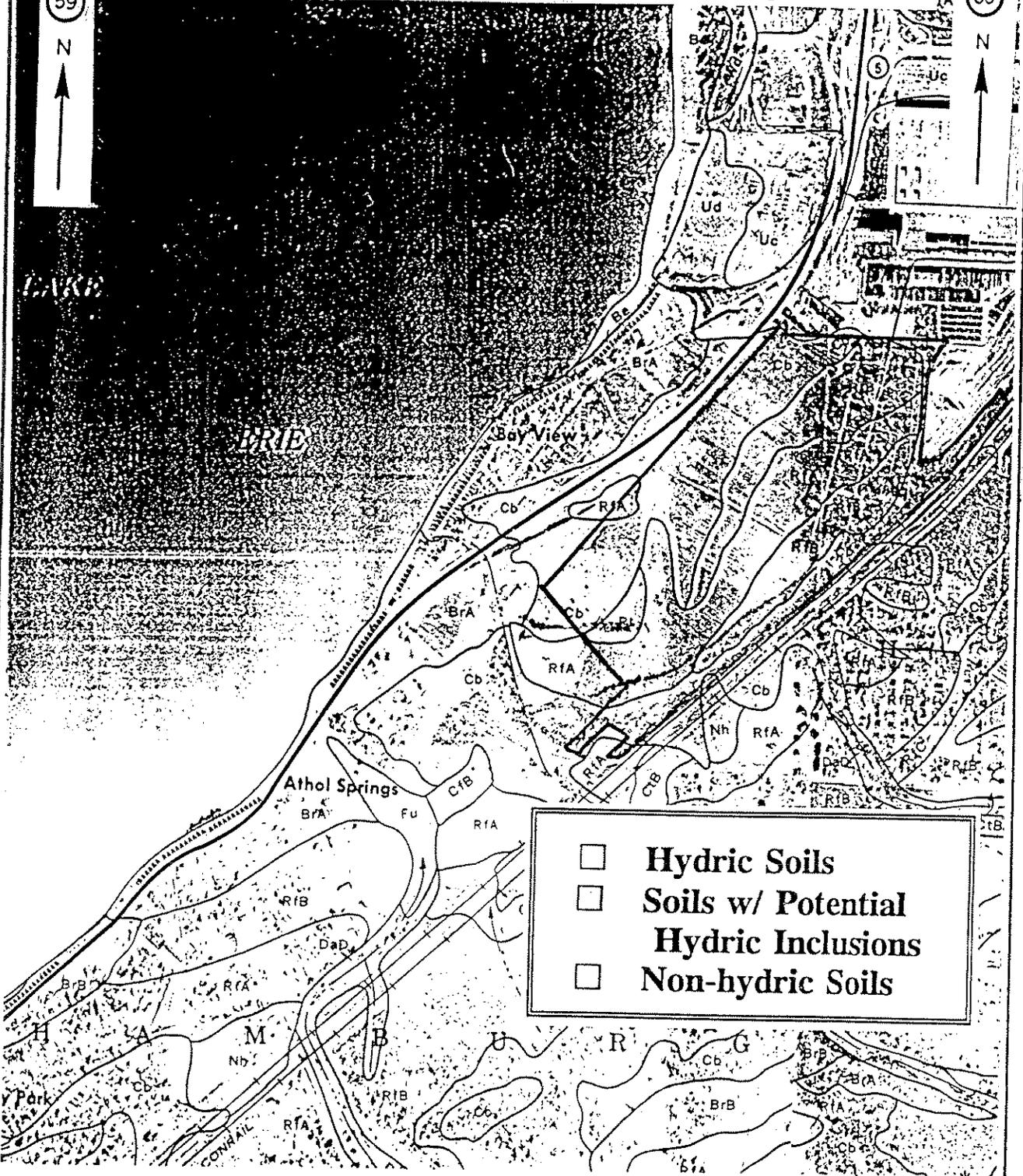


Figure 5: Simple soil site map

Soil Survey of Erie County, N.Y.



NUSSEBAUMER & CLARKE, INC.
 Consulting Engineers
 Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT
6

In areas where the Remsen silty clay loam series was mapped, two different slope classifications were determined: 0 to 3 percent slopes (RfA) and 3 to 8 percent slopes (RfB). As described in the *Soil Survey*, the Remsen soil series consists of deep, somewhat poorly drained soils that have a perched seasonal water table in the upper part of the substratum. Permeability is very slow in the subsoil and substratum. Depth to bedrock is generally more than 5 feet and runoff is considered to be slow. The Remsen series (RfB) is described as a gently sloping soil which is typically found on undulating till plains.

The Canadice silt loam (Cb) series is described by the *Soil Survey* as deep, poorly drained soils that occur in slight depressions of old glacial lake basins. These soils formed in clayey glacial lake sediments and often are underlain by calcareous shaly glacial till. The Canadice soils are often found in association with the Remsen soil series. The Canadice silt loam, shaly till substratum is a nearly level soil (slopes of 0 to 3 percent) which is deep and poorly drained. The seasonal high water table is at or near the surface from December through June.

Although this site was previously cleared for agricultural purposes, the soils on site were not designated as prime or important agricultural soils. The *Soil Survey* identified the characteristics of a perched seasonal water table, clayey texture, poor soil compaction, and very slow permeability, and notes that as a result the Remsen silty clay loam soils are only moderately suitable for many farm and urban uses. The Canadice soil is considered to be poorly suited to cultivated crops because of the prolonged high water table.

The *Soil Survey* also discusses the soil characteristics of the Remsen silty clay loam, 0-3% slopes (RfA) as posing "serious limitations" for most urban uses, and drains are recommended around foundations to reduce wetness. An additional constraint for the Remsen series (RfB) mapped on 3-8% slopes is the erosion hazard. The *Soil Survey* notes:

"Drains around foundations and interceptor drains placed upslope from buildings are needed to divert surface runoff and seepage. If the clayey subsoil is disturbed during construction, it is difficult to recompact and tends to settle unevenly under a load. Because erosion is a very serious hazard, construction sites should be revegetated as soon as possible." ³⁷

³⁷ *Soil Survey*, p. 120.

Similarly, excavations in the Canadice soil series are difficult to regrade or recompact due to the clayey texture of the soil.

5.1.3 Topography

Although this site has been slightly disturbed in the past, the natural elevations appear to gently slope from a higher area on the central portion of the north parcel (with elevations over 625 feet above mean sea level (MSL)) to the south (where the water course along railroad track at the southeast portion of the southern parcel has a lowest elevation of about 595 MSL), and to the westerly property line and Lake Shore Road which also has an elevation of 595 feet MSL. These topographic features and other structures described below are illustrated on the USGS map and topographical site map (refer to Exhibits 7 and 8 - A & B).

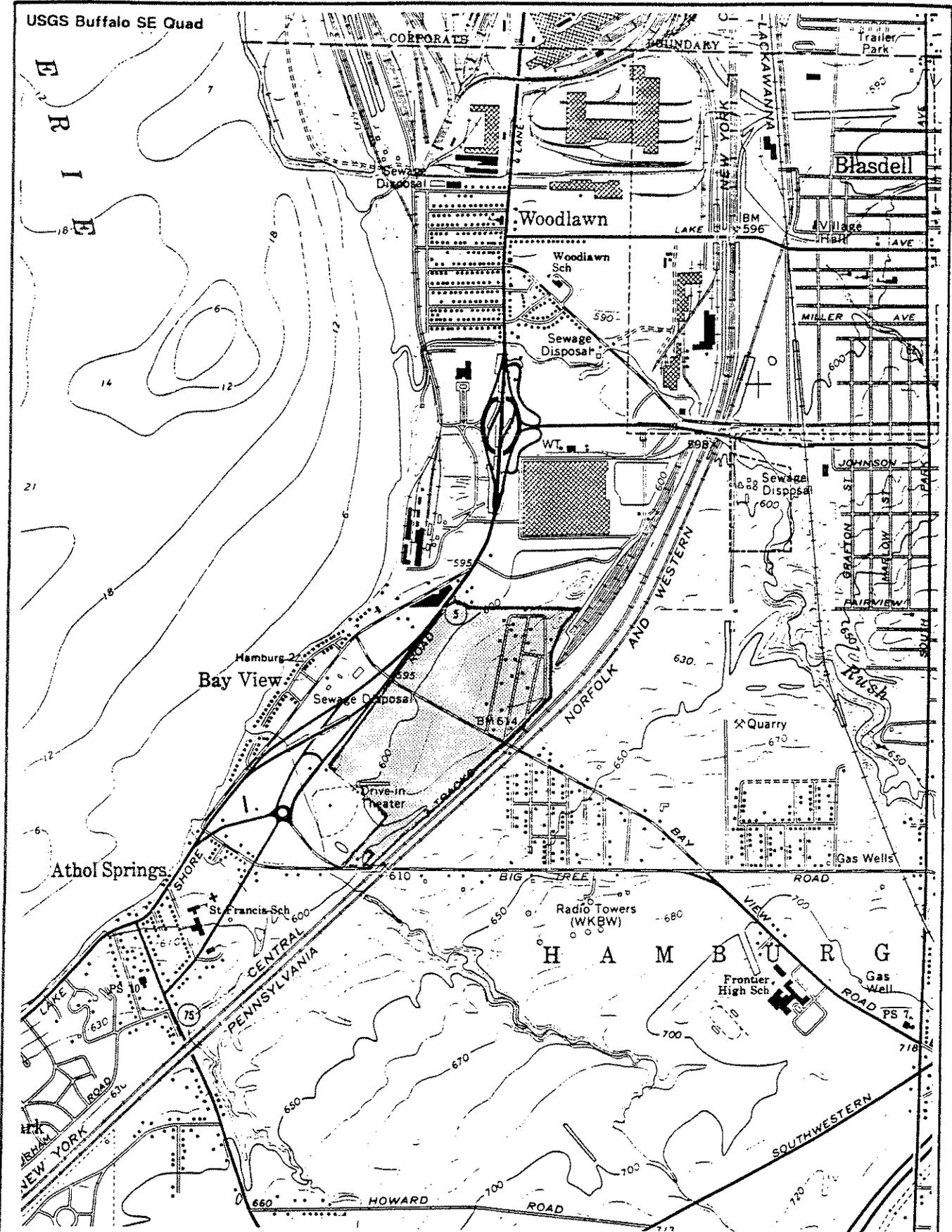
The natural topography of the site appears to have been altered by various man-induced activities. Several such activities have dominated the current topography of the project site: the construction of the railroad tracks, the railroad siding to serve the Ford Plant, the off-site construction of a drive-in theater, and the construction of a housing subdivision.

The easterly boundary of the site appears to have been disturbed back in the year 1900 during the construction of the railroad embankment. Subsequently, the shale spoils pile located on and off-site at the northeastern property boundary was created as a result of the deposition of the primarily Wanakah Shale bedrock (with some limestone layers) which were excavated to allow the construction of the rail sidings for the South Buffalo Railway. This spoils pile which has remained unvegetated involves an on-site area of approximately $4.5 \pm$ acres, and ranges in elevation from 621 to 653 feet MSL with an average elevation of 645 feet above sea level.

In terms of area, the major disturbance on the northern parcel occurred as a result of the development of the surrounding residential subdivisions during the 1920's. Bethlehem Steel bought the property, and rented it to their employees. In the 1970's, all but two of the structures were bulldozed.³⁸ Recent filling and stockpiling has been occurring in the area surrounding the garage structure located on the west side of Linden Avenue.

³⁸ Spaulding, L.M. September 1992. *Stage 1B Cultural Resource Investigation of Bayview Road, Hamburg, Erie County, New York*. Spaulding Archaeological Services. p. 8.

USGS Buffalo SE Quad

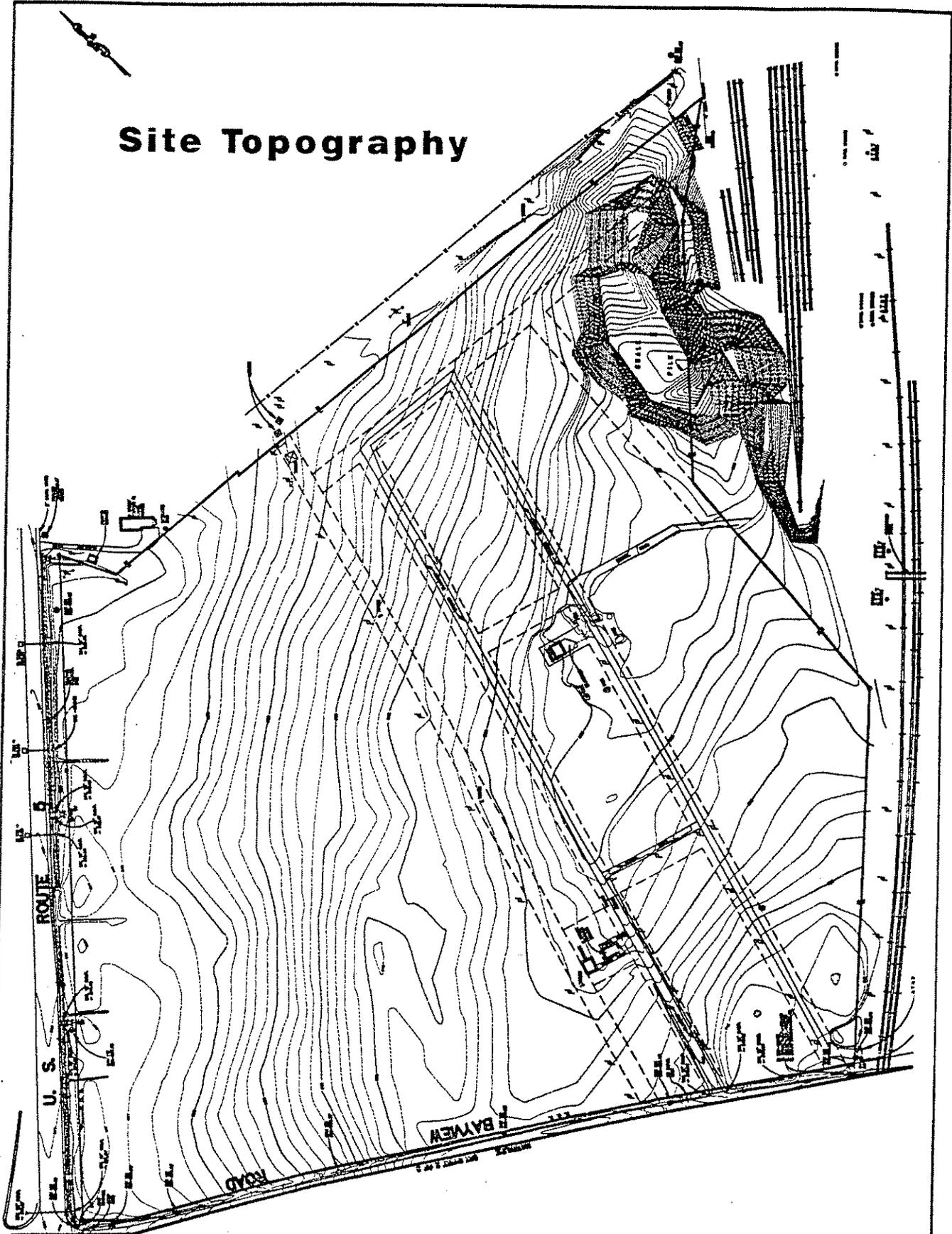


NUSSEBAUMER & CLARKE, INC.
 Consulting Engineers
 Surveyors

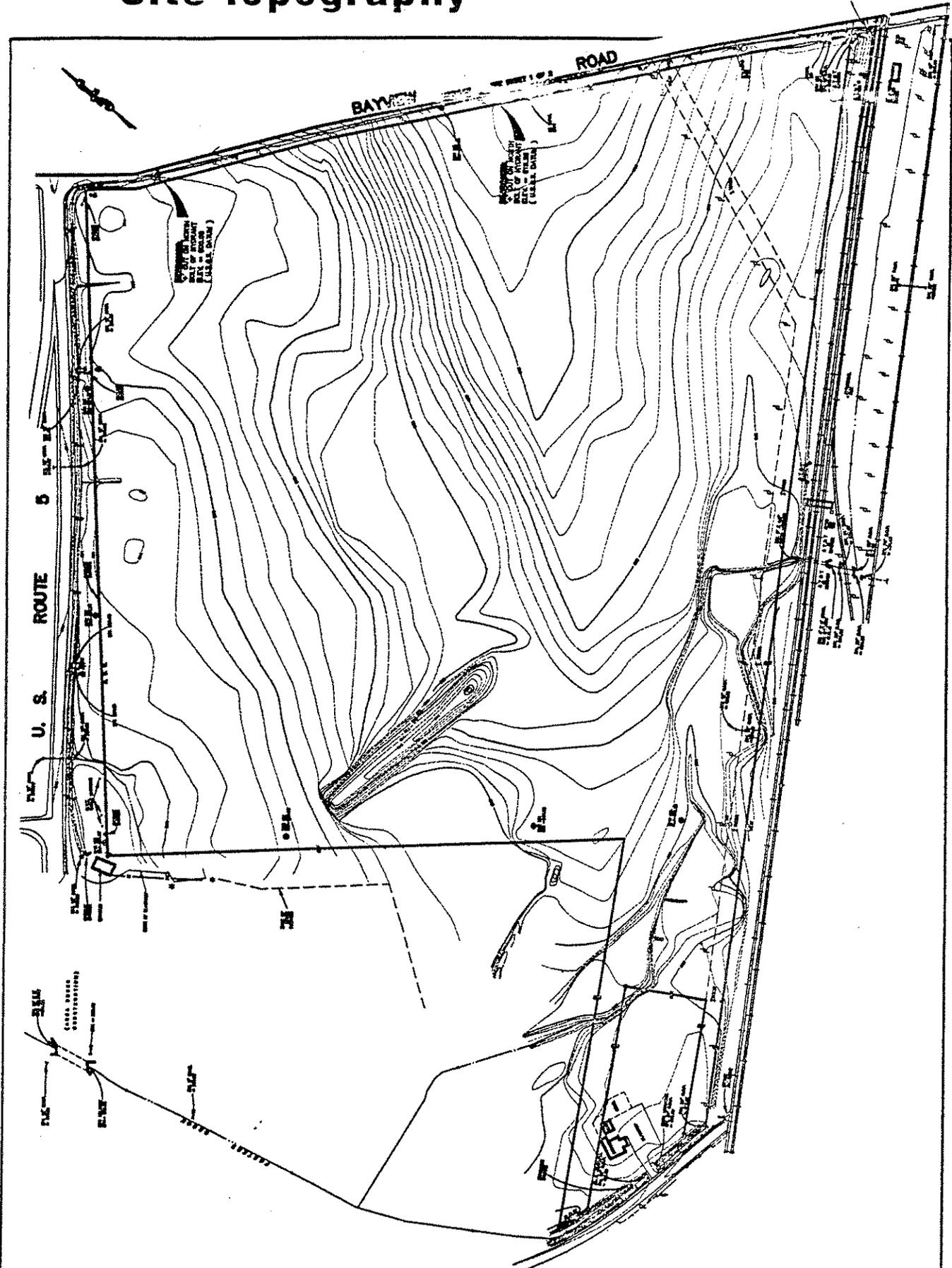
LAKE ERIE INDUSTRIAL PARK

EXHIBIT
7

Site Topography



Site Topography



The natural topography of the southern parcel has also been disturbed. A berm centrally located along the southern boundary of the south parcel ranges in elevation from 600 to 620 feet above MSL, with an average height of about 15 feet. This berm appears to have been created with material from the adjacent property during the construction of the now demolished drive-in theater. Additionally, the area adjacent to this berm has been stripped of topsoil and apparently used as a borrow area.

5.1.4 Potential Impacts and Mitigation

Fossils

Although fossiliferous shales and limestones are found in bedrock throughout large sections of Erie County and the Town of Hamburg, the accessibility of exposed layers in outcrops is key in determining significance. The properties involved in the proposed Lake Erie Industrial Park do not contain areas of significantly accessible outcrops. The fossils which were found on the spoils pile of Tichenor Limestone and Wanakah Shale in the northeast portion of the site adjacent to the railroad tracks will not be disturbed by this project. The project sponsor does not intend to develop this portion of the site.

Mitigation Measure: No mitigation is proposed.

Erosion/Topsoil Loss

All the undisturbed soils identified on the site erode easily and have a high susceptibility to sheet and rill erosion by water. The surface layers of these soils have *erosive K factors* of .43 (Remsen and Brockport), and .49 (Canadice, Niagara, Churchville). Additionally, the *Soil Survey* notes that because soil erosion is a "very serious hazard," construction sites on the Remsen silty clay loam, 3-8% slopes (RfB) should be revegetated as soon as possible. Due to these soil characteristics and site topography, vegetation removal and soil disturbance could result in soil loss, erosion, and sediment problems in drainage ditches, and nearby Foster Brook, if uncontrolled.

Mitigation Measure: The development and implementation of "~~Storm Water Management and Erosion Control Plans~~" (Appendix F) a Storm Water Pollution Prevention Plan in accordance with the requirements and guidance of NYSDEC's SPDES General Permit GP-93-06 for all site development within the Lake Erie Industrial Park will ensure that construction sites and areas of disturbance are revegetated as soon as possible and that soil loss is minimized.

Soil Limitations

The *Soil Survey* explains that where soil disturbance will be necessary, recommended engineering solutions should include soil drainage and stabilization, footings and raft foundations, foundations on controlled fills, and pile foundations to stabilize the clayey soils. The subgrade of some of the soils on site is relatively soft and considered to be sensitive to disturbance upon excavation, particularly in the presence of excess water. During wet times of the year (especially spring), these soils are expected to be difficult to work with and extra care should be taken (e.g. concrete mud mats, granular fill, etc.) to protect the marginally acceptable subgrades from any disturbance prior to placing the foundations.

Mitigation Measure: Comply with the general practices outlined in the *New York Guidelines for Urban Erosion & Sediment Control* (October 1991), and as specified in the NYSDEC's SPDES General Permit No. GP-93-06.³⁹

Blasting Potential

Existing information indicated that the depth to the limestone bedrock on this site is generally greater than 5 feet. However, in the areas of disturbance on the southern parcel where substantial amounts of the top soil have been removed, the bedrock would be expected to be closer to the surface. Although, blasting may be necessary for infrastructure (i.e. sewer lines), it is not expected that blasting will be necessary for the majority of site development.

Mitigation Measure: If blasting is necessary, a Town of Hamburg "Fire Prevention Code Chapter 13" permit will be secured from the Town's Building Inspector for the use of "explosives, ammunition and blasting agents." The Building Inspector will review the blasting proposal and determine if a pre-blast survey is appropriate. If a survey is required, it will be completed prior to any blasting.

5.2 HYDROLOGY AND WATER RESOURCES

5.2.1 Ground Water

Ground water occurs in the saturated zone of the earth's crust. Specifically, ground water flows through the interconnected pore spaces within the unconsolidated, surficial deposits and fissures within the underlying bedrock. The bulk of unconsolidated deposits are glacial in origin

³⁹ 7,8 E.C.L. art. 17 and E.C.L. art. 70.

and include till, lake deposits, and sand and gravel deposits.⁴⁰ The Remsen silty clay loam soil series (RfA and RfB) which are the predominant soils onsite, were formed in clayey glacial till deposits. These soils are characterized by a perched seasonal high water table in the upper part of the subsoil which may extend to a depth of 36 inches.

The principal water-bearing fractures in the bedrock are joints which develop along planes of weakness between adjacent sedimentary layers. Horizontal joints that are parallel to the bedding planes are the principal water-bearing openings in the bedrock. Ground water circulating through joints removes soluble materials by dissolving them, thereby widening the joints and making them still better conduits for ground water.⁴¹ On the basis of lithology and water-bearing properties, the bedrock units identified at the site can be divided into two groups: soluble bedrock (i.e., limestone) and shale bedrock. Of the two, the soluble bedrock represents the more importance important source of water, whereas the shale yields only small supplies.

The *Soil Survey* indicates that generally the water table is at a depth of 0.5 to 1.5 feet during the months of December through May throughout much of the project area. However, in the areas containing the Canadice soil series, a high water table exists at or near the surface from December through June.

5.2.2 Surface Water

The Town of Hamburg is located within the Erie-Niagara Basin which discharges into Lake Erie and the Niagara River. Surface water runoff at the proposed Lake Erie Industrial Park flows to the south toward Foster Brook and to the north toward Rush Creek, both of which are tributary to Lake Erie. These tributaries, and their subsequent "stream classifications" are outlined in Hamburg's LWRP⁴² and by the NYSDEC.⁴³

⁴⁰ *Ground-Water Resources of the Erie-Niagara Basin, New York*. 1968. U.S. Dept. of Interior, Geologic Survey in coop. with the New York State Conservation Department. Basin Planning Report ENB-3. 114 p, plus plates.

⁴¹ *Ibid.*, p. 11.

⁴² *Town Hamburg: Local Waterfront Revitalization Program*. February 13, 1990. Erie County Department of Environment and Planning, Buffalo, New York.

⁴³ E.C.L. art. 17 and 6 N.Y.C.R.R. § 710.

Lake Erie

Both Foster Brook and Rush Creek discharge into Lake Erie. The waters of Lake Erie within 1000 feet of the shore are designated as Class "B" streams along the Woodlawn Beach area and to the south. This classification has been assigned by the NYSDEC and indicates that these waters are protected under the Protection of Waters Program.⁴⁴ The best use for Class "B" surface water is primary contact recreation, such as swimming, and any other uses other than as a water supply source for drinking, culinary, or food processing purposes.

Rush Creek

A portion of the northern parcel of the site drains toward Rush Creek which is located to the north of the project site and flows west into Lake Erie. From the mouth of the creek to a point 1/8 of a mile upstream, Rush Creek is also classified as "B" and protected by the NYSDEC. Upstream from this point to another 1.6 miles north of the Lake, the stream segment is classified as "D", and is not protected under the Protection of Waters Program. Class "D" waters are suitable for agriculture, as a source of industrial cooling, or process water supply, and any other use except for fishing, bathing, or as source of water supply for drinking, culinary, or food processing purposes.

Foster Brook

The southern parcel of the proposed industrial park is part of the Foster Brook drainage area. In the project area, Foster Brook is also classified as a Class "D" stream by the NYSDEC, and is not protected under the Protection of Waters Program. Class "D" waters also do not support fish propagation.

A small, intermittent drainage corridor exists in the southwestern corner of the site. Surface waters flowing from the eastern side of the site pass under the railroad tracks and flow across the site along a depressional area that eventually leads to Foster Brook. The source of this surface water is primarily from storm water runoff related to adjacent subdivision developments and roadside ditches. Thus, this drainageway, or intermittent tributary, was never identified under the NYSDEC's stream classification system.

⁴⁴ 6 N.Y.C.R.R. Part 608.

Flood Plains

The proposed industrial park site involves a small portion of the floodplain of Foster Brook on the southwest portion of the southern parcel, near Route 5. This area has been determined to be within the 100-year flood elevation (at 591 feet in this area). Therefore, a portion of this site has been mapped as a flood hazard area (Zone A1) by the Federal Emergency Management Agency (FEMA) (refer to Exhibit 9).

Currently, development in flood prone areas is regulated by the Town of Hamburg's zoning ordinance and a *Flood Damage Prevention* law. Section 29-10 of Article IV of the Town of Hamburg Zoning law of 1986 includes flood prone areas as delineated on the Flood Insurance Rate Maps and Flood Boundary-Floodway Maps in the definition of "conservation areas". The conservation areas were superimposed over other zoning districts. The permitted uses and regulations for the conservation areas supersede the regulations as stipulated in the R, C, M or Mixed Use Districts. As a result of this section of the zoning law, commercial and industrial uses are not allowed in flood-prone areas.

In addition to the zoning regulations, Policies 11 and 17 of the Town of Hamburg's LWRP relate to flooding. The LWRP - Policy 11 states that "buildings and other structures will be cited in the coastal area so as to minimize damage to the property and the endangering of human lives caused by flooding and erosion." ⁴⁵ The LWRP refers to The Town of Hamburg Local Law No. 8 - *Flood Damage Prevention* (1980), which provided guidelines to be used in determining the consistency of a proposed action with this policy. The Town's revised *Flood Damage Prevention* law was enacted as Local Law No. 1 in 1987, and was included as Chapter 27 of the Code of the Town of Hamburg. In order to accomplish the purposes of this law which include the minimization of public and private losses due to flood conditions, general standards were established for development (both uses and buildings) within the 100-year floodplain. Although this law sets specific standards for "nonresidential construction" (i.e. commercial and industrial structures) in Section 27-15 B.(2), the zoning ordinance appears to prohibit such uses within the area designated as flood plains on the project site.

⁴⁵ LWRP, III-13.

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

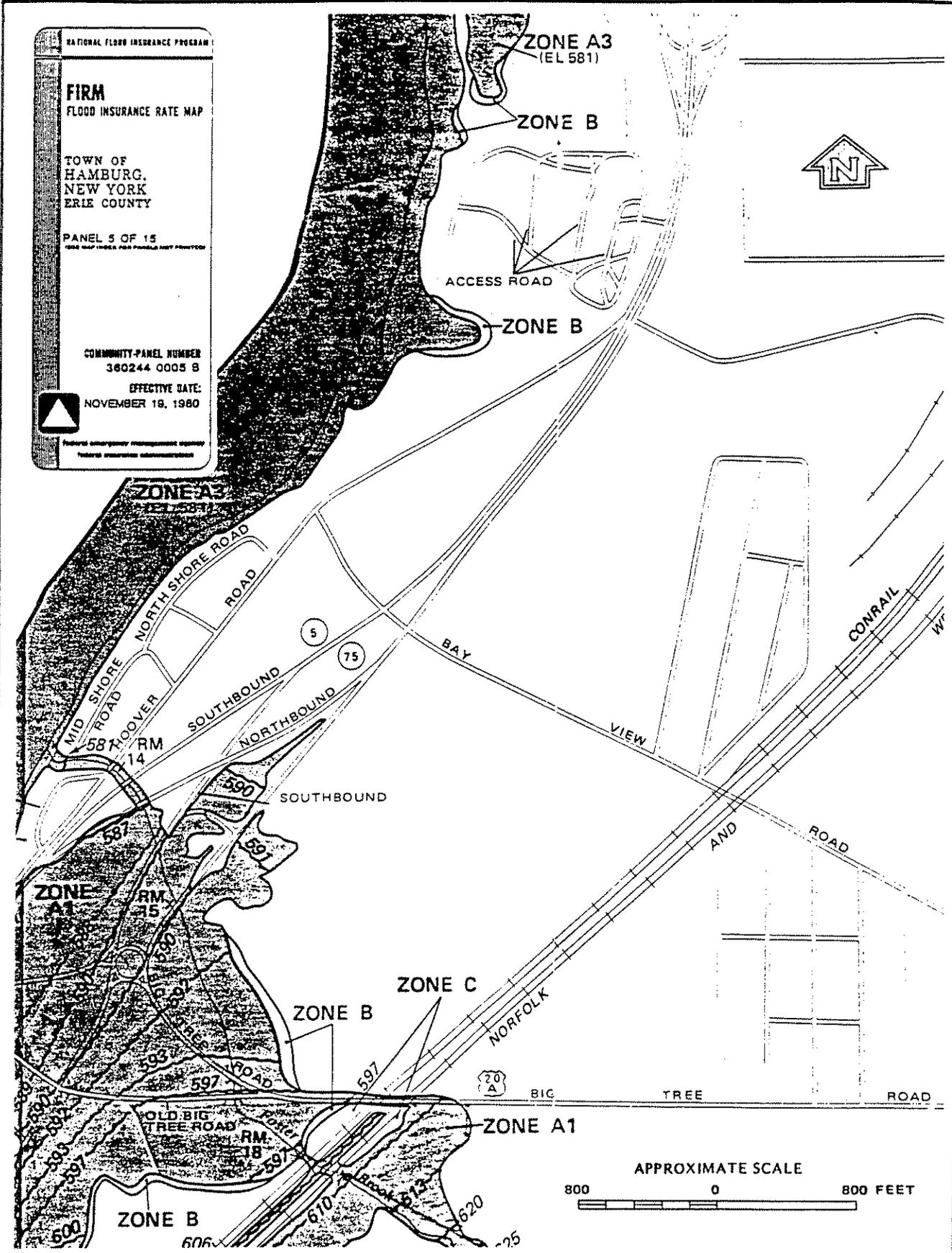
TOWN OF HAMBURG,
NEW YORK
ERIE COUNTY

PANEL 5 OF 15
1988 MAP INDEX & ADD PANELS MUST PRECEDE

COMMUNITY-PANEL NUMBER
360244 0005 B

EFFECTIVE DATE:
NOVEMBER 18, 1980

 Federal Emergency Management Agency
Federal Insurance Administration



 **NUSSEALIMER & CLARKE, INC.**
Consulting Engineers
Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT
9

5.2.3 Potential Impacts and Mitigation

Flooding Impacts

Flooding impacts will be minimized throughout the development of the site plans. In addition, consistency with local zoning and the Town's Local Waterfront Revitalization Program (LWRP) policies will be assured by the following mitigation measure.

Assumption/Mitigation Measure: In accordance with the Town of Hamburg's zoning ordinance, Section 29-10, no industrial facilities will be located within the 100-year floodplain as delineated on the Town's official Flood Insurance Rates Maps (FIRMs).

Stormwater Runoff and Water Quality Impacts

During the process of developing land, stormwater runoff can adversely effect downstream areas and lead to off site problems. These potential impacts include flooding, erosion, and the degradation of water quality due to sedimentation. Changes in the land cover of areas under development, can reduce infiltration into the soil, reduce the interception of precipitation by vegetation, and modify the timing of runoff. Due to the amount of impervious surface area associated with the industrial park developments, increased runoff volumes can be a problem as a result of site development.

The water quality impacts associated with development may be mitigated by the installation of stormwater control measures which may be structural and/or vegetative. Appropriate measure(s) for a specific project or development site are selected based on the analysis of site specific information and the nature of the development proposed. The following mitigation measures will assure that potential adverse effects associated with stormwater runoff from the Lake Erie Industrial Park site will be minimized.

The *Drainage Assessment* (Appendix IV of the DGEIS) involved several major items: the identification or definition of drainage areas; the calculation of estimated volumes and rates of storm water flows from the site under existing (pre-development) and proposed (full development) conditions; and the identification of future storm water control options. The development of the site will increase the amount of storm water flow and has the potential to impact the existing storm water conveyance system on-site as well as the downstream areas. Under the anticipated industrial park development, much of the approximately 145 ± acre parcel will eventually be paved. This pavement will result in a decrease in percolation into the ground and decreased runoff travel time. If left unmitigated, the increased runoff volumes often result in downstream

erosion, temporary flooding, and the surcharging of roadway culverts and drainage ditches. The NYSDOT has jurisdiction over these culverts and the downstream drainageways. Therefore, the storm water analysis and management plan for this site must reflect the requirements imposed by NYSDOT as well as consistency with current Town policies.

At present, no drainage or storm water management facilities have been designed for the corporate park. However, the concept plan for the site incorporates a preliminary concept design of a system that would manage the storm water on-site and allow individual lot development. It is anticipated that most of the site's storm water will be conveyed off individual lots to vegetated detention basins at various locations throughout the industrial park. Quality and quantity of the storm water will be controlled from these basins and outleted to the NYSDOT's existing drainage system on Lake Shore Road.

Assumption/Mitigation Measure: A "Storm Water Pollution Prevention Plan" shall be prepared and implemented for all development, including infrastructure as well as individual sites, within the Lake Erie Industrial Park. Such plans will be prepared in accordance with the NYSDEC's guidance for preparing "Stormwater Management and Erosion Control Plans" and filed in accordance with the NYSDEC regulations and SPDES General Permit (for storm water discharges from construction activities) issued subject to the Clean Water Act and the Federal storm water regulations.

Assumption/Mitigation Measure: A "Storm Water Pollution Prevention Plan" will be developed by the operator for each facility locating within the Lake Erie Industrial Park and filed in accordance with NYSDEC regulations and, if appropriate, the SPDES General Permit (for storm water discharges from industrial activity) issued subject to the Clean Water Act and the Federal storm water regulations. Each plan, will identify the potential sources of pollution and ensure the implementation of practices which will reduce the pollutants in storm water associated with industrial activities at the facility. These plans for facilities within the proposed Lake Erie Industrial Park will provide for compliance on or before the submission or filing of the required Notice of Intent (NOI).

Processed Water Quality Impacts

The water quality of Lake Erie will be protected from the potential adverse effects of various industrial effluent through the compliance with pretreatment requirements by each facility within the park.

Assumption/Mitigation Measure: All sanitary sewer discharges from industrial operations in the Lake Erie Industrial Park will comply with the approved pretreatment program for the Southtowns STP (sewer treatment plant).

5.3 TERRESTRIAL AND AQUATIC ECOLOGY

5.3.1 Vegetation

Vegetation on the proposed industrial park site consists of several stages of successional growth. None of the site appears to be part of the original elm-red maple-northern hardwood forest type that is believed to have covered the area. The project area was cleared for agricultural use as well as being disturbed for the development of the subdivision. These various uses were abandoned in several stages allowing the development of old field habitats through several stages of succession.

The majority of the site is currently covered with shrub type vegetation. A field investigation of the site was conducted as part of the wetlands delineation study by EDI and seven plant communities were identified on the site (see Exhibit 10 A & B, EDI's "Simple vegetation site map"). Dominant species on site were identified as Silky Dogwood, Northern Arrowwood, European Buckthorn, and Grey-stemmed Dogwood.

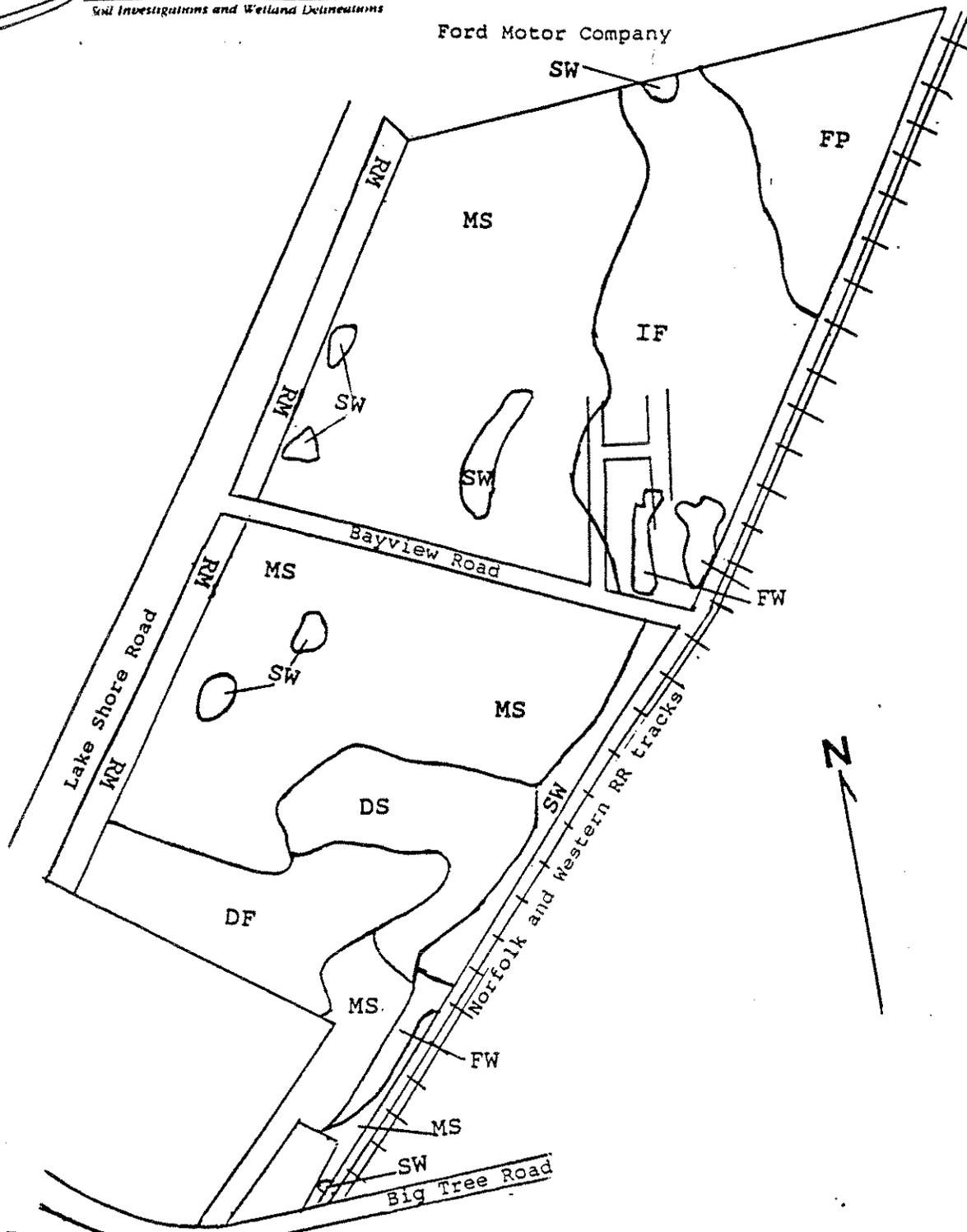
The dominant shrub type vegetation has been classified by EDI as "Dense Upland Shrubs" (DS) and "Mixed Shrubs" (MS). The "Mixed Shrubs" community covers the largest portion of the site, and was dominated by Silky Dogwood and European Buckthorn. The "Dense Upland Shrub" has been identified on the southeastern portion of the south parcel. EDI's map indicates that this area includes a wider variety of shrubs, small trees, and vines: Grey-stemmed Dogwood, European Buckthorn, Hawthorn, Green Ash, and Riverbank Grape. As ecological communities both these areas contain vegetation typical of *Successional Shrubland*.⁴⁶

A meadow with scattered shrubs was located along the western boundary of the site; EDI's text identifies the dominant species as: Red Fescue, Queen Anne's Lace, Redtop, Canada Bluegrass, and Fragrant Goldenrod. The portion of the site immediately adjacent to Lake Shore Road is identified on EDI's map as a "Roadside Meadow" (RM) which includes: Redtop, Red Fescue, Bird's-foot Trefoil, and Canada Bluegrass. Another plant community of meadow vegetation exist on the southwesterly portion of the south parcel. This area was classified as a "Disturbed Field" (DF). In addition to the grasses and forbs of the meadow, this area included

⁴⁶ Reschke, Carol. March 1990. *Ecological Communities of New York State*. New York Heritage Trust Program and New York State Department of Environmental Conservation, Latham, New York. p. 45.



EARTH DIMENSIONS, INC.
Soil Investigations and Wetland Delineations



Ford Motor Company

SW

FP

MS

IF

RM

SW

SW

Bayview Road

MS

FW

Lake Shore Road

RM

MS

SW

MS

DS

SW

DF

MS

FW

MS

SW

Big Tree Road



Figure 6: Simple vegetation site map

Hoover Parcel
Lakeshore and Bayview Roads
Town of Hamburg
Erie County, NY



Key to Simple Vegetation Site Map

FP = Fill Pile
NO VEGETATION

RM = Roadside Meadow
Festuca rubra
Agrostis alba
Lotus corniculatus
Poa Compressa

IF = Immature Upland Forest
Centaurium maculosa
Melilotus alba
Rhus typhina
Cornus amomum
Ulmus americana
Crataegus spp.
Acer rubrum
Cornus foemina
Viburnum recognitum
Cornus amomum
Fraxinus pennsylvanica
Acer saccharinum

DS = Dense Upland Shrubs
Viburnum recognitum
Cornus amomum
Cornus foemina
Poa compressa
Fragaria virginiana
Phleum pretense
Vitis riparia
Rhamnus frangula
Fraxinus pennsylvanica
Crataegus spp.

MS = Mixed Shrubs
Agrostis alba
Euthamia graminifolia
Daucus carota
Viburnum recognitum
Cornus amomum
Fragaria virginiana
Rhamnus frangula

DF = Disturbed Field
Agrostis alba
Fragaria virginiana
Phleum pretense
Poa compressa
Cornus amomum
Viburnum recognitum
Daucus carota
Trifolium repens

FW = Forested Wetland
Ostraya virginiana
Fraxinus pennsylvanica
Ulmus americana
Viburnum recognitum
Acer rubrum
Juncus torreyi
Cornus amomum

SW = Shrubby Wetland
Glyceria striata
Agrostis alba
Viburnum recognitum
Acer rubrum
Acer saccharinum
Equisetum arvense
Cornus stolonifera
Cornus amomum
Fraxinus pennsylvanica
Vitis riparia
Carpinus caroliniana

shrubs such as Tartarian Honeysuckle and Northern Arrowwood. These meadow areas fit the classification of a *Successional Old Field*.⁴⁷

Red and Silver Maples, Green Ash, and Hawthorn are the dominant species in the "Immature Upland Forest" (IF) located on the easterly portion of the north parcel. Additional identified tree and shrub type vegetation in this young forest area includes: Dogwoods (Silky and Grey-stemmed), Staghorn Sumac, Northern Arrowwood, and American Elm. Within this area, two pockets of forested wetlands were identified.

This forested wetland is one of two types of wetland plant communities that were identified throughout the site. While EDI classified these as "Forested Wetland" (FW) and "Shrubby Wetland" (SW), they appear to fit the description of the *Floodplain Forest*⁴⁸ and the *Shrub Swamp* or *Shrub Carr*⁴⁹ ecological communities. The shrubbed wetland is most obvious along the Norfolk and Western Railroad track at the eastern property line of the south parcel. In addition to plants such as Red and Silver Maples, Green Ash, American Hophornbeam, Dogwoods, Riverbank Grape, this wetland contained Fowl Manna Grass, Rice Cutgrass, and Spotted Touch-Me-Not.

In summary, the project site contained several plant communities at different stages of field succession which are commonly seen in the Hamburg area. Except for the *Floodplain Forest*, these ecological communities have been determined to be "apparently secure" or "demonstrably secure" throughout both its range and New York State.⁵⁰

5.3.2 Wetlands

The project site is not within or adjacent to any wetland areas previously mapped by the NYSDEC (Exhibit 11) and protected under Article 24 of the Environmental Conservation Law, commonly known as the Freshwater Wetlands Act. In addition, the site does not involve any areas identified on the National Wetland Inventory (NWI) maps (Exhibit 12) prepared by the

⁴⁷ *Ibid.*, p. 44 - 45.

⁴⁸ *Ibid.*, p. 31.

⁴⁹ *Ibid.*, p. 23.

⁵⁰ *Ibid.*, p. 78.

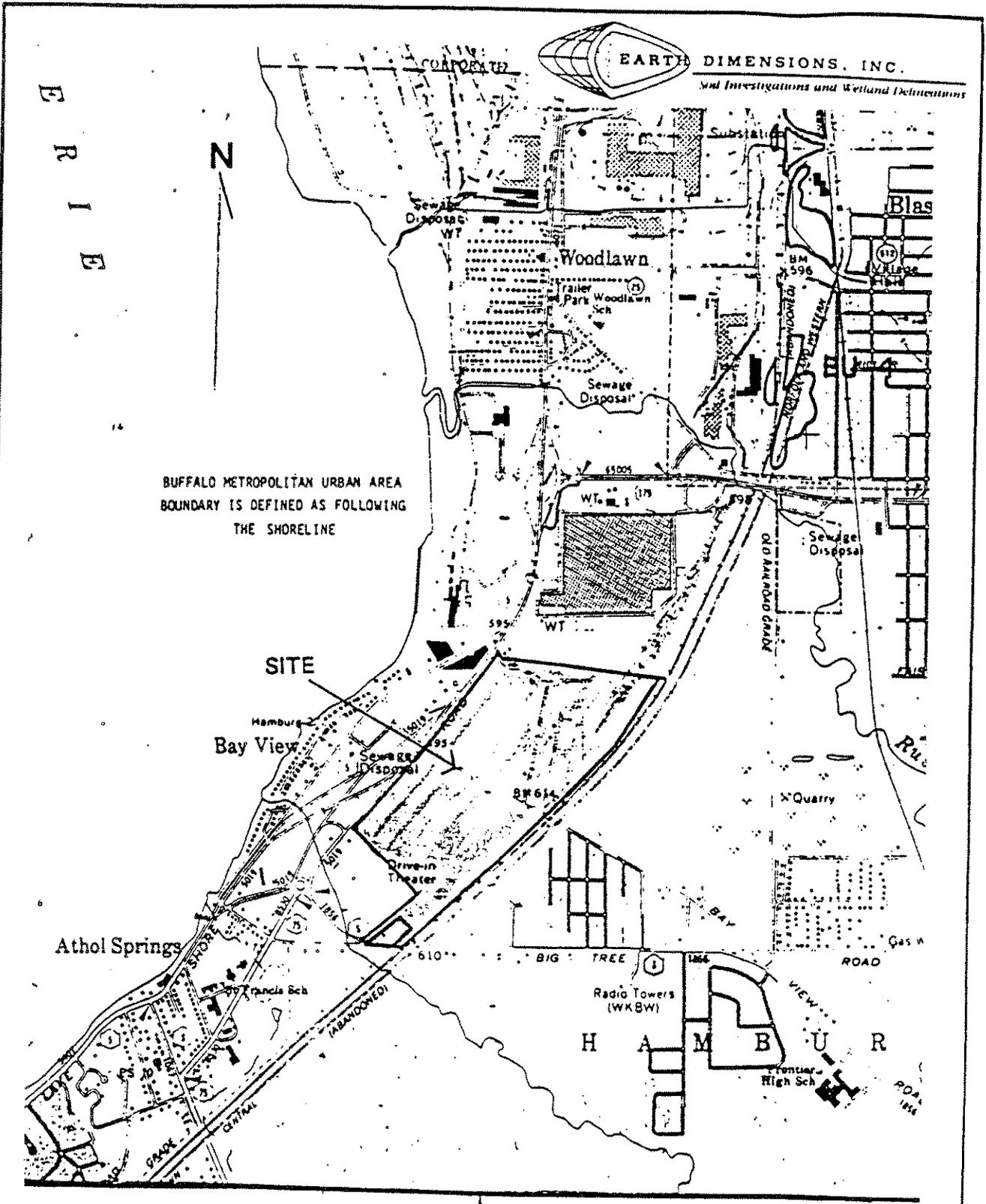
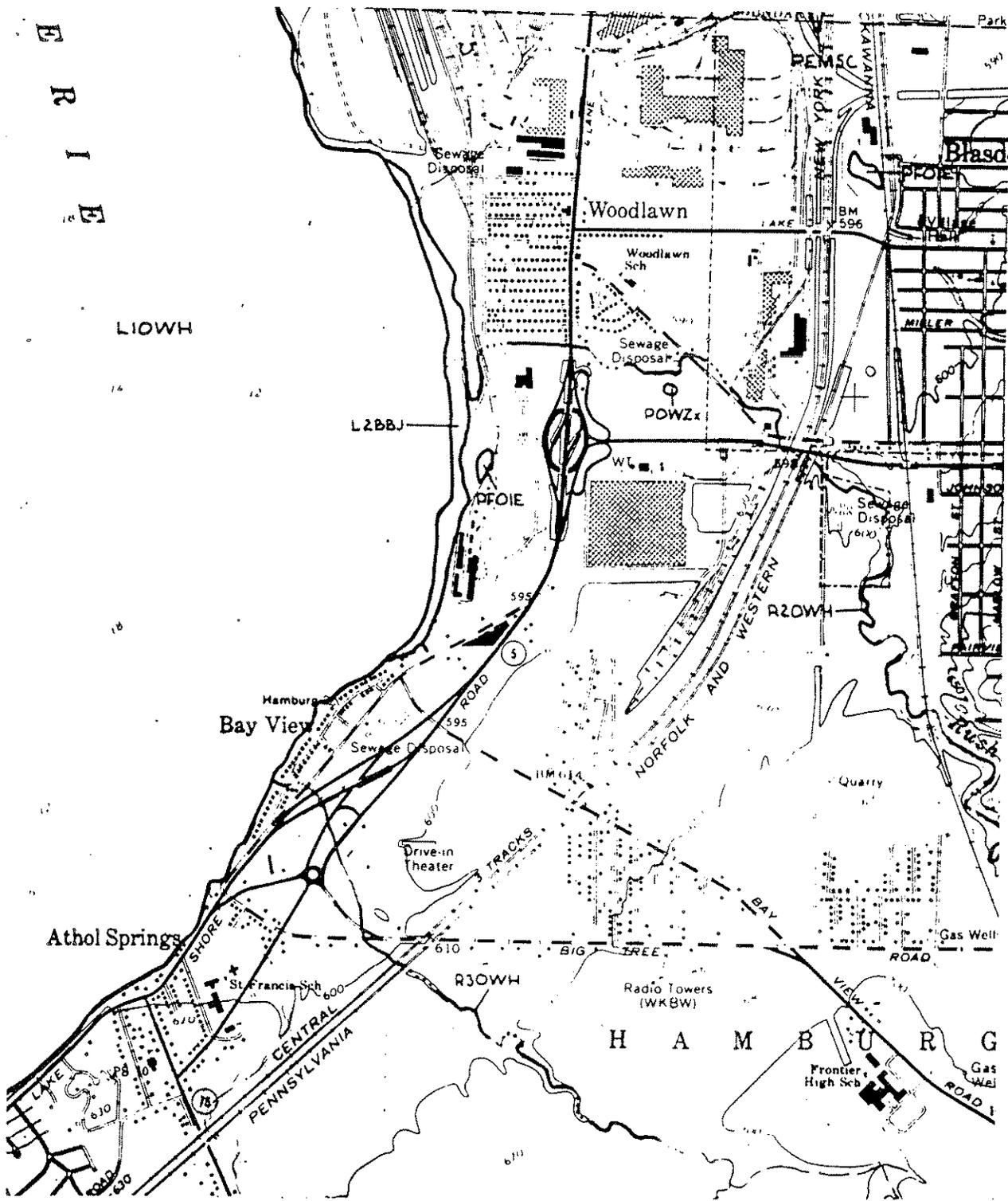


Figure 4: NYS DEC Freshwater
Wetlands map
Buffalo SE quad.
Town of Hamburg

Hoover Parcel
Lake Shore and Bayview Roads
Town of Hamburg
Erie County, NY

NATIONAL WETLANDS INVENTORY MAP

(U.S. Fish and Wildlife Service)

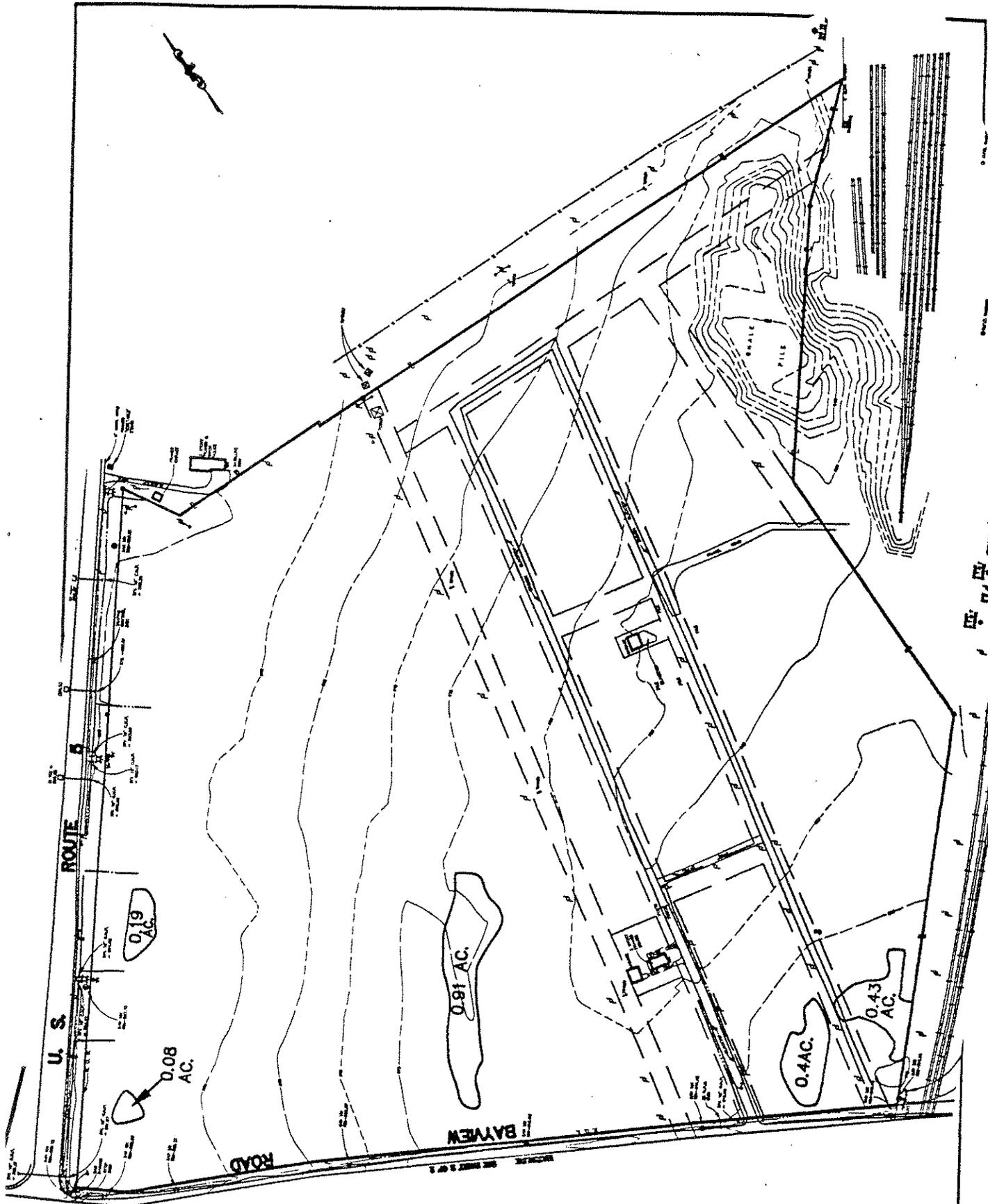


Office of Biological Services of the United States Department of the Interior, Fish and Wildlife Service. However, evidence of prolonged soil saturation was identified within the project area. Specifically, all of the soil types mapped at the site were considered to be either hydric soils (Canadice silt loam, shaly till substratum) or have the potential for hydric inclusions. These soils typically indicate that natural wetlands subject to federal jurisdiction may be present. Therefore, the project sponsor, Zaepfel-Krog Corporation, retained Earth Dimensions, Inc. to conduct a wetlands delineation report that would allow the U.S. Army Corps of Engineers (ACOE) and the NYSDEC to determine the extent of their jurisdiction over future development activities on the project site. The wetlands delineation report and attachments were available for review at the Town of Hamburg's Town Clerk's office during business hours on normal working days.

EDI's field investigation was completed in accordance with the methods specified by the *1987 Corps Manual*.⁵¹ EDI used the intermediate-level wetland determination method and the quadrant transect sampling procedure for the field study. At selected sampling points, determinations were made based on the multiparameter approach which requires positive evidence of hydrophytic vegetation, hydric soils, and wetland hydrology. Nine wetland areas were identified (refer to Exhibit 13 A & B) and described as follows:

- (1) a 7.33 ± acre depressional area along the railroad tracks in the southern half of the property which forms a stream as it approaches the southern boundary;
- (2) a small 0.11 ± acre depressional area located within the utility right-of-way in the extreme southeastern corner of the property on the narrow strip of property located between the railroad tracks and the exception in that corner;
- (3) a 0.41 ± acre depressional wetland area located approximately 100 feet from Lake Shore Road in the southern half of the property;

⁵¹ *Corps of Engineers Wetlands Delineation Manual - Technical Report Y-87-1*. January 1987. U.S. Army Corps of Engineers Waterways Experiment Station, Vicksburg, Mississippi. 100 p., plus appendices.

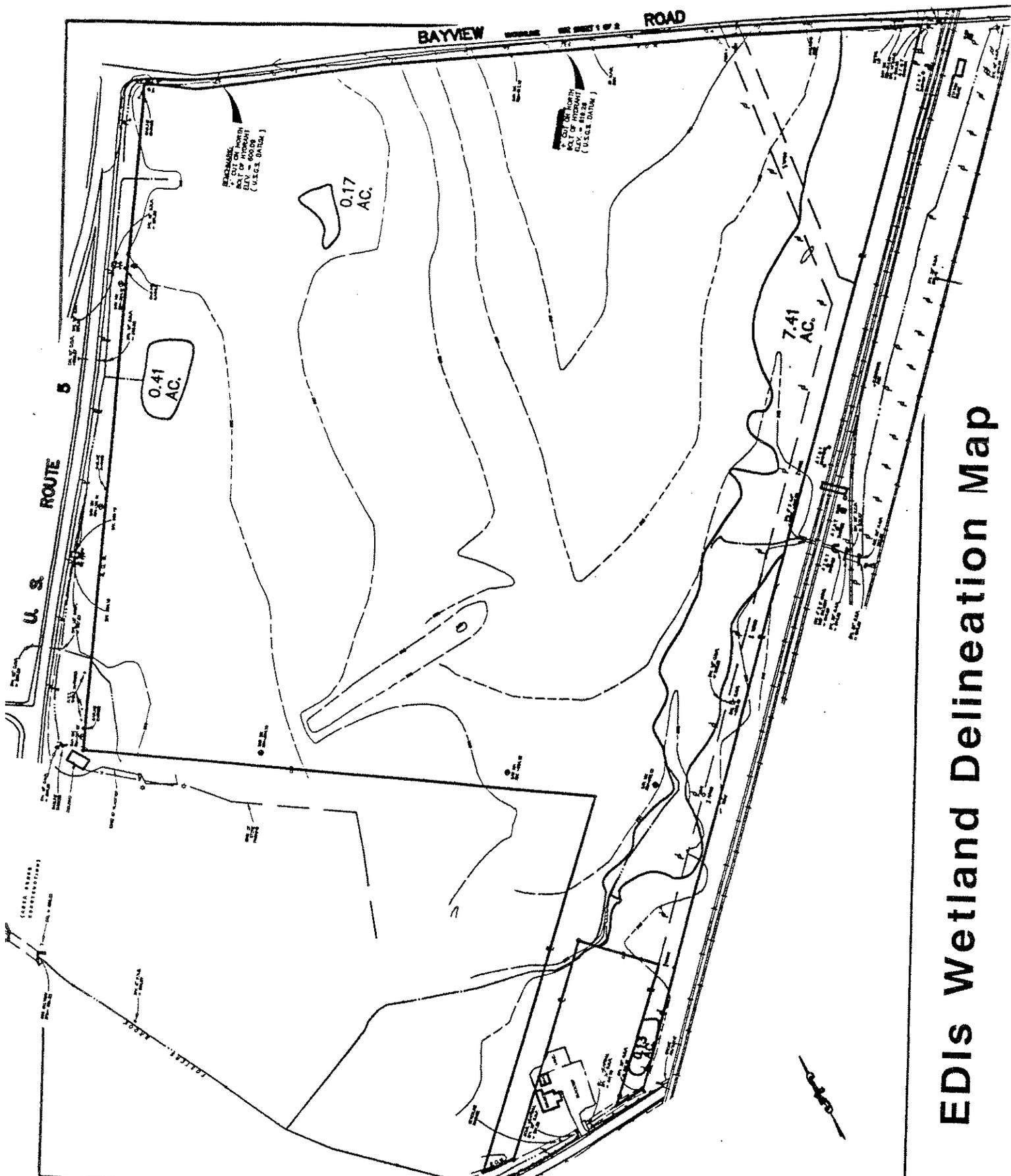


EDIS Wetland Delineation Map

NUSSEBAUMER & CLARKE, INC.
 Consulting Engineers
 Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT
13A



EDIS Wetland Delineation Map

NC **NUSSBAUMER & CLARKE, INC.**
 Consulting Engineers
 Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT
13B

- (4) a $0.17 \pm$ acre depressional wetland located about 200 feet west of Lake Shore Road and 200 feet south of Bayview Road;
- (5) and (6) two wetland areas, $0.42 \pm$ and $0.40 \pm$ acres, located in the northern half of the property in the corner created by Bayview Road and the railroad tracks which are divided by an old paved road;
- (7) a $450 \pm$ foot-long depressional wetland, $0.91 \pm$ acres in size, located about 900 feet east of Lake Shore Road in the property's northern half; and
- (8) and (9) two small depressional wetlands of $0.08 \pm$ and $0.19 \pm$ acres, found approximately 100 feet from Lake Shore Road in the northern half of the site.

As a result of the field investigation, EDI determined that the project site contains a total of $10.02 \pm$ acres of wetlands that may fall under the jurisdiction of the Corps. EDI recommended that plans for construction on the site avoid and minimize all wetland impacts. These recommendations and the wetlands delineation were outlined in the *Wetland Delineation Report* that was prepared and submitted by EDI with a Joint Application for Permit (dated April 30, 1993) to the Corps and NYSDEC Region 9.

The Regulatory Branch at the Buffalo District has reviewed EDI's report, field affirmed the delineation, and is in agreement with the wetland boundaries as delineated.⁵² Processing of the *Joint Permit Application*⁵³ has been suspended until the proposed action has been reviewed by the New York State Department of State Coastal Management Program regarding the consistency of the action with the local LWRP (refer to Section 5.10 for further details). Once the Project sponsor receives the Department of State's determination, the ACOE will process the *Coastal Consistency Assessment Form*, and issue a final jurisdictional determination.

5.3.3 Wildlife

As outlined, the proposed industrial park site consists primarily of successional shrub

⁵² Telephone conversation (September 1, 1993) with Bridgett Fox, ACOE Biologist.

⁵³ EDI submitted the permit application to the Regulatory Branch of the ACOE on May 3, 1993 requesting a Nationwide Permit No. 26 to place fill on less than $1.0 \pm$ acres of jurisdictional wetlands.

vegetation with isolated areas of second growth woodland, unvegetated areas that were disturbed (i.e., the spoil pile), some wet areas along the railroad embankment, and an unnamed tributary to Foster Brook. Therefore, the site provides a variety of primarily upland habitats. This site provides a natural habitat for wildlife due to the dense shrub cover and available food sources.

Hawks, field and game birds, as well as small animals are expected to utilize the open habitat of the meadow (RM) and scattered shrub areas (DF). As the vegetation increases in size and offers additional cover, song birds and larger mammals would be expected. Mammals found in similar areas include various species of mice, moles, and shrews; as well as the cottontail rabbit, skunk, raccoon, woodchuck, and opossum. It is anticipated that these animals inhabit or traverse the project site. For example, the heavy brush on portions of the site creates thickets which act as ideal habitats for the cottontail rabbit observed on site.

Additionally, the wooded area (IF and FW) is expected to support common toads, frogs, and snakes as well as song birds. The predominant trees and shrubs on the site that attract birds (maples, hawthorn, dogwood) offer food, cover, and nesting for the following: Goldfinch, Robin, Evening Grosbeak, Blue Jay, Brown Thrasher, Grey Catbird, Cardinal, Cedar Waxwing, Purple Finch, Red-eyed Vireo and Wood Thrush. Several of these species were observed during site walk-overs. In addition, the site shows evidence of both squirrels (nests), raccoon (tracks), and deer (trails, tracks, bed areas, and scats). Deer, including a large buck, and a family of skunks were frequently observed by the survey team for the cultural resource investigation.

5.3.4 Potential Impacts and Mitigation

In order to assess the potential effects of the development of the project site, several sources of information were consulted. In addition to the review of available maps and the Town's Local Waterfront Revitalization Plan (LWRP), information, comments, and concerns were solicited from the NYSDEC (the Significant Habitat Unit and Region 9 - Natural Resources) as well as the U.S. Fish and Wildlife Service. Due to the location of the project site, this proposed development will not involve any of the activities listed in the LWRP which could destroy or significantly impair either of the two significant coastal fish and wildlife habitats that were evaluated, designated, and mapped in the WRA of the Town of Hamburg along the Smokes Creek Shoals and Eighteen Mile Creek-Lake Erie area.

Loss/Filling of Wetlands

Limited amounts of wetland areas will be lost to development if filling and/or draining is allowed under federal regulations⁵⁹ and permitted by the Corps ACOE. At this time, it is anticipated that at least one a limited amount acre of wetlands will be drained or filled to allow this parcel to be developed as an industrial park.

Mitigation Measure: Identified wetland areas will be avoided when practicable in the design and layout of infrastructure as well as industrial sites.

Assumption/GEIS Threshold: Prior to the approval of a site plan involving any filling of an area delineated as a "wetland," the lack of Army Corps jurisdiction will be established or the necessary permit(s) will be obtained.

Vegetation Removal/Habitat Modification

In summary, there will be an overall unavoidable negative effect on the wildlife on site as the vegetation that comprises various habitats is removed during the development of the industrial sites within the park. Some of the species will be able to adapt or may be attracted to the developed setting (e.g. the type of birds, small mammals, amphibians, and reptiles found in residential subdivisions). In some of the disturbed areas, the re-vegetation and landscaping of significant portions of each lot area will create habitat opportunities for the adaptable species. However, there will be an unavoidable net reduction in the diversity and availability of habitats for most wildlife species.

Mitigation Measure: No facilities will be constructed within the 100-year floodplain area of the industrial park site in accordance with the delineation of this area as part of the green space/open corridor concept outlined in the Town's Master Plan.

Mitigation Measure: Cluster of mature trees will be considered and included when practicable in the design and development of each site.

Mitigation Measure: A natural buffer area will be retained along the eastern boundary (the railroad tracks) of the southern parcel. This buffer area will serve several functions: the preservation of a federally delineated wetland area, of open space, of a portion of a "floodplain forest" ecological community; and the buffering of nearby residential areas (Bayview and Steelton) from any dust, odors and noise from the industrial operations and their associated traffic.

⁵⁹ 33 U.S.C. 1344 § 404, 33 C.F.R Part 330.

5.4 AIR RESOURCES AND NOISE LEVELS

5.4.1. Air Quality

The U.S. EPA has delegated authority to the New York State to implement and enforce the federal standards and requirements of the 1990 Clean Air Act Amendments.⁶⁰ New York State has extensive statutory and regulatory authority governing air pollution.⁶¹ As approved by the EPA,⁶² New York State has prepared a *State Implementation Plan* (SIP), which undergoes frequent revisions, to attain and maintain air quality standards. Apart from the SIP, SEQRA itself contains an obligation to protect air quality by requiring the lead agency to choose the alternative course of action that would ensure that no "critical thresholds for the health and safety of the people of the state" are exceeded.⁶³

Air quality standards have been established for only a small number of pollutants. A summary of ambient air quality data is available from the NYSDEC's Bureau of Air Quality Surveillance.⁶⁴ Permitting and enforcement of violations falls under the jurisdiction of the Division of Air Resources at Region 9, NYSDEC offices in Buffalo, New York.⁶⁵

The continuous monitoring station closest to the proposed industrial park site is located about 3 ± miles northeast at the Lackawanna Sewage Treatment Plant on Lehigh Street (#1402-01) (Exhibit 14). Several manual stations are located in the surrounding area: Blasdell Village Hall (#1429-02), Lackawanna City Hall (#1402-13), Angola-on-the-Lake at the Big Sister Creek Sewage treatment Plant (#1463-02), and at the Tiffit Farm Nature Preserve in Buffalo (#1401-37). The continuous monitoring stations provide the bulk of the air quality data. However, total suspended particulates (TSP) measurements are taken at the manual stations.

⁶⁰ 40 C.F.R. 60 and 61.

⁶¹ E.C.L. art. 19; 6 N.Y.C.R.R. §200 *et seq.*

⁶² 42 U.S.C. § 7410(a)(1).

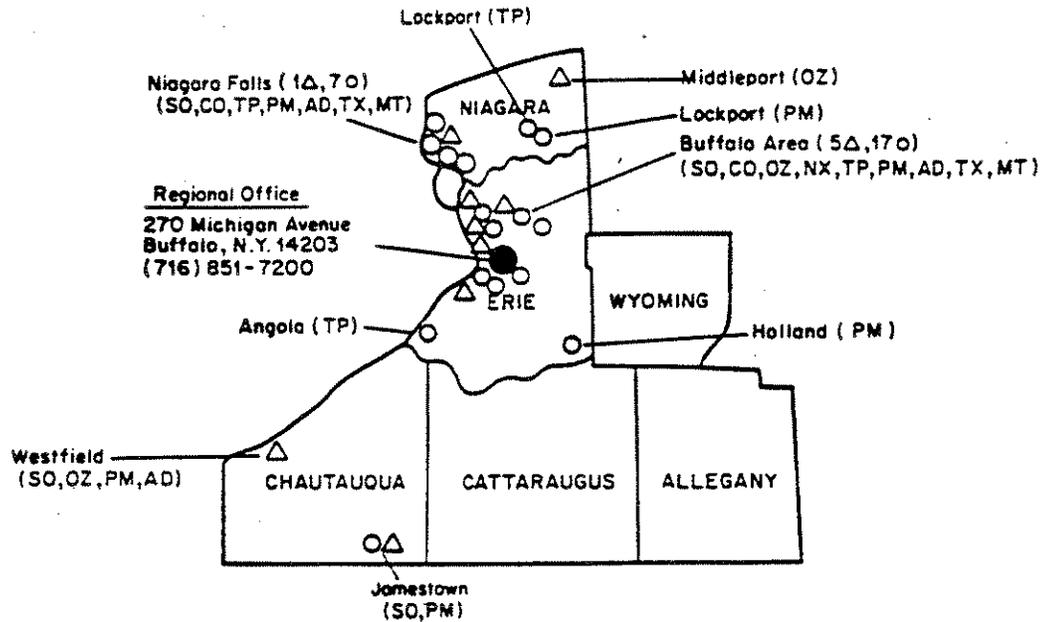
⁶³ E.C.L. § 8-0103(5).

⁶⁴ *New York State's Air Quality Report Ambient Air Monitoring System*. Annual 1992, DAR-93-1, 210 p.

⁶⁵ 6 N.Y.C.R.R. Part 200 and 201.

NYSDEC Air Quality Monitoring Sites

Region 9



MONITORING SITES

○ MANUAL

TP-15 PM-13 LD-2 MT-1

△ CONTINUOUS

SO-5 CO-3 OZ-2 NX-2 TP-2 PM-2 AD-2 MT-1



**NUSSEBAUMER
& CLARKE, INC.**
 Consulting Engineers
 Surveyors

LAKE ERIE INDUSTRIAL PARK

EXHIBIT

14

During 1992, air quality sampling statewide revealed there was a noticeable decline in annual particulate matter (PM₁₀), PM₁₀ sulfate, and total suspended particulates (TSP). Exceedances of ozone and carbon monoxides standards were the fewest on record, and ambient concentrations of other pollutants either remained unchanged or decreased slightly from 1991 levels. Erie County was considered to be in attainment for the following air pollutants for which Ambient Air Quality Standards (AAQS) have been established: sulfur dioxide, carbon monoxide, nitrogen dioxide, total suspended particulates (TSP), inhalable particulates (PM₁₀), and lead. The sole exception is ozone (photochemical oxidants); for which the County has been classified as "moderately non-attainment."

Ozone levels are a statewide problem. The last year the standards were exceeded in Erie County (as measured at the Audubon Golf Course station, # 1451-03, in Amherst) was in 1988. Since the attainment standards use a 3 year span and there were no exceedances in 1990 through 1992, the most recent data reflects attainment for ozone. However the EPA, to which NYSDEC applied for ozone attainment status, has made the State part of the northeast ozone transport zone. Erie County has been designated as "moderate" with respect to this ozone region. As a result of this designation, additional regulatory strategies have and will be implemented as part of the *State Implementation Plan (SIP)*. For example, reformulated gasoline as well as enhanced Inspection/Maintenance (I/M) programs will be required. Recent data indicate that Western New York is in attainment for Ozone, and has been from 1989 through 1994.^{66, 67}

Major impacts on ozone can be anticipated primarily from motor vehicle emissions and volatile organic compounds (VOCs). In terms of industrial uses, high VOCs are a concern with printers, large painting operations and other surface coating, chemical manufacturers, dry cleaners, and larger manufacturing facilities. The reduction in ambient ozone levels has been attributed in part to the implementation of more stringent VOC emission controls and to mandating the use of less volatile gasoline during the ozone season (summer).

⁶⁶ *New York State Air Quality Report Ambient Air Monitoring System Annual 1994, DAR-95-1, NYSDEC, Division of Air Resources.*

⁶⁷ *The areas ambient air quality has remained in attainment from 1994 through 1997. A slight trend toward general air quality improvement has been noted, according to Alfred Carlacci, P.E. from the Division of Air Resources at the NUSDEC during a telephone conversation on Tuesday, December 2, 1997 between Mr. Carlacci and Thomas E. Butler of Nussbaumer & Clarke, Inc.*

The project area has followed the statewide trend of reduction in particulate concentrations (Exhibit 15). The 1991 report ⁶⁸ notes that during the past 27 years (between 1964 and 1991) there has been a 61 percent decrease in the overall statewide composite TSP average. The decrease "has been achieved via implementation of both New York State and Federal regulations on particulate emissions from incinerators, industrial process and fossil fuel combustion sources, diesel fueled motor vehicles, etc." ⁶⁹ As an example, the Lackawanna area, which was singled out as one of the State's dirtiest, experienced a reduction in the annual geometric mean of TSP from 170 ug/m³ in 1965 to 44 ug/m³ in 1988. ⁷⁰

Construction activities can have substantial short-term effects on levels of particulate matter (measured in the past as TSP and continuing to be phased over to inhalable particulates, PM₁₀, sampling during 1990). For example, there was one exceedance statewide of the 24-hour PM₁₀ standard (150 ug/m³). Flagged as an "exceptional event," a 24-hour concentration of 257 ug/m³ was recorded on May 23, 1990, at the Kensington Expressway monitoring station (#1401-32) in Buffalo. This level of particulates was caused by diesel soot being emitted from trucks at a nearby construction site.

Statewide, sulfur dioxide concentrations remained well below the ambient air quality standard of 0.03 ppm during 1992. In fact, the statewide average fell to 0.009 ppm which is the lowest level since 1970 (75 % decline from 1970 to 1992). Also in the Region 9, carbon monoxide levels have followed the statewide trend of remaining stable or declining for the past five to six years. These trends reflect the continuing improvement in carbon monoxide air quality resulting from better emission controls (catalytic converters) on new motor vehicles and their inspection/maintenance. ⁷¹

⁶⁸ *New York State Air Quality Report Ambient Air Monitoring System* - Annual 1991, DAR-92-1. NYSDEC - Division of Air Resources.

⁶⁹ *Ibid.*, p.18.

⁷⁰ *Ibid.*, Annual 1990, DAR-91-1, p. 13.

⁷¹ *Ibid.*, Annual 1992, DAR-93-1, p.14.

NYSDEC Air Quality Report

Ambient Air Monitoring System

TOTAL SUSPENDED PARTICULATES - HIGH VOLUME AIR SAMPLERS

NYSDEC REGION 9

Niagara Frontier AIR QUALITY CONTROL REGION

ANNUAL GEOMETRIC MEANS 1982 THROUGH 1992

AND

COMPARISON BETWEEN NEW YORK STATE AMBIENT AIR QUALITY and AMBIENT AIR QUALITY STANDARDS FOR CALENDAR YEAR 1992

24 - HOUR AVERAGES - 1992

Maximum - Not to exceed 250 ug/m³ more than once per calendar year *

Number of Observations
>180** >280* >260**

Highest Value
ug/m³

STATION	SITE NO.	AAQS G.M. * ug/m ³	ANNUAL GEOMETRIC MEAN Not to exceed AAQS (G.M.) (micrograms/cubic meter)												Total	Number of Observations			Highest Value		
			E2	E3	E4	E5	E6	E7	E8	E9	E0	E1	E2	E3		>180**	>280*	>260**	1 st	2 nd	3 rd
Buffalo	1401-35	75	-	-	43	40	40	42	41	44	38	42	32	89	0	0	0	111	106	73	
																		[06/12]	[05/12]	[09/15]	
Buffalo	1401-37	75	-	-	-	-	-	-	46	47	41	41	37	61	0	0	0	140	104	100	
																		[06/17]	[02/06]	[08/12]	
Lackawanna	1402-13	75	-	44	41	38	37	44	44	48	39	40	34	89	0	0	0	89	82	73	
																		[06/17]	[05/12]	[06/11]	
Sloan	1428-01	75	43	38	43	37	37	40	37	40	36	39	33	88	0	0	0	106	90	89	
																		[06/12]	[06/17]	[12/14]	
Blasdell	1429-02	65	49	42	42	37	42	46	44	45	41	40	35	59	0	0	0	107	90	89	
																		[08/12]	[06/17]	[06/11]	
Amherst	1481-03	65	38	35	37	30	31	37	37	37	34	35	31	60	0	0	0	101	88	87	
																		[05/12]	[02/12]	[12/14]	
Argola	1463-02	65	27	24	27	25	24	27	25	26	24	27	22	22	***	0	0	0	74	43	33
																		[08/12]	[03/01]	[08/06]	
Tonawanda	1472-10	75	44	41	44	37	38	41	39	42	37	38	35	59	0	0	0	114	102	81	
																		[06/17]	[08/12]	[06/29]	
West Seneca	1474-02	65	42	37	40	35	34	40	36	39	35	36	30	61	0	0	0	90	81	72	
																		[08/12]	[06/17]	[09/15]	

*** Sampling at Station 1463-02 was terminated on 08/24/92

(Annual Means in Parentheses are based on less than 75% available data)

* New York State and Federal Ambient Air Quality Standard

N = NAME (National Air Monitoring Station)

[Date of Occurrence, Ending Hour]

+ Denotes a contravention of NYS/Federal AAQS

NOTE: Standard of 6 PPM is not exceeded unless 8-Hour average is > 6.4 PPM

ANNUAL 1992: DAR-93-1, p.124



LAKE ERIE INDUSTRIAL PARK

EXHIBIT

15

Future Air Quality

Provisions of the 1990 Clean Air Act Amendments require the regulation of a large number of small businesses in order to attain and maintain the national ambient air quality standards and control toxic air emissions. In response to the addition of the requirement that the States provide technical assistance and compliance information to small business, NYSDEC will implement the Small Business Stationary Source Technical and Environmental Compliance Assistance Program in order to provide direct help to small business in complying with the Clean Air Act Amendments. The New York State Department of Economic Development (DED) already has a small business ombudsman and this unit's duties will be expanded to serve and will be designated as both an Ombudsman's Office and the Small Business Assistance Program (SBAP) office for this compliance program. Full program implementation is targeted for the end of 1994.

Locally, similar assistance is provided to companies through a program operated out of the Environmental Compliance Services division of Erie County's Department of Environment and Planning. Firms locating in the corporate park that must comply with these regulations will be able to utilize the services and information available from these programs in designing and permitting their facilities.

5.4.2 Noise Levels

The noise environment surrounding the project site is primarily a result of contributions of automobiles and trucks on Lake Shore Road (NYS Route 5), a four-lane highway on the west, and the adjacent rail traffic to the east. The majority of the site is bounded on the east by five railroad tracks which experience considerable use daily. Bayview Road crosses the Norfolk and Western and Conrail railroads just east of the site. The easterly track is operated by Norfolk Southern and the westerly three tracks are operated by Conrail. The Conrail tracks are used by 75 to 80 freight trains per day which travel at speeds of 15 to 70 mph. Two AmTrack passenger trains per day also utilize the Conrail tracks. Typically eight Norfolk Southern freight trains use the other track.⁷²

The Federal Highway Administration (FHWA) has established noise criteria for different land uses that are located near highways.⁷³ The exterior criteria for the industrial land uses that

⁷² *Draft Generic Environmental Impact Statement for Ravenwood North Industrial Park, Jeffrey Boulevard, Town of Hamburg, Erie County, New York.* June 23, 1992. Nussbaumer & Clarke, Inc. for Ravenwood Associates Partnership. p. 45.

⁷³ Exec. L. art. 42 § 910.

will locate in the industrial park is 75 dBA d_{ba}, substantially higher than the criteria for residential land uses which have increased night time sensitivity to noise. Therefore, the adjacent location of the highway and especially the railroads will not adversely impact facilities which will locate on this site.

If a proposed project or activity would cause a significant increase in the future noise level it is considered to have an impact. The types of uses proposed for the park are not anticipated to result in a substantial increase in exterior noise levels on site. Additionally, these facilities built in the industrial park will have no direct effect on the noise levels of surrounding neighborhoods because each facility will comply with Town of Hamburg zoning restrictions which limit the dissemination of noise beyond property boundaries. The automobile and truck traffic associated with the build-out of the corporate park will result in some increase in the noise levels experienced along Route 5. However, this traffic increase is not expected to result in a significant increase in future noise levels over the existing levels (especially during nightly noise sensitive periods). Furthermore, the development of the site could provide a buffer between Route 5 to the west and residential land uses to the east.

5.4.3 Potential Impacts and Mitigation

Potential impacts of the development of an industrial park are both short-term construction impacts and long-term operational impacts which will primarily be associated with increased traffic and the activities or operations of the companies that will locate in the Lake Erie Industrial Park. Wind direction influences the location of the areas of impact for both air emissions and noise. In the Hamburg area, the direction of the prevailing wind is predominantly from the southwest. Therefore, any potential effects of park development related to noise and air quality would be more likely to be experienced to the east and northeast of the property.

Construction Impacts - Dust, Odors, and Noise

Noise, fugitive dust, and construction equipment exhaust will be a result of construction activity as infrastructure for Phases II and III is developed as well as during the development of each lot with buildings, parking areas, underground utilities, and access roads. These impacts will be of limited duration and impact due to the anticipated time frame for full build-out of the entire corporate park site. In the Town of Hamburg, construction working hours are generally limited

to the time during the normal working hours of the Town Hall.⁷⁴ This restriction should limit construction noise impacts on nearby commercial and residential areas. The Town's *Construction Specifications*⁷⁵ also require that dusty conditions resulting from a contractor's operations be corrected by the use of water or their approved (non-chemical) methods.

Assumption /Mitigation Measure: Contractors will adhere to the Town of Hamburg's *Construction Specifications* that limit construction noise and require correction of dusty conditions.

Operational Impacts - Air Quality and Noise

Compliance with the State regulations with respect to auto emissions and stationary emission sources should result in no significant effects on overall air quality due to an increase in air emissions from full build-out and the location of industrial operations on this site. Additionally, the Town of Hamburg's zoning ordinance restricts air pollution beyond the premises.

Assumption/Mitigation Measure: Individual facilities and operations within the industrial park will comply with the Town of Hamburg's zoning ordinance which does not allow uses which normally results in the "dissemination of atmospheric pollutant, noise, vibration or odor, beyond the boundaries of the premises on which the use is located."

Mitigation Measure: A natural buffer area will be retained along the eastern boundary (the railroad tracks) of the southern parcel. This buffer area will serve several functions: one such function will be the buffering of nearby residential areas (Bayview and Steelton) from dust, odors and noise from the industrial operations and their associated traffic.

5.5 CULTURAL RESOURCES

5.5.1 Historic and Archaeological Resources

Historic resources were identified within the boundaries of the Town of Hamburg's Waterfront Revitalization Area (WRA) for the Local Waterfront Revitalization Program (LWRP). Within this area, which includes the project site, there were no structures listed, or eligible for

⁷⁴ *Construction Specifications*. Revised January 1990. Engineering Department for the Town of Hamburg, Erie County, New York. p. 3.

⁷⁵ *Ibid.*, p. 5.

listing, on the National Register of Historic Places.⁷⁶ However, the Amsdell House, a former stagecoach stop, located to the south on Lake Shore Road in Wanakah, has been identified as an historic structure of local significance (as indicated by the circle on Exhibit 16).

The Town's LWRP also notes that zones of potential archaeological significance have been identified by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) in the project vicinity. During the initial stages of the environmental review of this action, the OPRHP provided the recommendation that unless substantial ground disturbance on the project site can be documented, an archaeological survey is warranted.⁷⁷ As a result of this recommendation, the Zaepfel-Krog Corporation contracted with Spaulding Archaeological Services to conduct Stage 1B investigations during late August 1992. The results of that investigation are were contained in the complete report provided in Appendix I of the DGEIS.⁷⁸

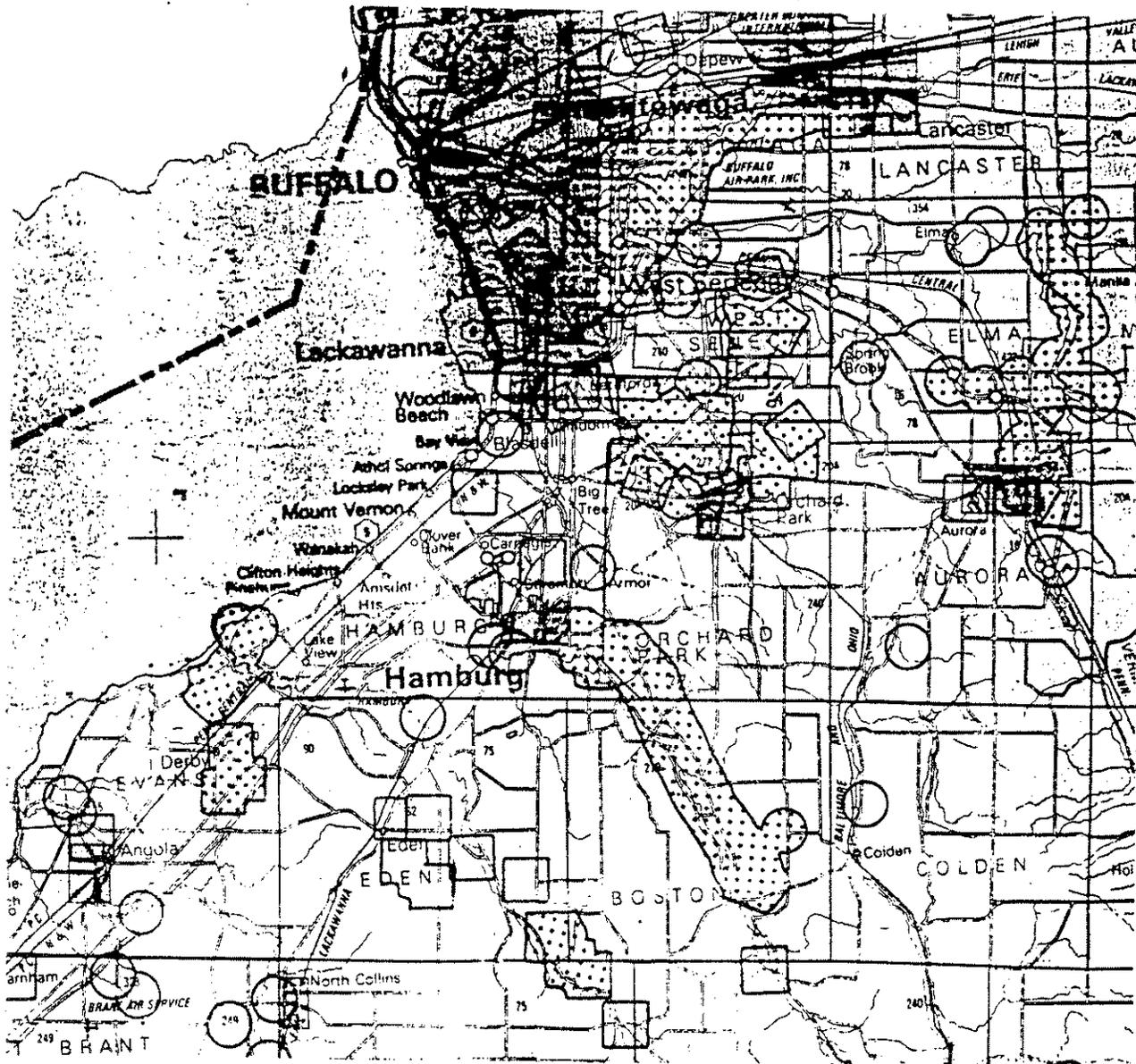
The results of the field investigation are summarized as follows:

- ◆ No prehistoric cultural remains were located in the project area.
- ◆ Scattered historic remains were found in the vicinity of houses located on Lakeview, Delmar and an unnamed road. . . . Cultural remains from the modern times and the first half of the twentieth century were scattered together at the surface.
- ◆ The Hamburg Town Historian, Joseph Streamer, stated that the residences in the vicinity of Lakeview Road were built in the 1920's. Bethlehem Steel bought the property and rented the houses to employees. In the late 1970's the structures were bulldozed, leaving scant structural remains.
- ◆ Structures 1 and 2 are located in the project area. Structure 1 is a twentieth century residence, located on Lakeview Road, and representative of the houses that once stood in that section of the project area (Streamer 1992). Structure 2 is a post-1945 . . . garage.

⁷⁶ 36 C.F.R. Parts 60 and 63.

⁷⁷ Letter dated August 7, 1992 from David S. Gillespie, Director of Field Services Bureau, NYS Office of Parks, Recreation and Historic Preservation.

⁷⁸ Spaulding, Lisa M. September 1992. *Stage 1B Cultural Resource Investigation of Bayview Road, Hamburg, Erie County, New York*. Spaulding Archaeological Services, Buffalo, New York.



LEGEND:

- Site Location - 1 Mile Diameter
(N.Y.S. Museum Archaeological Site File)
- Site Location - 1 Mile Square
(N.Y.S. Historic Preservation Office)
- Multiple Sites

The report concluded with a recommendation that: "Because no significant cultural resources were located during the Stage 1 cultural resource investigations at the Bayview Road project area, no additional cultural resource investigations are recommended." ⁷⁹ The report was forwarded to the State OPRHP for review. Based upon a review of this documentation, "it is the OPRHP's opinion that this project will have **No Impact** upon cultural resources in or eligible for the inclusion in the State and National Registers of Historic Places." ⁸⁰

5.5.2 Visual Resources and Aesthetics

The LWRP also considered the aesthetics of the Town's Waterfront Revitalization Area (WRA). Overall, the study found that, although the aesthetic quality within the area varies, the Town's waterfront area was characterized by well-kept housing and attractive vistas. However, problem areas were identified near the site in the Woodlawn and Hoover Beach neighborhoods and described as involving "structural deterioration, unattractive facades, and inadequate landscaping." ⁸¹

The Lake Erie Industrial Park site is surrounded by a mix of industrial, commercial, and residential uses. The site itself is primarily brushland including, on the north parcel, one home and a garage which are the remnants of an old residential subdivision as well as a portion of a spoil pile. The topography of the site is typical of the area's rolling terrain which gently slopes towards the shore of Lake Erie.

Based on site walk-overs, no significant visual resources were identified on this site. In addition, it has been determined that the area does not include any scenic resources of statewide significance. ⁸² However, based on the location of the project site within the WRA, the design and development of the industrial park will be undertaken in accordance with the Town's LWRP policy (25) to "protect, restore, or enhance the natural and manmade resources which are not

⁷⁹ *Ibid.*, p. 8.

⁸⁰ Letter dated November 5, 1993 from Julia S. Stokes, Deputy Commissioner for Historic Preservation, NYSOPRHP.

⁸¹ LWRP: II-44.

⁸² LWRP: III-26.

identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal areas." ⁸³

The proposed industrial park development and phased construction of the infrastructure and roadways will require the clearing and grading of portions of the site. Therefore, the development of this site will involve the removal of some existing vegetation and topographic changes as well as the construction of the roadways, drainage basin(s), parking areas, and the addition of landscaping appropriate to an industrial park setting. These modifications will change the aesthetic value and look of the area. Short-term visual disruptions will occur during the construction phases of the project, first during the phased infrastructure development and then during individual site development. However, the developer and HIDA will enforce deed restrictions that will ensure an attractive, landscaped industrial park. Controls will be placed on items such as: junk storage, incompatible land uses, building construction materials, signs, the location of parking and loading docks, property maintenance responsibilities, and landscaping requirements.

5.5.3 Potential Impacts and Mitigation

Visual Resources

The current visual value of this site is a brushland open space. Within the context of its location, adjacent land uses, and with respect to the character of this portion of the Town of Hamburg, the site is not considered to currently be a significant visual resource. However, given the location of the site within the Town's Waterfront Revitalization Area, any development of this site should consider the overall scenic quality of the surrounding coastal area.

Mitigation Measure: The design and development of the industrial park will be undertaken in accordance with the Town's LWRP policy (25) to "protect, restore, or enhance the natural and manmade resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal areas."

Mitigation Measure: Restrictive Covenants will be developed by the Zaepfel-Krog Corporation as developer which will place controls on items such as: junk storage, incompatible land uses, maximum building height, building construction materials, signs, the location of parking and loading docks, property maintenance responsibilities, and landscaping requirements.

⁸³ LWRP: III-36.

5.6 SOLID WASTE

5.6.1 Solid Waste Generation

Solid waste generation is expected to be typical for the uses allowed in the industrial park. In the Town of Hamburg, non-residential land uses are responsible for contracting with commercial waste disposal services of their choice. Several companies service the area. If small quantities of hazardous waste are generated, the individual companies within the industrial park must comply with NYSDEC regulations, as well as arrange for special provisions to transport and dispose of the waste.

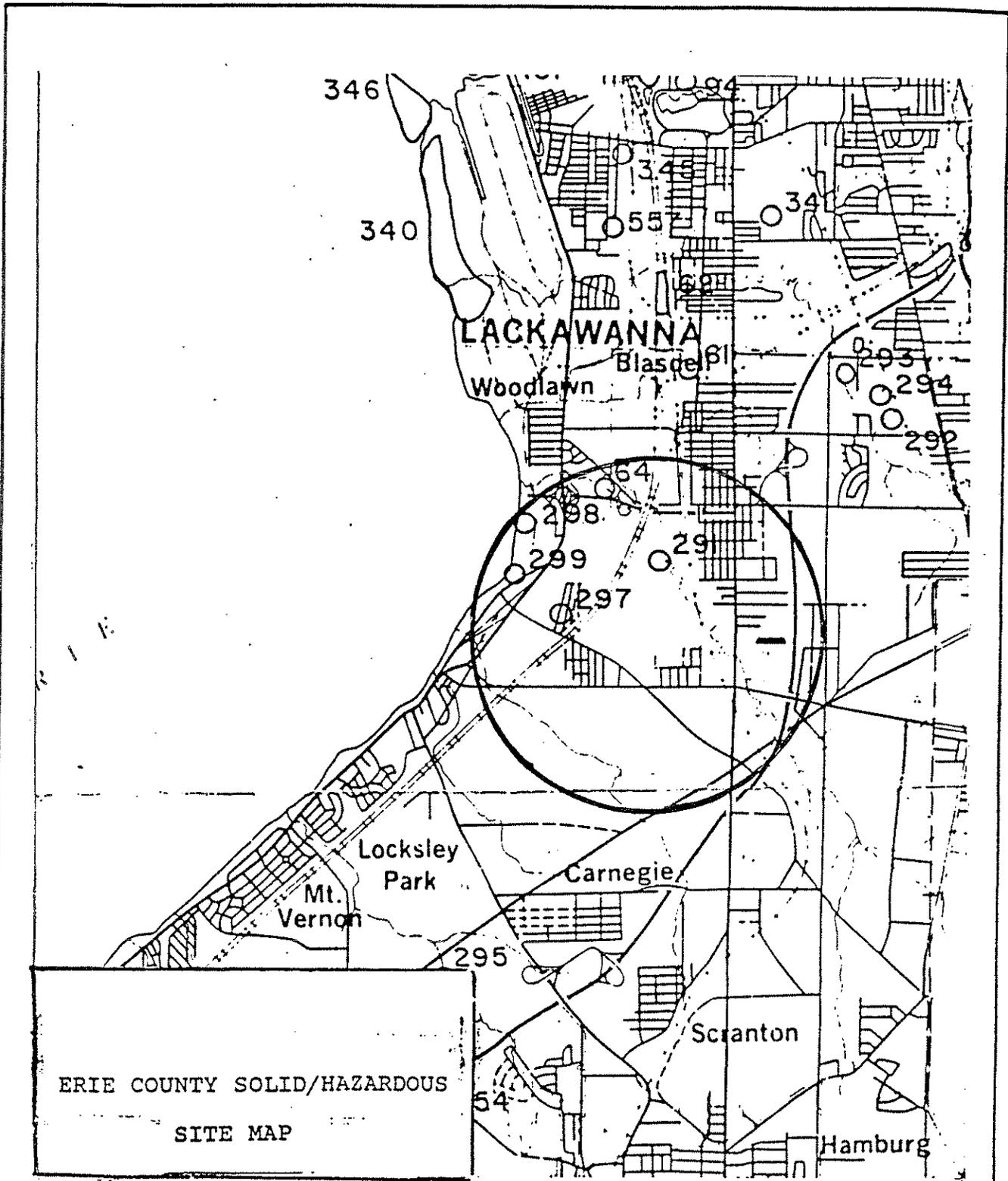
5.6.2 On-Site Waste Issues

During the preliminary site review at the Erie County DEP, a solid/hazardous waste site was located within the project boundaries. The site was referred to as the *Town of Hamburg Dump, Map # 297, Lakeview and Linden Roads* (see Exhibit 17).

On May 27, 1977, an inspection of the project site was undertaken by Donald Tomal, Senior Engineer with the DEP. The inspection was made as a result of several complaints concerning illegal dumping that were received by the DEP from surrounding residents. Appendix V of the DGEIS provides provided all of the information contained in the case file at the DEP which was obtained via the *Freedom of Information Law* (FOIL).⁸⁴ The information documents the inspections (initial and follow-up); conversations between the Town of Hamburg and the NYSDEC.

The materials "dumped" at the site were considered non-hazardous, and categorized on NYSDEC's **Refuse Disposal and Inspection Report** as (1) *Refuse not Confined to a Manageable Area*, (2) *Unsatisfactory Daily Soil Cover*, and (3) *Improper Spreading and Compaction of the Refuse*. No further complaints have been registered by the surrounding residents since the site was cleaned up in 1978. The current project sponsors have also invested their time and effort into removing the refuse that has accumulated since that time.

⁸⁴ Pub. Off. L. art. 6.



SOURCE: Erie Co. Dept. of Environment & Planning

5.6.3 Potential Impacts and Mitigation

The project sponsors have made improvements such as cable barriers that have restricted access to the property to ensure that no further dumping is accomplished. Furthermore, to protect the interests of the lead agency, the project sponsor has conducted Phase I and limited Phase II Environmental Assessments to determine the potential for contamination due to past activities. The Phase I study conducted by Niagara Frontier Consulting Services, Inc. (NFCS) indicated that additional soil analysis should be performed for a variety of contaminants near the location of past residential waste dumping and for lead contamination near a large berm which was possibly used as a ballistics backstop. Water sediment analysis was also recommended to test for potential Volatile Organic Compounds (VOCs) and Polychlorinated Biphenyl (PCB) contamination.

The Limited Phase II Environmental Assessment was conducted by Frontier Technical Associates Inc. (FTA). It was determined that no significant contamination was present at any of the general soil test locations near the roads where residential dumping was suspected, as indicated on Figure 1 (see following page). The soil tests for lead near the berm, as indicated on Figure 2 (see following page), concluded that lead contamination was present within the berm area. It was determined that this form of contamination did not pose a health threat due to the proposed use of the property and low probability of direct exposure by future Industrial Park users. If the area is considered for use in future site developments, the material may be dealt with in several ways (e.g. in controlled fills, admixtures for subbase material onsite, or taken off site for disposal). At the recommendation of FTA, sediment sampling was conducted rather than water sampling because this provided a better indication of potential contamination levels for VOCs and PCBs. Upon performing one (1) downstream sediment sample, it was determined that contamination was not significant nor was further sediment testing warranted.

5.7 COMMUNITY FACILITIES, SERVICES & UTILITIES

5.7.1 Sewage Disposal/Wastewater Facilities

The project falls within the Town of Hamburg's Master Sewer District which has a 15-inch sanitary sewer pipeline available along Bayview Road. Sewer extensions to serve Phase I may extend from the Bayview trunk line and will require Sewer Tap Permits from the Town of Hamburg.

Also an existing 48-inch diameter sewer pipeline, known as the north east interceptor, crosses the southern portion of the project site which is owned and operated by Erie County. These lines would be accessible to facilities in Phase III, and may be tapped into upon the necessary approvals.

5.7.2 Water Supply

Water Line Extensions

According to the Erie County Water Authority (ECWA), the proposed industrial park "falls in an area where both the ECWA and the Town of Hamburg each own water facilities." ⁸⁵

Based on information provided by the Town of Hamburg Engineering Department, it appears the area will be served by an extension of the Hamburg Central Water District. Prior to making the district extension, Phase I could tap the existing pipelines that currently fall within the Town of Hamburg Master Improvement District. Single taps may be made along Bayview Road by individual users by permit from the Town of Hamburg.

Industrial Park facilities will be able to tap into a 16-inch water line along Bayview Road or the recently relocated sections of a ECWA's 16" - 24" water main in a 20 feet permanent easement along the Hamburg Turnpike (Route 5). Refer to "Record Dwg. from Hayden/Wegman (Sheets 3 through 6)" illustrating the water line and permanent easement on file at the ECWA.

Available Capacity

Based on the April 28, 1993 *Hydrant Flow Test* results, the pressure and flows within the pipeline are sufficient to service the future demands of the industrial park. The test was conducted on the 16" main at the Hamburg Turnpike in the vicinity of the project. The total flow in gallons per minute (gpm) was 2,350 with a residual pressure of 95 psi. Refer to Exhibit 18 for other details regarding the flow test. Should the ECWA water mains be used to service the project, the flow test data will be utilized as the basis for engineering design.

5.7.3 Emergency Flow & Fire Protection

According to the ECWA flow test results, the existing water main along the Hamburg Turnpike has a residual pressure of 95 psi with fire flow of 2,350 gpm, and a static pressure of 103 psi. The pressures within the water main were well above the minimum required for the fire apparatus.

⁸⁵ Letter dated September 30, 1993 from Wesley C. Dust, P.E., Senior Distribution Engineer for the Erie County Water Authority. Attachments to the letter included Plates G15 and G16 that were highlighted to indicate existing water facilities and their ownership.

Limits on Uses and Construction for Fire

As with all large industrial projects, fire protection is a concern. During the site plan review process, each developing lot will be reviewed by the Fire Chief after referral by the Planning Board.

Assumption/GDEIS Threshold: Facilities within the park will conform with use restrictions outlined in the Town of Hamburg's Zoning Ordinance as well as in the Restrictive Covenants for the Lake Erie Industrial Park. Both of these documents contain provisions for limiting the storage of flammable liquids to underground storage, specifications for safety containers, prohibitions on primary chemical manufacturing or production of hazardous chemical substances, limiting flammable and combustible materials to buildings with incombustible exterior walls, and with adequate suppression equipment and devices standard to the operation involved. In addition, the Zoning Ordinance states that no operations will be located in the park which normally result in any fire or explosive hazard, while the Restrictive Covenants prohibit uses that increase the fire hazard to adjoining building lots, or lands adjacent to the park.

Within the future water line extension for the industrial park, sufficient fire flows have been established for the proposed development plan. Initial planning for the park estimated that individual lots would not exceed $10 \pm$ acres in size which would relate to a maximum size of 152,460 square feet as regulated by the Restrictive Covenants. Based on this building size, additional flow calculations were made to determine whether or not the available water supply was sufficient to meet the emergency demand. Preliminary calculations revealed that flows as high as 5,622 gpm would be needed to effectively control a fire emergency. Based on ECWA's April 28, 1993 *Hydrant Flow Test* results and summary provided, a calculated fire flow of over 8,000 gpm is available while maintaining the 20 psi residual pressure minimum requirement for the system.

5.7.4 Potential Impacts and Mitigation

The potential impacts affecting wastewater, water, and emergency flow for fire protection would be to decrease the pressure area wide. However, based upon the technical information calculated during ECWA's tests, high demands produced very little change in water line pressure. As a result of these tests, the industrial park will have a constant and reliable source of water to satisfy its operational needs without affecting the surrounding industrial and commercial users.

Mitigation Measure: New industrial facilities that have the potential to contamination to the existing water system will have approved and constructed back-flow prevention devices and/or reduced pressure zone valves prior to operation.

Mitigation Measure: Wastewater effluent quality will be limited to the standards imposed by the Erie County/Southtowns Sewage Treatment Plant as outlined in their pretreatment requirements.

5.8 ENERGY RESOURCES

5.8.1 Electricity and Natural Gas

Electrical services are available from Niagara Mohawk. Natural gas will be furnished by National Fuel via a 6-inch, high pressure line. No limitations on these utilities have been identified. Each utility company is willing and able to provide service to the site. Each private utility connection will be made on a case by case basis with the user making the application and defining the need.

5.8.2 Energy Use and Conservation

The full build out and development of the industrial park will increase energy demands during both the construction phase for each building and site development, as well as during normal operations. The intended plan could permit such facilities as research and development, manufacturing, fabricating and assembly, and warehousing and wholesale distribution, commercial and support service to be constructed within the proposed industrial park. These types of industrial facilities will create long-term increases in energy demands ~~created by~~ for facility lighting, heating and cooling, the use of manufacturing or processing equipment, as well as the fuel necessary for the transportation of employees, goods, and services to and from the facilities.

The impacts of the increased energy use will be only small to moderate based upon the nature and size of the projected facilities. Although no mitigation is required, companies interested in locating in the industrial park will be encouraged to utilize the assistance offered by the utility companies.

5.9 TRANSPORTATION

5.9.1 Phase I, II, & III Traffic Study Assumptions and Scenarios

Impact on transportation was one of the most significant issues identified by the HIDA in their determination that an EIS was appropriate for this project. They stated in the SEQRA

Positive Declaration that one of their reasons for supporting this determination was "because of the size of the project, there is the potential for a substantial adverse change in traffic." ⁸⁶ The NYSDOT concluded that the proposed industrial park "may significantly impact the State Highway system" ⁸⁷ and indicated that they would require a traffic impact analysis for the project. ⁸⁸ As a result of these comments, these agencies concluded that the Draft Generic Environmental Impact State **GEIS** should include a Traffic Impact Study to identify impacts, evaluate alternatives, and address concerns.

EMS Consulting of Buffalo was retained by the developer, **The Zaepfel-Krog Corporation**, "to evaluate the proposed capacity and safety impacts of the development traffic on adjacent public streets and to recommend improvements to mitigate any anticipated deficiencies". ⁸⁹ (Refer to Appendix VI of the **DGEIS** for the complete report.) The EMS traffic impact study included the following major steps:

- ◆ Existing transportation and land use characteristics were identified.
- ◆ Traffic volume data was obtained for major roads and intersections expected to be impacted by the proposed development.
- ◆ Trips expected to be generated by the development were estimated and distributed to the roadway network for each scenario.
- ◆ Traffic operation conditions were evaluated for existing traffic and future projected traffic at major intersections expected to be impacted.
- ◆ Anticipated capacity or safety deficiencies resulting from the projected development traffic were examined in detail to determine preferred alternatives and suitable mitigating measures.

⁸⁶ 6 N.Y.C.R.R. § 617.21 app. E. - SEQR Positive Declaration dated July 10, 1992, from Ronald J. Hayes, Executive Director - HIDA, p.2.

⁸⁷ Letter dated June 16, 1992, from Paul J. Knab, NYSDOT Planning & Program Manager, to George McKnight, Town of Hamburg Planning Dept.

⁸⁸ Letter dated July 27, 1992, from Paul E. Knab, NYSDOT Planning & Program Manager to George McKnight, Town of Hamburg Planning Dept.

⁸⁹ EMS Consulting (Smith, J.E., P.E.) December 1993. *Traffic Impact Study: Lake Erie Industrial Park State Route 5 & Bay View Road, Town of Hamburg, New York.* 6 61 pg, plus appendices.

The scoping process for this study involved the identification of appropriate alternatives to be addressed in this study. This process was accomplished through a series of meetings with representatives of the Town of Hamburg, NYSDOT, Horizons, and the Erie County DPW Division of Highways. These interagency discussions resulted in the development of various alternatives or "scenarios" for each development phase of the project.

PHASE I:

Phase I would consist of two buildings to be located on the north side of the existing Bayview Road between the Niagara Mohawk power lines and Route 5. Each building was assumed to have a single driveway to Bayview Road.

The following two scenarios were examined for this phase. For each scenario, the existing intersection of Bayview Road and Route 5 would remain as it presently exists. A diagram of the proposed development and roadways for Phase I are shown on Exhibit 19 (EMS-Figure 2).

- ◆ **Scenario 1** assumed that Bayview Road would remain open and would not be cul-de-saced along the eastern border of the railroad tracks.
- ◆ **Scenario 2** assumed that Bayview Road would be cul-de-saced on either side (east and west) of the railroad tracks.

PHASE II:

During Phase II development, the remaining land north of Bayview Road would be developed, and several assumptions regarding road access were made. For instance, it was assumed that a cul-de-sac at the western end of Bayview Road (within site boundaries) would cut off access to Route 5. A new internal road would intersect with the remaining section of Bayview Road, and extend north and west to meet Route 5 approximately 1,100 feet to the north approximately opposite an abandoned gas station just south of Snyder Tank Corporation. A sketch prepared by EMS illustrates the following Phase II scenarios for the proposed development and road modifications (Exhibit 20, EMS-Figure 3).

- ◆ **Scenario 1** assumed that the new internal road within the Lake Erie Industrial Park would form a 'T' intersection with Route 5; that the existing Route 5/Hoover Road intersection would remain open; that the section of Bayview Road west of Route 5 would remain and connect to Route 5; and that small section of Bayview Road would be removed between Route 5 and St. Francis Drive Extension.

FIGURE 2
SITE PLAN
(PHASE I DEVELOPMENT)

CUL-DE-SAC
UNDER PHASE I
SCENARIO 2

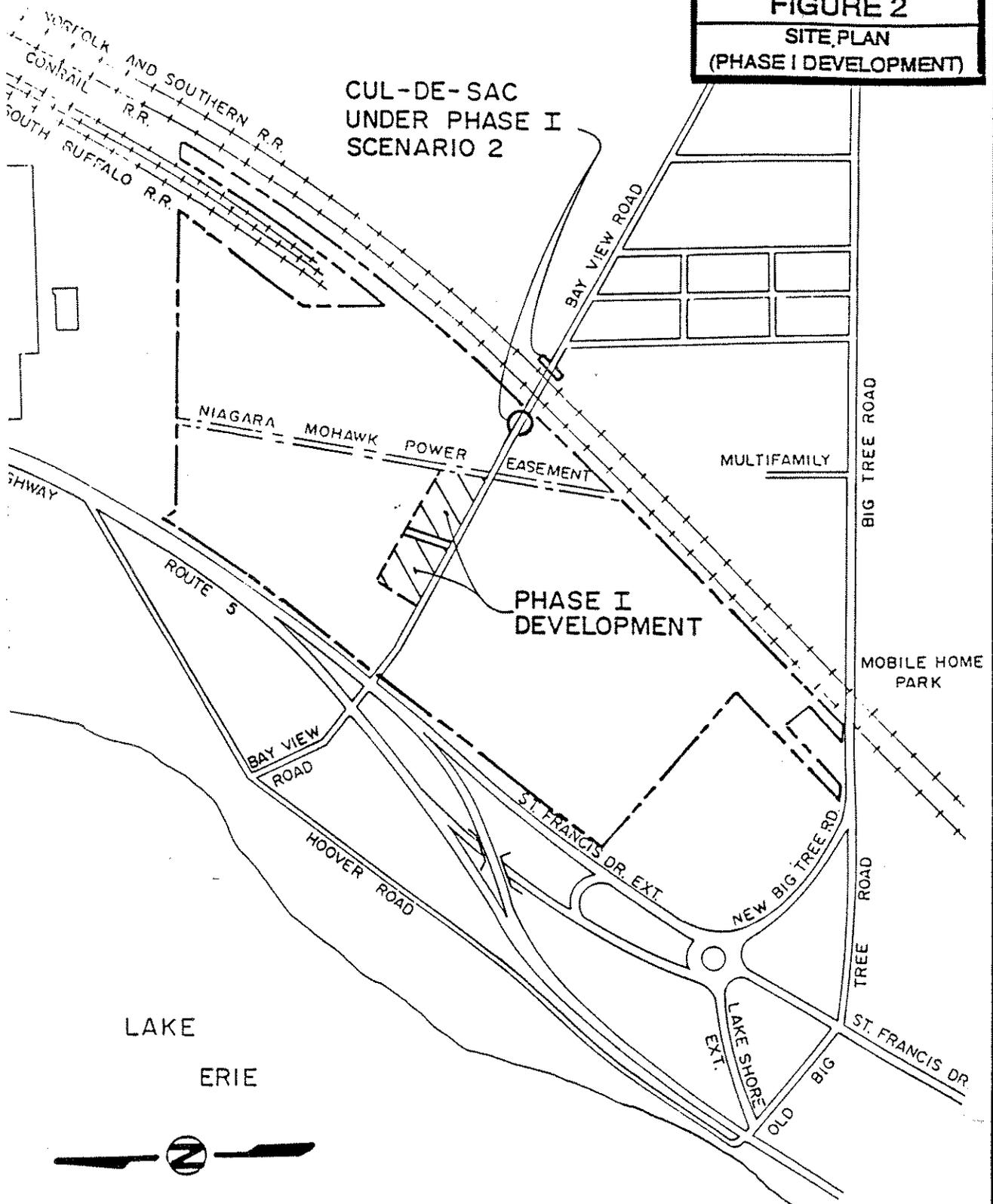
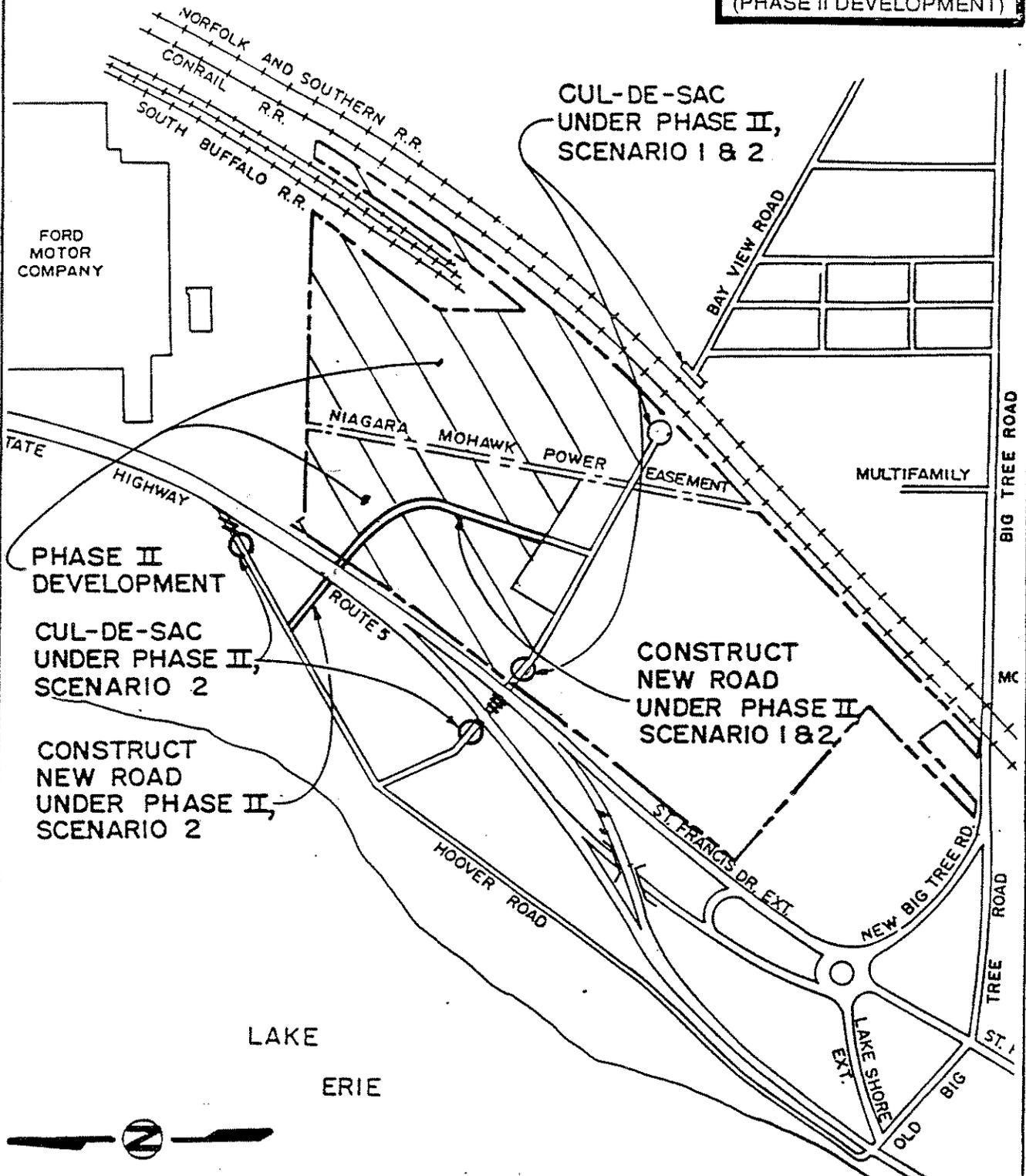


FIGURE 3
SITE PLAN
(PHASE II DEVELOPMENT)



- ◆ **Scenario 2** assumed that the new internal road within the Lake Erie Industrial Park would form a four-way intersection with Route 5 and Hoover Road, with the west leg of that intersection forming a new connecting roadway between Route 5 and Hoover Road just south of Snyder Tank Corporation; that the existing Route 5/Hoover Road intersection would be removed and Hoover Road would be cul-de-saced at the north end (intersection with Route 5); and that the intersection of Route 5 and the section of Bayview Road west of Route 5 would be removed and Bayview Road would be cul-de-saced on the western side of Route 5.
- ◆ **Scenario 3** assumed that Bayview Road would remain open and would not be cul-de-saced at the railroad tracks; the new internal road within Lake Erie Industrial Park would form a four-way intersection with Route 5, and a new roadway connection between Route 5 and Hoover Road; that the existing Route 5/Hoover Road intersection would remain open; and the section of Bayview Road west of Route 5 would be cul-de-saced at Route 5.

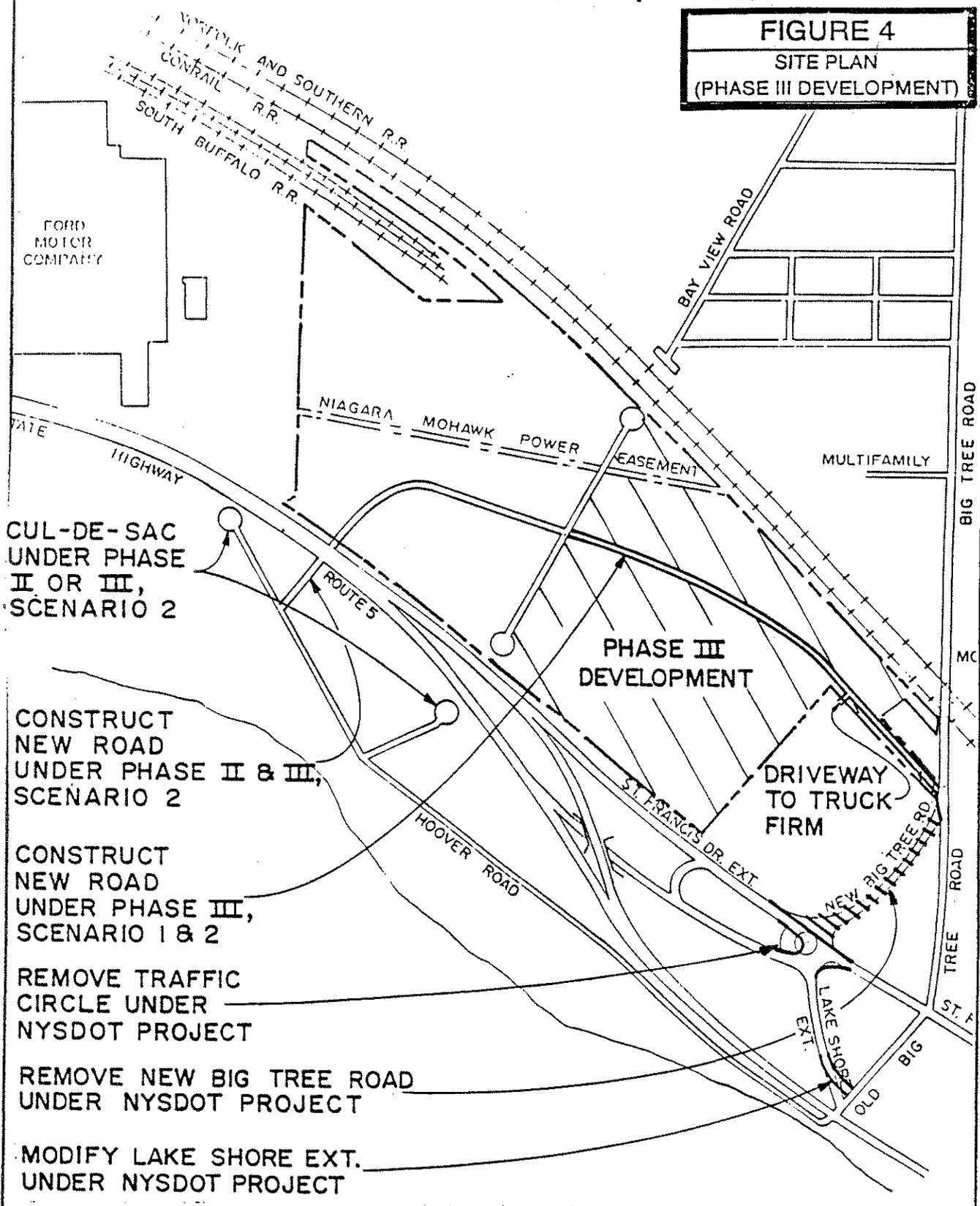
PHASE III:

Phase III development will occur on lands south of Bayview Road, and include extending the new north-south internal roadway from Bayview Road southerly to Big Tree Road. Please note that the three scenarios described above for Phase II development were analyzed assuming that Phase III would be completed. Proposed road modifications are portrayed on Exhibit 21 (EMS-Figure 4).

In addition, the following existing road modifications were presumed for Phase III:

- (1) The traffic circle at St. Francis Drive, Lake Shore Road Extension, and New Big Tree Road would be eliminated, and replaced by a conventional intersection.
- (2) The northbound lanes of St. Francis Drive Extension (a 700 feet section north of the circle) would be relocated to run directly adjacent to the existing southbound lanes. The road presently used for the northbound lanes would be utilized as a service roadway to an existing trucking company.
- (3) Two alternative modifications to New Big Tree Road were examined:
 - (a) The section of the new Big Tree Road, east of the traffic circle, would be retained. The intersection of St. Francis Drive, New Big Tree Road, and Lake Shore Road Extension would be a four-way intersection. Old Big Tree Road between Route 5 and New Big Tree Road would become a local access road for residential purposes, as well as for other development proposed by the Horizons Waterfront Commission. Regular traffic flow would generally use New Big Tree Road rather than Old Big Tree Road.

FIGURE 4
SITE PLAN
(PHASE III DEVELOPMENT)



CUL-DE-SAC
 UNDER PHASE
 II OR III,
 SCENARIO 2

CONSTRUCT
 NEW ROAD
 UNDER PHASE II & III,
 SCENARIO 2

CONSTRUCT
 NEW ROAD
 UNDER PHASE III,
 SCENARIO 1 & 2

REMOVE TRAFFIC
 CIRCLE UNDER
 NYSDOT PROJECT

REMOVE NEW BIG TREE ROAD
 UNDER NYSDOT PROJECT

MODIFY LAKE SHORE EXT.
 UNDER NYSDOT PROJECT

- (b) The section of new Big Tree Road east of the traffic circle would be removed. The intersection of St. Francis Drive and Lake Shore Road Extension would become a "T" intersection. The existing sections of Big Tree Road, both east and west of St. Francis Drive, would become the primary east-west route to take advantage of the existing traffic signal at Big Tree Road and St. Francis Drive, the straighter road alignment on Old Big Tree Road, and to avoid the complicated geometry of the existing intersection of Route 5/Lake Shore Road Extension/Old Big Tree Road.
- (4) The Lakeshore Road Extension west of the traffic circle would be reconfigured to the east to improve the intersection of Old Big Tree Road and the Lakeshore Road Extension just east of Route 5.
- (5) The entrance of the new industrial park onto Big Tree Road would be as far west of the railroad overpasses as practical to maximize the sight distance for vehicles entering Big Tree Road.
- (6) The existing truck company on Route 5 would have a driveway to the new north-south internal roadway of the Industrial Park site.

The Horizons Waterfront Commission expressed their agreement with Alternative 3(a) over item 3(b) in a meeting ⁹⁰ with the developer, Town of Hamburg Planning and Highway department officials, NYSDOT, NFTA, ECDPW, and consultants for the developer. The roadway improvements described in items 1, 2, 3, and 4 above may be completed under the New York State Department of Transportation (NYSDOT) improvement projects planned on Route 5 prior to Phase III development of the Lake Erie Industrial Park.

5.9.2 Responses to Comments on Phase I, II, & III

Traffic Study Assumptions and Scenarios

The New York State Department of Transportation (NYSDOT) comments dated August 8, 1994 ⁹¹ to the Draft Generic Environmental Impact Statement (DGEIS) specifically stated that "the developer will need to provide ... traffic improvements in order to mitigate each phase of the planned development". Their comments emphasized that parts of the mitigation "is contingent on the developer successfully petitioning ... for permission to break access control on Route 5 north of Bayview Road". Incorporated into the comments were the specific mitigative measures for

⁹⁰ Meeting held on June 11, 1993 specifically addressing transportation concerns regarding the proposed industrial site development.

⁹¹ Letter dated August 8, 1994, from E.J. Nowicki, NYSDOT Planning and Program Manager, to Michael Bartlett, Hamburg Industrial Development Agency.

each of the three phases.

Subsequent to NYSDOT comments, NYSDOT distributed a draft EXPANDED PROJECT PROPOSAL for the elimination of the Athol Springs traffic circle (identified as St. Francis traffic circle in the DGEIS). Elimination is consistent with the existing road modifications proposed for Phase III with some minor exceptions. NYSDOT identified three alternatives. Two of which are considered feasible based on the accident analyses and cost effectiveness.

"Alternative 1: This alternative would involve conversion of the traffic circle into a 4-legged signalized intersection. The existing southbound access ramp north of the circle would be reconstructed and widened to carry two-way traffic. It would split north of the BIN 1-06305, where the southbound ramp would continue on the existing alignment and a new roadway would be constructed to carry northbound traffic. This new roadway would merge into the existing northbound ramp approximately 304 m (1000 ft) south of NY Route 5. The existing northbound access ramp between the traffic circle and access road would be utilized to provide access for the trucking facility on the northeast quadrant ... BIN 1-06305-0 on southbound access ramp over Foster Brook Would be replaced. NY Route 75 from the terminus of PIN 5545.11 to the new intersection at New Big Tree Road/Lakeshore Extension would be reconstructed.

Alternative 2: This alternative involves elimination of the traffic circle by closing off New Big Tree Road from old Big Tree Road to the traffic circle, thus diverting traffic to the existing 4-legged intersection ... A slight realignment would also include elimination of the existing access road connecting northbound and southbound NY Route 5 Access Ramps. A new access road would be built opposite the trucking facility driveway and would intersect both ramps at a right angle. Old Big Tree Road would be reconstructed and widened to provide two 3.6 m (12 ft) lanes and 2.4 m (8 ft) shoulders. The culvert on Old Big Tree Road would be replaced utilizing a 5.5 m X 1.8 m (18' X 6") RCB. Ingress and egress to the Lakeshore Extension on the southbound access ramp would be restricted to only right turns." ⁹²

⁹² Page 13, Draft Expanded Project Proposal, St. Francis Drive SH 8530, NY Route 75, Lakeshore-Lackawanna City Traffic Circle, New York State Department of Transportation, January 1996.

The following modified phasing constitutes the recommended mitigation. All transportation related comments to the DGEIS are addressed.

PHASE I:

Phase I would consist of two buildings to be located on the north side of the existing Bayview Road between the Niagara Mohawk power lines and Route 5. Each building was assumed to have a single driveway to Bayview Road. The existing intersection of Bayview Road and NY Route 5 would remain as it presently exists. Bayview Road remains open to serve two-way, two-lane traffic. (Scenario 1 in DGEIS)

PHASE II:

During Phase II development, the remaining land north of Bayview Road would be developed. Phase II has been sub-divided into two implementation phases, A and B.

Phase IIA:

A new internal access road would begin at Bayview Road in the vicinity of the Phase I development and extend north and west to intersect NY Route 5 approximately 1,100 feet to the north of the existing NY Route 5/Bayview Road intersection. The new T-intersection is opposite an abandoned gas station immediately south of Snyder Tank Corporation. Furthermore, the following road modifications would be completed.

- Existing Bayview Road would be cul-de-saced immediately east of the intersection with St. Francis Drive Extension.
- Existing Bayview Road between NY Route 5 and St. Francis Drive Extension would be removed (median separating northbound and southbound traffic).
- The access road's approach to NY Route 5 would consist of two exit lanes and one entrance lane.
- Northbound right turn lane on NY Route 5 is provided at the new T-intersection with the access road.

Northbound and southbound left turn storage lanes on NY Route 5 are provided at the new T-intersection with the access road.

Phase IIB:

Phase IIB road modifications are implemented when a traffic signal is warranted at the new T-intersection of the access road with NY Route 5.

Bayview Road at the Rail Road crossing is cul-de-saced on both sides of the tracks.

Construct a connection between Hoover Road and NY Route 5 to convert the T-intersection into a 4-legged intersection.

Hoover Road at the current connection with NY Route 5 is posted as a one-way entrance only.

Existing Bayview Road would be cul-de-saced immediately west of the intersection with NY Route 5.

Changes to Hoover Road and Bayview Road, west of NY Route 5 must be undertaken with the cooperation of the Town of Hamburg and the State of New York. Necessary legal proceedings to acquire private lands for new public right-of-way must be accomplished by the municipality. Therefore, the new Hoover Road connector, one-way posting of Hoover Road at NY Route 5, and Bayview Road cul-de-sac west of NY Route 5, will be considered only if NYSDOT concurs or determines that a traffic signal is warranted at the new intersection of NY Route 5 with the proposed site road. Subsequent monitoring of the completed intersection becomes necessary to evaluate the signal warrants. (Scenario 2 in DGEIS)

PHASE III:

Phase III development will occur on lands south of Bayview Road, and include extending the new north-south internal roadway from Bayview Road southerly to Big Tree Road. The actual terminus at the southerly end is dependent on NYSDOT's approved alternative for the elimination of the Athol Springs traffic circle. Both of NYSDOT's feasible alternatives were identified and evaluated in the DGEIS.

- The access road's approach to Big Tree Road would consist of two exit lanes and one entrance lane.
- Eastbound left turn storage lane on Big Tree Road is provided at the new T-intersection with the access road.
- Driveway access for the trucking firm to the extended internal road will be permitted if driveway access for the trucking firm is not incorporated in NYSDOT's approved alternative.

5.9.3 Existing Land Uses and Traffic Generators

The Traffic Impact Study identified and inventoried existing transportation and land use characteristics in the study area. The following existing and proposed land uses were cited as the most significant traffic generators in the study area:

- ◆ The Ford Motor Plant which is located at the southeast quadrant of the Route 5/Route 179 interchange north of the project site; this is considered "the largest influencing traffic generator in the area" ⁹³
- ◆ The Gateway Executive Park located just west of the Route 5/Route 179 interchange.
- ◆ A truck terminal located on the east side of the St. Francis Drive Extension just north of the St. Francis traffic circle.
- ◆ The St. Francis High School located on St. Francis Drive.
- ◆ The Ravenwood North Industrial Park, a 164 acre industrial park, is located on the north of Bayview Road east of the Norfolk Southern railroad track; this park is accessible by Jefferey Boulevard at the south and Pieczonka Drive off Maple Road on the north. Several companies have recently located in the park and full build-out of this park is expected by the year 2002. (The combined traffic impact of this industrial park and the proposed Lake Erie Industrial Park was considered in the Traffic Impact Study.)
- ◆ A proposal has been made to develop a 435-unit mobile home park (Mission Hills) on the east side of Camp Road about one-half mile south of St. Francis Drive. (The traffic generated by this park was considered to be represented in the normal traffic growth of this area.)

⁹³ EMS-TIS, p. 9.

5.9.4 Highway System and Traffic Volumes

Existing Highway System:

The following roadways were examined in the Traffic Impact Study: ⁹⁴

- ◆ Bayview Road
- ◆ Route 5 (Lake Shore Road)
- ◆ Lake Shore Road Extension
- ◆ Old Big Tree Road
- ◆ New Big Tree Road
- ◆ St. Francis Drive
- ◆ St. Francis Drive Extensions

In addition, the study area involves two traffic circles; these are referred to as: the Route 5/Route 179 traffic circle and the St. Francis traffic circle.

Planned and Potential Roadway Improvements:

Several roadway improvements are currently under consideration by the Town of Hamburg, the New York State Department of Transportation, and other development parties as a result of proposed development that will directly influence the traffic volumes within the vicinity. These roadway improvements include:

- ◆ cul-de-sacing Bay View Road on both sides of the Norfolk Southern Railroad crossing upon development;
- ◆ eliminate the St. Francis traffic circle and convert it to a conventional four-way intersection;
- ◆ remove New Big Tree Road from the traffic circle and connecting it to Old Big Tree Road; and
- ◆ reconfigure Lake Shore Road Extension to improve the intersection of Old Big Tree Road and Lake Shore Road Extension, just east of Route 5.

Existing Traffic Volumes:

Summaries of the traffic count data for the weekday morning and afternoon peak hour are given in Exhibit 22. Mechanical traffic counts for were taken by EMS Consulting in 1992 on

⁹⁴ EMS-TIS, pg. 11 - 16.



Average Annual Daily Traffic (AADT)

<u>Location</u>	<u>AADT</u>	<u>AM Peak</u>	<u>PM Peak</u>
<u>Bay View Road East of Route 5</u>			
Eastbound	990	36	125
Westbound	1172	158	58
Two-Way Volume	2162	194	183
<u>Big Tree Road East of Railroad Bridge</u>			
Eastbound	3635	135	351
Westbound	3660	246	274
Two-Way Volume	7295	381	625
<u>New Big Tree Road</u>			
Eastbound	1826	70	198
Westbound	1823	206	80
Two-Way Volume	3649	276	278
<u>St. Francis Drive South of Old Big Tree Road</u>			
Northbound	10,210	1144	476
Southbound	10,117	301	1166
Two-Way Volume	20,327	1445	1642
<u>St. Francis Drive Extension</u>			
Northbound	10,938	1297	466
Southbound	10,491	327	1270
Two-Way Volume	20,889	1624	1736

major roadways in the study area (refer to EMS's Appendix A in Appendix VI of this the FDEIS). The counts were taken during the weekday morning (7:00 AM to 10:00 AM), weekday noon time (11:00 AM to 1:00 PM), and weekday afternoon (3:00 PM to 6:00 PM). Graphs in EMS-Appendix A show hourly distributions in traffic for each of the roadways. Exhibit 1 of Appendix A reflects the area wide distribution of the existing and PM peak hour volumes at intersections in the study area. Additionally, the results of the vehicle origin and destination study of the Route 5/Route 179 traffic circle (conducted on Thursday, March 19, 1993) is also included in Exhibit 2 of Appendix A.

The mechanical traffic counts were taken at the following locations:

- ◆ Bayview Road east of Route 5
- ◆ Big Tree Road east of the railroad
- ◆ New Big Tree Road
- ◆ St. Francis Drive south of Old Big Tree Road
- ◆ St. Francis Drive Extension

In addition, EMS Consulting performed manual turning movement counts at the following intersections:

- ◆ Route 5 at Bayview Road
- ◆ Route 5 at Hoover Road
- ◆ St. Francis Traffic Circle
- ◆ St. Francis Drive at Old Big Tree Road
- ◆ St. Francis Drive at Camp Road
- ◆ Route 5 at Old Big Tree Road and Hoover Road
- ◆ Old Big Tree Road at Lakeshore Road Extension

The Niagara Frontier Transportation Committee (NFTC) was contacted to examine the amount of change in traffic that has occurred in the area of the proposed industrial park. On Friday, November 7, 1997 at 9:40 a.m. a telephone conversation between Thomas E. Butler of Nussbaumer & Clarke, Inc. and Stephen Szopinski of NFTC was held. During the conversation the following traffic counts were discussed as the latest for the subject areas:

- ◆ Route 5 Lakeshore Road between Milestrip Road and Route 75 Camp Road - AADT = 39,500 (1995); and
- ◆ Bayview Road between Route 5 and the railroad tracks - AADT 2,950 (1996)

These counts were compared to counts received from the NYSDOT during the drafting of

the DGEIS and showed a condition of no change for Lakeshore Road and a minor change for Bayview Road in traffic volumes between 1993 and 1995/1996 (the latest counts).

Projected Site-Generated Traffic Volumes and Trip Distribution:

The Traffic Impact Study estimated the amount of traffic to be generated by the proposed industrial park using rates from the "Industrial Park" category in the *Trip Generation, 5th Edition*⁹⁵. These traffic generation estimates were distributed to the surrounding roadways. Separate distributions were prepared for the anticipated traffic at full build-out of each of the three phases, for all vehicles and for heavy trucks only, and for each Scenario (refer to Exhibits 3 through 14 of Appendix A of the Traffic Impact Study, Appendix VI of this the DGEIS).

Next, the existing traffic volumes adjusted for normal growth were added to the distributed anticipated traffic volumes for both the Lake Erie and Ravenwood North Industrial Parks (refer to Exhibits 17 through 22 of Appendix A of the Traffic Impact Study). Additionally, the total anticipated traffic volumes were calculated for the Route 5/Route 179 traffic circle (refer to Exhibits 23 through 26 of Appendix A of the Traffic Impact Study.) Additional assumptions were made in order to arrive at these distributions.

Assumptions for Analyzing Traffic Volumes and Impacts:

The Traffic Impact Study made several assumptions in order to project traffic volumes and analyze the traffic impacts associated with the development of the proposed industrial park on this site. These assumptions are summarized below for ease of reference.

- ◆ Phase I will consist of two buildings with areas of 50,000 and 60,000 gross square feet.
- ◆ Buildings within Phase II and III will occupy approximately 17 percent of the developable area on the site. EMS established developable areas as 71 ± acres for Phases I and II, the north parcel, and 61 ± acres for Phase III. Therefore, the potential building area was established as 415,769 square feet for Phase II and 451,717 square feet for Phase III.⁹⁶

⁹⁵ *Trip Generation: An Information Report*. 1991. Institute of Transportation Engineers, Washington, D.C. 1518 p., plus appendices.

⁹⁶ EMS-TIS, p.21.

- ◆ It was estimated that 10 percent of the peak hour traffic generated by the Lake Erie Industrial Park would consist of light trucks and 5 percent would consist of heavy trucks.
- ◆ All existing traffic using Bayview Road will divert to Big Tree Road, St. Francis Drive Extension, and Route 179 when Bayview Road is closed at the railroad crossings.
- ◆ Light trucks were assumed to have the same distribution to the surrounding highway network system as for the passenger car traffic generated by the industrial park. (These distributions were derived from the distributions in the Traffic Impact Study for the Ravenwood North Industrial Park.⁹⁷ Separate distributions were prepared for heavy trucks (either from the NYS Thruway via Exit 56 at 179 or Exit 57 at Camp Road).
- ◆ It was assumed that full build-out of the Ravenwood North Industrial Park would be complete for each phase of the Route 5 Industrial Park.
- ◆ An annual growth factor of one percent was applied to the existing 1992 traffic to account for the expected normal traffic growth between 1992 and the forecast years of 1997 and 2002, the end of phases for project build-out. This annual growth rate was based on traffic forecasts from the Niagara Frontier Transportation Committee (NFTC) and account for future development outside the study area and related changes in traffic patterns and of the volumes that will pass through the study area ⁹⁸.

5.9.5 Potential Traffic Impacts and Mitigation

Capacity Analysis:

The traffic counts and traffic distributions were used to evaluate the potential impact of the site generated traffic on the existing and proposed highway system. The critical locations for traffic operating conditions are normally at intersections of major streets. The following intersections were included in this analysis:

- ◆ Route 5 at Bayview Road (Phase I only),
- ◆ Route 5 at Proposed Site Road (Phases II and III only),
- ◆ Route 5/Route 179 Traffic Circle,
- ◆ St. Francis Traffic Circle,
- ◆ St. Francis Drive at Camp Road,
- ◆ Route 5 at Old Big Tree Road and Hoover Road,
- ◆ Old Big Tree Road at Lakeshore Road Extension, and
- ◆ Big Tree Road at Proposed Site Road (Phase III only).

⁹⁷ Smith, J.E., P.E. May 1992. *Traffic Impact Study, Ravenwood North Industrial Park* EMS Consulting for the Town of Hamburg Community and Economic Development. 67 p., plus appendices.

⁹⁸ EMS-TIS, p. 22.

Capacity analyses were conducted for each of these intersections to determine the "Level of Service" (LOS) for traffic movements during normal intersection operation. Levels of Service range from 'A' for free flowing traffic to 'F' for complete saturation and excessive delays. LOS's of 'D' or higher are generally considered to be acceptable for the peak hour periods.⁹⁹

An analysis was conducted for each scenario under each of the following four traffic conditions:

- (1) Existing 1992 traffic volumes.
- (2) Projected traffic volumes for the year 1994 consisting of existing traffic, plus Phase I of the Lake Erie Industrial Park, and plus full build-out of the Ravenwood North Industrial Park.
- (3) Projected traffic volumes for the year 1997 consisting of existing traffic, plus normal growth to year 1997, plus Phases I and II of the Lake Erie Industrial Park, and plus full build-out of the Ravenwood North Industrial Park.
- (4) Projected traffic volumes for the year 2002 consisting of existing traffic, plus normal growth to year 2002, plus Phases I, II and III of the Lake Erie Industrial Park, and plus full build-out of the Ravenwood North Industrial Park.

Assumptions for Capacity Analysis:

For the purposes of these capacity analyses, two assumptions were made:

- ◆ Existing roadway geometry and traffic controls were assumed for existing conditions.
- ◆ Optimal signal timing was used in the analysis of signalized intersections.

5.9.6 Intersection Analysis

The analysis of each intersection is discussed in the EMS Traffic Impact Study.¹⁰⁰ Improvements have been identified that would mitigate any substandard Levels of Service which are projected to occur upon full build-out of each phase of the proposed Lake Erie Industrial Park.

⁹⁹ EMS-TIS, p. 25.

¹⁰⁰ EMS-TIS, Appendix II, p. 26 - 43.

The EMS traffic study also included an examination of accident records which suggested that several intersections in the study area may presently have accident problems (St. Francis Traffic Circle, St. Francis at Old Big Tree Road, Camp Road at St. Francis Drive, and Route 5 at Bayview Road) and made the recommendations ¹⁰¹ to rectify and/or reduce the incidence of accidents.

Route 5 and East Leg of Bayview Road

Phase I: A capacity and safety analysis of the intersection suggests that closure of Bayview Road at the Railroad tracks would result in significantly better conditions at this intersection; therefore the Traffic Impact Study indicates that it "appears best ... to close Bayview at the railroad tracks prior to the completion of Phase I of development." ¹⁰²

Route 5 and West Leg of Bayview Road

All Phases: It appears that the western connection of Bayview Road to Route 5 could remain; "the volume using the west leg of Bayview Road is extremely low and no capacity problems are likely to occur if the west leg remains open." ¹⁰³ However, although EMS noted that there was not a significant difference from a capacity standpoint, it was suggested that the consolidation of the Hoover Road intersection with the site road and the elimination of the Bayview Road intersection will provide safety benefits (possibly to the trucks related to Snyder Tank Company and especially if a traffic signal is installed at the site road) due to the reduction of the number of intersections from three to one. ¹⁰⁴

Route 5 at Proposed Internal Site Road

The construction of this intersection is proposed for Phase II of the development of the Lake Erie Industrial Park. Since the New York State Department of Transportation has controlled access along the east right-of-way boundary of Route 5 where the construction of this new intersection is proposed, permission to break this controlled access is necessary from the NYSDOT and the Federal Highway Administration. The process of obtaining permission to

¹⁰¹ EMS-TIS, p.58.

¹⁰² EMS-TIS, p.50.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*, p.53.

break access will be initiated by the project sponsor when the decision is made regarding the position of the curb cut for the proposed road.

Phase II: EMS recommends that the site road and the Hoover Road connector (if constructed) should each have a two lane approach to the intersection and that an exclusive left turn be added on the southbound Route 5 approach to the industrial park; the existing Route 5 median provides sufficient width. Additionally, if the Hoover Road connector is constructed, the addition of an exclusive left turn lane on the northbound Route 5 is recommended by EMS.

Phases II and III: A traffic signal warrant analysis indicated that the projected traffic volume would meet Warrant #2 after the completion of Phase II. However, after the completion of Phase III, the volumes would still not meet Traffic Volume Warrant #1. Therefore, EMS recommended "that signalization be deferred until the actual volumes and conditions show a convincing need for a traffic signal." ¹⁰⁵ However, the study included the improvement needs indicated by a signalized capacity analysis assuming (1) a three way intersection with no Hoover Road connector, and (2) assuming a new Hoover Road connector aligned opposite the site road. EMS concluded that there "does not appear to be any compelling advantages or disadvantages of aligning a new Hoover Road connector opposite the proposed site road." ¹⁰⁶

Preferred Alternative/Recommendation That the existing configuration of intersections on the western portion of Route 5 remain in place and that their "consolidation" as a result of the construction of the Hoover Road connector be considered only if the State DOT determines that a signal is warranted at the Route 5 and proposed site road.

Route 5/Route 179 Traffic Circle

Observation of traffic conditions in this traffic circle by EMS indicated that there is sufficient capacity to handle existing peak hour volumes. However, from the analysis EMS observed that it appeared that the circle operation "could be overburdened by the time the Lake Erie and Ravenwood North Industrial Parks are fully developed." ¹⁰⁷ The primary concern about this traffic circle is not capacity, rather EMS is concerned about safety. As a result, the report

¹⁰⁵ *Ibid.*, p.51.

¹⁰⁶ *Ibid.*, p.52 - 53.

¹⁰⁷ *Ibid.*, p. 54.

recommends that consideration be given to "eventually replacing the traffic circle with a more conventional interchange." ¹⁰⁸

St. Francis Traffic Circle

It is expected that the NYSDOT will eliminate the traffic circle sometime during the construction of Phase III of the Lake Erie Industrial Park. Based on NYSDOTs current schedule for this project, construction of the new intersection is planned late in 1999.

St. Francis Drive at "Old Big Tree Road"

Phase I and II: The analysis of the intersection of St. Francis Drive and Big Tree indicated LOS of 'B' after Phase I and II of the industrial park development.

Phase III: The LOS of 'B' would also remain after full park development (Phase III) if "New Big Tree Road" is retained. However, the EMS analysis indicated that LOS deficiencies would occur after Phase III if "New Big Tree Road" is closed. Therefore, EMS noted that it appears better to retain New Big Tree Road than to eliminate it, but that retention "may result in the need for a traffic signal at the present location of the traffic circle at St. Francis Drive and Lakeshore Road Extension." ¹⁰⁹

Preferred Alternative/Recommendation That the existing configuration which includes the intersection of St. Francis Drive and Old Big Tree Road be retained; this preferred alternative is referred to as "keeping Old Big Tree Road open" in the EMS traffic study.

St. Francis Drive at Camp Road

Phases I and II: No level of service deficiencies were noted at the intersection of St. Francis Drive and Camp Road at these stages of development.

Phase III: After full development, the completion of Phase III, EMS determined that the addition of a second turn lane on the westbound Camp Road approach would be necessary to provide sufficient capacity.

¹⁰⁸ *Ibid.*, p. 54.

¹⁰⁹ *Ibid.*, p. 56.

Route 5 at Old Big Tree Road and Hoover Road

All Phases: No LOS deficiencies were noted at this intersection for any of the Phases or scenarios analyzed by EMS.

Old Big Tree Road at Lakeshore Road Extension

All Phases: The traffic capacity analysis for this intersection indicated LOS of 'A' for all movements and scenarios analyzed. However, EMS noted that this analysis did not account for the traffic conflicts and queuing which sometimes extends through this intersection and results from the close proximity to the signalized intersection of Route 5 at Old Big Tree Road and Hoover Road.¹¹⁰ According to EMS, the NYSDOT plans to reconfigure the intersection of Old Big Tree Road and Lakeshore Road Extension to eliminate this problem.

Big Tree Road at Proposed Site Road

Phase III: The site road to serve development of the southern parcel of the Lake Erie Industrial Park is proposed as extending from Bayview Road at the north to Big Tree Road at the south. The projected traffic volumes exiting the proposed industrial park were calculated to be insufficient to meet the volume warrants for signal installation. Additionally EMS stated: "There are no existing sight deficiencies nor are any anticipated after completion" of the Lake Erie Industrial Park.¹¹¹

Recommendations: That the proposed site road approach should have separate lanes for left and right turns and that traffic be controlled by a stop sign. However, EMS also recommends that traffic volumes and conditions should be checked after the development of the industrial park is complete.

5.9.7 Recommendations

The following summarizes the transportation related mitigative measures. These measures will reduce any effects on adjacent traffic resulting from development of the entire 140 acre parcel known as the Lake Erie Industrial Park.

¹¹⁰ *Ibid.*, p. 57.

¹¹¹ *Ibid.*, p. 58.

Proposed Access Road:

- The access road's approach to NY Route 5 would consist of two exit lanes and one entrance lane.
- The access road's approach to Big Tree Road would consist of two exit lanes and one entrance lane.
- Driveway access for the trucking firm to the extended internal road will be permitted if driveway access for the trucking firm is not incorporated in NYSDOT's approved alternative.

NY Route 5:

- Northbound right turn lane on NY Route 5 is provided at the new T-intersection with the access road.
- Northbound and southbound left turn storage lanes on NY Route 5 are provided at the new T-intersection with the access road.

Big Tree Road:

- Eastbound left turn storage lane on Big Tree Road is provided at the new T-intersection with the access road.

Bayview Road:

- Existing Bayview Road would be cul-de-saced immediately east of the intersection with St. Francis Drive Extension.
- Existing Bayview Road would be cul-de-saced immediately west of the intersection with NY Route 5.

- Existing Bayview Road between NY Route 5 and St. Francis Drive Extension would be removed.
- Bayview Road at the Rail Road crossing is cul-de-saced east and west of the tracks.

Hoover Road:

- Construct a connection between Hoover Road and NY Route 5 to convert the T-intersection into a 4-legged intersection.
- Hoover Road at the current connection with NY Route 5 is posted as a one-way entrance only.

Mitigation identified for Hoover Road and Bayview Road, west of NY Route 5, must be initiated with the cooperation of the Town of Hamburg and the State of New York. The new Hoover Road connector, one-way entrance of Hoover Road at NY Route 5, and the Bayview Road cul-de-sac west of NY Route 5, will be considered when a traffic signal is warranted at the new intersection of NY Route 5 with the proposed site road. Right-of-way takings outside the 140 acre parcel must be accomplished by the municipality. Various funding availability should be explored for the cost of the work west of NY Route 5 when the work under Phase IIB is to begin.

Finally, a formal petition to break access control on NY Route 5 north of Bayview Road may be necessary prior to beginning Phase II. The formal petition process should commence upon approval of the Phase IIA site plans.

5.10 COASTAL ZONE CONSISTENCY

In New York State, actions occurring within the boundaries of an approved LWRP must be consistent to the maximum extent practicable with the policies and purposes of that LWRP. This requirement means that a proposed project will not substantially hinder the achievement of any of the policies and purposes and, whenever practicable, will advance one or more of such policies. This section is also structured in accordance with the Town's Environmental Quality Review Law Revisions, Appendix B of the Town of Hamburg's LWRP, that require the following:

"When the EIS is prepared for a proposed action located within the LWA, it must also contain an identification of the applicable policies and purposes of the Town of Hamburg LWRP and a discussion of the effects of the proposed action on such policies and purposes." ¹¹²

The State of New York through the Department of State's regulations ¹¹³ has adopted a number of coastal policies to implement the provisions of the New York State Waterfront Revitalization and Coastal Resources Act of 1981. ¹¹⁴ The purpose of this legislation is "to insure the proper balance between natural resources and the need to accommodate the needs of population growth and economic development." ¹¹⁵ In accordance with this law, New York State local communities have been encouraged to prepare their own Local Waterfront Revitalization Programs (LWRPs) to determine their own waterfront objectives and adapt statewide approaches, both policies and programs, to their local circumstances and needs.

The Town of Hamburg has prepared such a LWRP in cooperation with the Erie County Department of Environment and Planning and the New York Department of State with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972 as amended. Following the adoption by the Town Board on March 24, 1987, the Final LWRP was forwarded to the New York State Secretary of State for review under the provisions of the New York State Waterfront Revitalization and Coastal Resources Act. The Hamburg LWRP was approved by NYS Secretary of State Gail S. Shaffer on June 3, 1989, and the U.S. Office of Ocean and Coastal Resource management concurred on February 13, 1990.

After reviewing the New York State regulatory programs, as well as the Town of Hamburg's LWRP, this project appears consistent with the policies outlined. For a draft assessment and consistency statement, refer to Appendix III II of the DGEIS for further details.

¹¹² Town of Hamburg, Local Waterfront Revitalization Program (LWRP): Appendix B.

¹¹³ 19 N.Y.C.R.R. Part 600.

¹¹⁴ Exec. L. § 910 - 921.

¹¹⁵ Exec. L. § 910.

SECTION 6 ALTERNATIVES

The State Environmental Quality Review Act has clearly established the requirement that an EIS requires a discussion of alternatives.¹¹⁶ The implementing regulations contain the requirement¹¹⁷ that the draft EIS shall include a description and evaluation of the range of reasonable alternatives to the action which are feasible, considering the objectives and capabilities of the project sponsor. The paragraph continues to explain that the range of alternatives discussed must include the no-action alternative, and that the description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. Of the types of alternatives that might be appropriate for discussion¹¹⁸, the following have been selected as appropriate for this the GEIS: scale or magnitude, and design. This The discussion of alternatives in an EIS is the DGEIS was provided in order to assist the involved agencies in selecting alternatives and/or approving a project that minimize or avoid adverse environmental effects. Without an evaluation of alternatives, it would be difficult if not impossible for these agencies to make the necessary affirmative findings that from among the reasonable alternatives, the action approved minimizes or avoids adverse environmental effects.

6.1 NO ACTION ALTERNATIVES

The exact meaning of "no action" in the context of the required alternative for discussion is an "unresolved controversy."¹¹⁹ One theory holds that "no action" means "no build." The other idea is that "no action" means "as-of-right" or the amount and type of development permitted by the existing zoning classification without variances. Because the law is unsettled on the question both the no action and the as-of-right alternatives will be addressed.

¹¹⁶ E.C.L. § 8-0109(4).

¹¹⁷ 6 N.Y.C.R.R. § 617.14(f)(5).

¹¹⁸ *Id.*, § 617.14 (f)(5)(I - vii).

¹¹⁹ *Id.*, § 617.14(f)(5).

6.1.1 No Build Alternative

The no build alternative would allow the site to remain as it exists today. The area would remain undeveloped and unattended. Illegal uses of the site (i.e., dumping and shooting) would in all likelihood continue. No jobs would be created and no tax base would be created.

From an environmental standpoint, there are many other areas in the Town of Hamburg which contain similar ecosystems as found on the project site. Therefore, the development of this project site will not be a loss of a significant or unique habitat nor would it create a significant loss to the community. However, a considerable impact of the no build or no development alternative is the anticipated continued clean up cost of illegal dumping clean up; one concern is that any continuing and substantial dumping problem might involve hazardous waste at some time in the future.

6.1.2 As-of-Right Alternative

Development of the industrial park site in accordance with the existing zoning classifications of the site without variances or additional restrictions is considered the as-of-right alternative. As previously noted, the entire site is zoned M-3 general industrial district.

Zoning ordinances regulate three aspects of how land may be used: the use, the intensity of use (or density), and the siting (or location) of the development on each parcel. A review of the current allowable uses clearly indicates that many of the concerns and issues raised with respect to this project would not be addressed with the development of the lots under the "M-3" zoning district regulations. The uses, set backs, and lot coverage proposed in the deed restrictions (defined in the "Restriction and Standards" refer to Appendix III of the DGEIS) are more restrictive than the as-of-right alternative and eliminate many concerns.

6.2 ALTERNATIVE MAGNITUDE

According to the NYSDEC SEQR Handbook, the alternative with respect to magnitude involves the examination of an alternative size or scale of project which may be reasonable if an alternative meets the minimum functional size of the project.

6.2.1 Maximum Yield Alternative:

As the former owner, the Bethlehem Steel Corporation retained a consultant to conceptually plan an industrial park that would fully utilize the property. The Security Pacific Financial Services Realty Advisory Group of New York City envisioned an industrial park on the property with two loop roads accessing both the north and south property from Bayview Road. Lots were configured on the inside and outside of the loops with an average size of four (4) acres on the north parcel and three (3) on the south parcel (see Exhibit 23).

This development plan appears to be the most intensive development scheme possible on the property. When considering the as-of-right development options allowed under the Town of Hamburg's M-3 Zoning Classification (see Appendix III of the DGEIS illustrating the restrictive covenants make the proposed development less objectionable than as-of-right development), an industrial park devoid of natural features could be anticipated using this plan.

6.2.2 Restricted Land Use Alternative

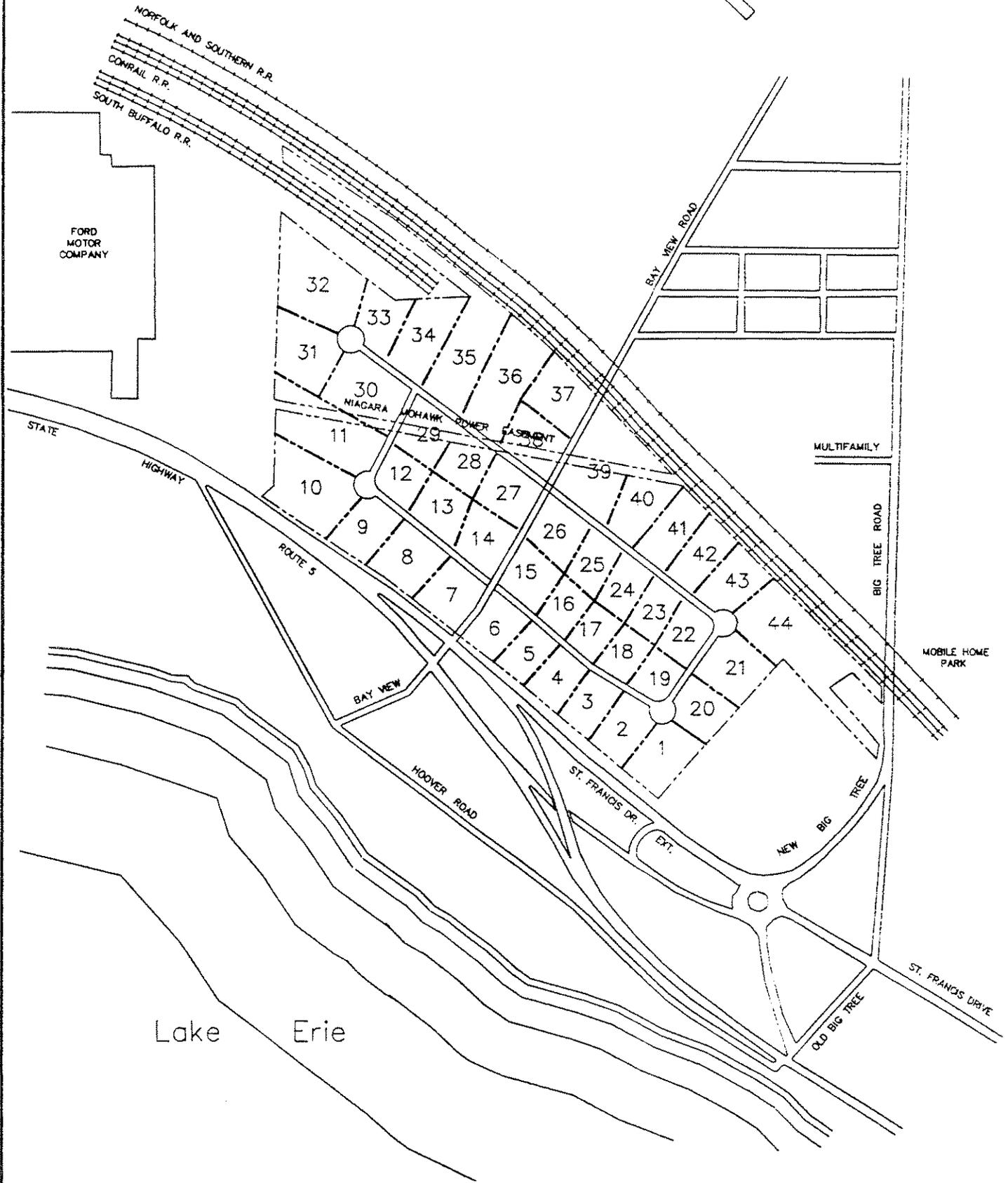
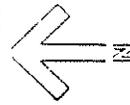
The developer of the proposed industrial park is imposing land use restrictions and standards on developments within the park to establish a general overall plan for improvements within the park. This overall plan is intended to benefit land owners, and tenants within the park as well as the Town of Hamburg.

The developer is envisioning lots of approximately 10 ± acres each in size with curvilinear road alignments blending natural site features into the park layout. Natural site topography and vegetation will be utilized in buffering the park to and from residential areas located to the east and south of the project area. Several conceptual plans have been considered by the developer that would satisfy their intent of creating a high quality industrial park (refer to Exhibits 24 A & B).

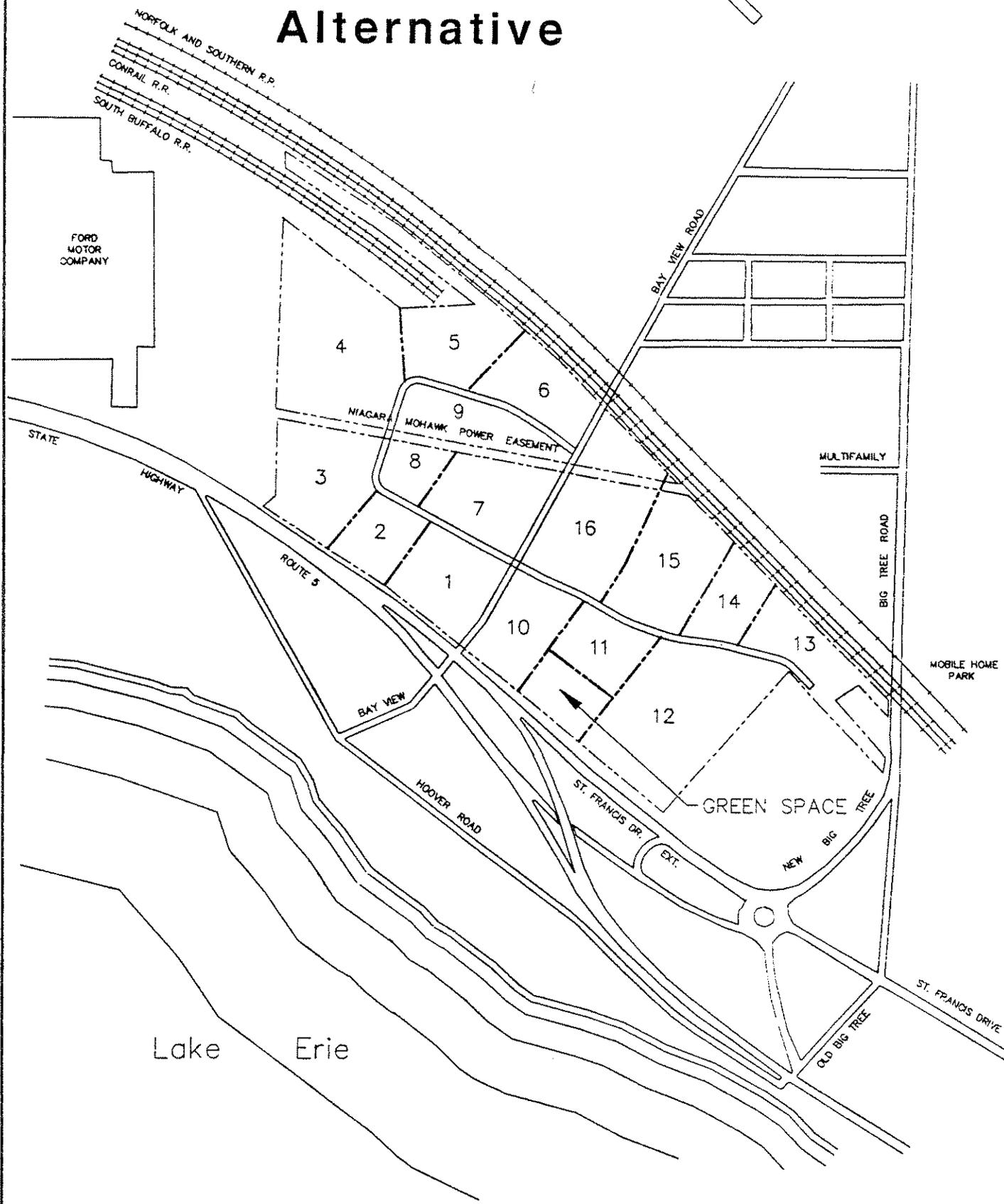
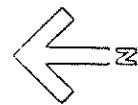
6.3 DESIGN ALTERNATIVES

Alternative designs and site configurations are appropriate considerations. Over the last three years, various site configurations have been considered by the developers. Specific details indicating final design plans are not necessary given that this document is an FGEIS and that development of the site will be based upon market demands and the specific parcel sizes required to accommodate those developments.

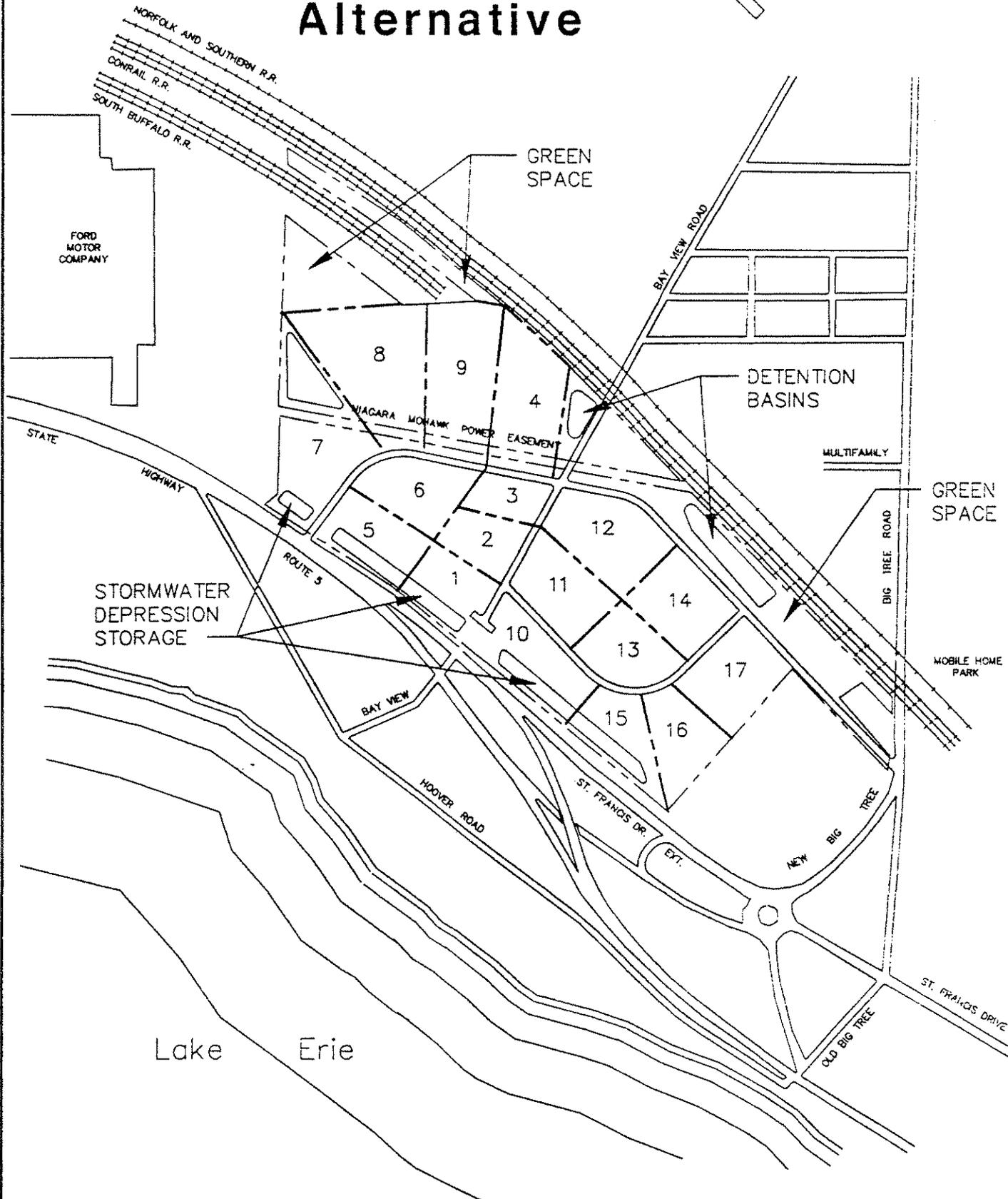
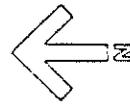
Maximum Yield Alternative



Restricted Land Use Alternative



Restricted Land Use Alternative



6.4 ALTERNATIVE LAND USES

In this case, the consideration of alternative land uses does not appear to be within the range of reasonable alternatives given the common objectives of the developer and the Town to encourage industrial development on this site. The Town has recognized the limitations of the parcel for alternative land uses and has consistently zoned the area for industrial development. Limitations for residential uses include adjacent railroads, and traffic concerns. Commercial development would not be optimal due to the location and traffic concerns as well as the lack of demand for creating commercial zoning in this area of Town.

SECTION 7 DESCRIPTION OF MITIGATION MEASURES

The mitigation measures proposed in various portions of Section 5, Environmental Setting, Potential Impacts, and Significant Environmental Concerns, are consolidated in this section for easy reference and review. One of the key requirements imposed by SEQR is that agencies insure that adverse environmental impacts are minimized or avoided. Draft EISs should propose mitigation measures. The lead agency is then responsible for the decision, subject to the rule of reason, of which mitigation measures should be incorporated into the FEIS.

7.1 EROSION AND SEDIMENT CONTROL PLANS

As a result of the Federal Regulations published on November 16, 1990, the clearing, grading and excavation activities associated with the development of the Lake Erie Industrial Park will require a storm water discharge permit.

In New York State, the Department of Environmental Conservation has an EPA Approved Program for issuing permits in accordance with the Federal Storm Water Regulations. This program includes two general permits for storm water discharges associated with "industrial activities". One of these permits, General Permit GP-93-06, covers storm water discharges associated with construction activities.

To comply with the Federal Storm Water Regulations for construction activities, the operator must:

1. Submit a **Notice of Intent (NOI)** at least two (2) days prior to starting construction.
2. Prepare and implement a storm water pollution prevention plan. This plan must be kept on-site for review and a copy submitted to the Town of Hamburg.
3. Submit a Notice of Termination (NOT) when construction is complete.

The use of the Storm Water Pollution Prevention Plan will mitigate both potential construction related impacts as well as long term water quality effects by use of sediment and erosion control during construction and storm water management facilities after development.

7.1.1 Erosion and Topsoil Loss

Erosion and sediment control plans will ensure that construction sites are re-vegetated as soon as possible and that soil loss is limited.

7.1.2 Limitation of Sedimentation

Erosion and sediment control plans will be required for all site development within this industrial park to ensure that during construction activities adverse effects on drainage ditches and Foster Brook tributaries will be limited.

7.2 STORM WATER MANAGEMENT

All site development will include storm water management facilities which will be designed and constructed in accordance with NYSDEC's Storm Water Management Guidelines. (Refer to NYSDEC's General Permit for Storm Water Discharges from construction activities, Appendices D, E and F.)

7.2.1 Design of Facilities

Facilities shall be designed in accordance with the following:

- ◆ Post-development runoff from the corporate park development shall allow no increase in flow to occur at existing NYSDOT drainage structures; the criteria for no increase in flow shall be the peak flows of 10, 25 and 50 year design storms.
- ◆ Post-development runoff from the corporate park site shall not exceed the NYSDOT 50 year design criterion at the existing NYSDOT drainage structure.
- ◆ In accordance with existing Town of Hamburg storm water management policy, design for storm water management facilities will limit 25 year storm post-development runoff from the industrial park to volume equal to that of a 10-year storm for the park area in a pre-development condition.

7.2.2 Maintenance of Storm Water Quality

The quality of the storm water will be considered during the development of site specific drainage linkages into the existing storm water management system. (Examples of management systems include: infiltration of runoff on-site in buffer areas and vegetated depressions; retention

areas; and adjunct measures such as open vegetated swales, vegetated buffer zones, or filter strips, and water quality inlets.)

7.3 VEGETATIVE BUFFERS AND LANDSCAPING

7.3.1 Development of a Landscaping Scheme

A landscaping scheme will be developed for the industrial park. The concept includes: a natural vegetative buffer which will be preserved along the westerly property line within the existing forested area; a buffer (with natural vegetation) to the adjacent rail lines; the inclusion of clusters and lineal groups of existing mature trees in overall site design and parcel development where practicable; vegetated and landscaped central drainage basin areas; and, on each lot, landscaping which will include the planting of trees and shrubs in accordance with the Restrictive Covenants (currently being developed by The Developer) and vegetative islands within impervious parking pavement areas.

7.3.2 Limitation on Plantings

Due to the presence of a small deer population on site, this landscaping scheme will give consideration to deer browsing preferences (i.e. new young plantings in buffer areas may be a browsing target and unable to provide the intended screening effect.) Finally, where new vegetation is to be introduced in the buffer areas adjacent to developed land, the species that are likely to be invasive and to establish themselves on adjacent property will be avoided.

7.4 SITE OR PLOT PLAN REVIEW

Plot plans for all sites within "Lake Erie Industrial Park" will be submitted for the proposed facility development when submitted to the Town Planning Board for approval.

7.4.1 Wastewater/Sewage

The required Industrial Waste Survey/Discharge Permit Application from the Erie County Southtowns Sewage Treatment Agency for each facility will clearly indicate the anticipated number of employees and anticipated wastewater production rates (including both domestic and processed water flows, ADF and PDF) and provide detailed information and computations to substantiate these flow estimates. The quality of wastewater will also be thoroughly documented and the presence of toxic and/or inorganic substances should be clearly stated. These surveys/applications will also address anticipated concentrations of nutrients (i.e. phosphorous and nitrogen). Compliance with all provisions of the Town and County of Erie sewer use and/or

industrial pretreatment ordinances will be considered in the facility design and detailed in the survey/application. The survey/application will provide information to the Town and County during the application process to enable informed decisions to be made which will allow the minimization of impacts at the Southtowns Wastewater Treatment Facility as well as within the collection system.

7.5 TRANSPORTATION IMPROVEMENTS

Recommendations with respect to transportation improvements at the Bayview Road entrance, Route 5, and future Big Tree Road connection have been made in the Traffic Impact Study by EMS Consulting (see Appendix VI of the DGEIS). The industrial park access roadways encompass several potential development scenarios. The final roadway configuration(s) will be decided as engineering details advance on road alignments and facility requirements become known.

7.6 AESTHETIC CONSIDERATIONS

7.6.1 Restrictive Covenants

The Zaepfel-Krog Corporation has developed Restrictive Covenants which will place controls on items such as: junk storage, incompatible land uses, building construction materials, signs, the location of parking and loading docks, property maintenance responsibilities, and landscaping requirements.

7.6.2 Signs

Industrial park and individual facility signs will follow the regulations outlined in the Town of Hamburg's Zoning Ordinance, Article XXIV, Section 29-143 through 147, as well as those outlined in the Restrictive Covenants in Appendix III of the DGEIS.

SECTION 8
GROWTH INDUCING ASPECTS

The potential development associated with the proposed industrial park has been considered in this document as envisioned by the project sponsors and the HIDA. The major "growth inducement" related to this project will be related to the increase in job opportunities. No population redistribution is anticipated as a result of this project.

SECTION 9
UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS
& COMMITMENT OF RESOURCES

9.1 ANTICIPATED UNAVOIDABLE ADVERSE EFFECTS

The following adverse environmental effects are expected to be the result of full build-out of the proposed industrial park project. These effects are those which cannot be avoided or adequately mitigated if the proposed action is implemented. Construction of individual lots will, upon completion, result in :

- ◆ topographic and drainage modifications required for development of each parcel may result in some short-term soil loss, erosion, and increased sediments levels in the drainage ditches tributary to nearby Foster Creek;
- ◆ some of the existing vegetation will be removed to allow for infrastructure and individual lot development;
- ◆ there will be a relatively small increase in the level of traffic (automobiles and trucks) associated with the new facilities located in the park, as well on the commuting routes; and
- ◆ noise and air emissions associated with the additional traffic will increase slightly.

9.2 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

Energy

The scope of the project will involve irreversible effects on energy resources since the facilities within the park will consume non-renewable energy resources.

Vegetation and Habitat Loss

The development of the project area will inevitably encompass the loss of some of the natural vegetation and/or wildlife habitat loss. However, the plants and animals that now inhabit the site have adapted to the surrounding subdivision and industrial development pressures over the years, and will be able to continue utilize those areas left vegetated for food and shelter.