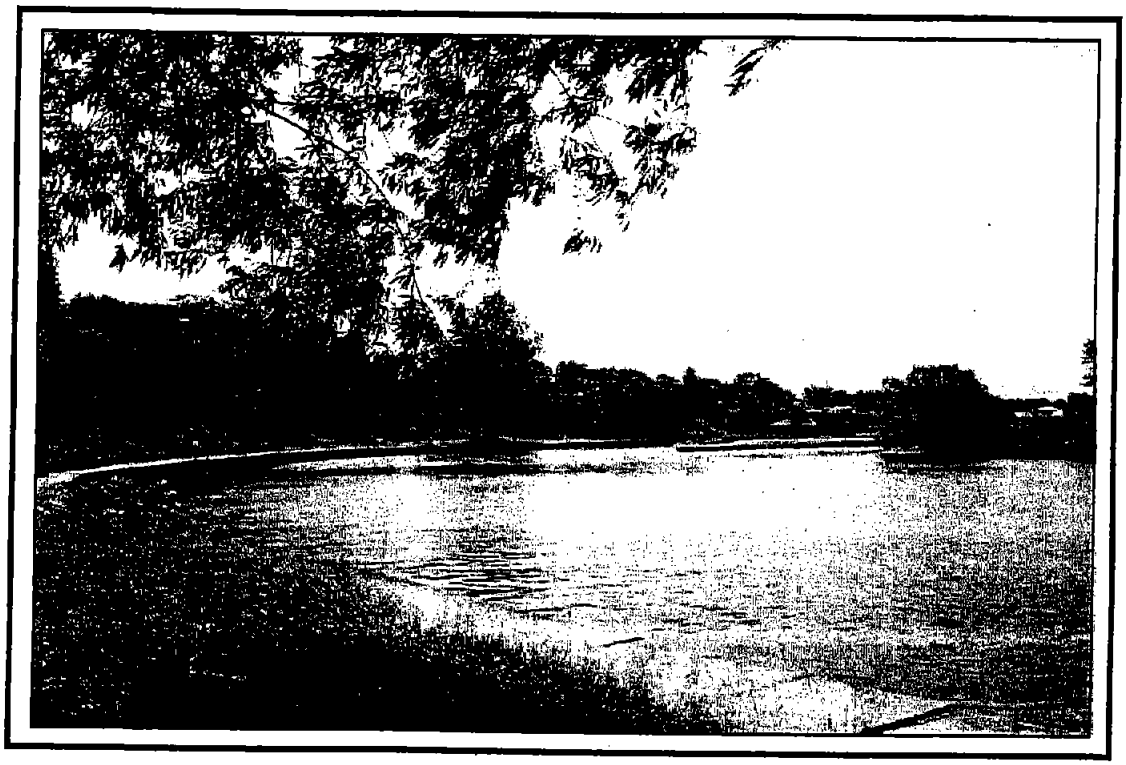
The City of Ogdensburg Local Waterfront Revitalization and Harbor Management Plan

Prepared by:

The Ogdensburg LWRP/HMP Steering Committee
The LA Group, P.C.



January 2000

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SECTION I: WATERFRONT REVITALIZATION AREA BOUNDARY

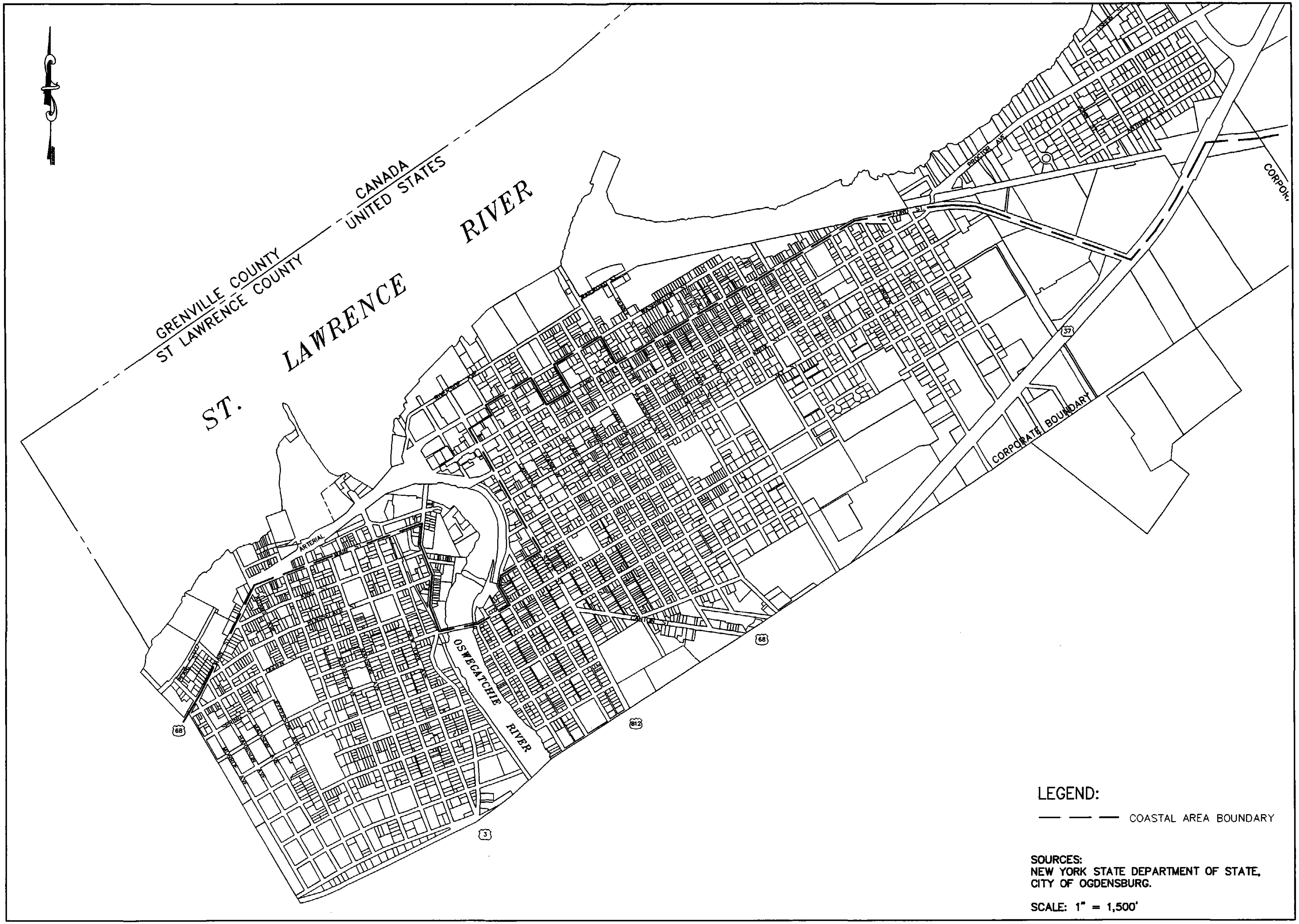
New York State's Coastal Management Program established statewide coastal boundaries in accordance with the requirements of the Coastal Zone Management Act of 1972, as amended. The Ogdensburg coastal boundary generally follows the linear east-west geographic pattern of the City.

The approved landward boundary of the City's coastal area is shown on Figures 1a and 1b, and is described below.

Continue easterly from the Ogdensburg City limits on Main Street to Lake Street; thence south on Lake Street to Spring Street; thence east on Spring Street across the Oswegatchie River to Lafayette Street; thence east on Lafayette Street to Congress Street; thence north on Congress Street to Montgomery Street; thence east on Montgomery Street to State Street; north on State Street to the rear property line of the Remington Art Museum (at 303 and 311 Washington Street); thence easterly along the rear property lines of the Remington Art Museum (303 and 311 Washington Street) to Caroline Street; thence northerly on Caroline Street to Washington Street; thence east on Washington Street to Elizabeth Street; south on Elizabeth Street to Ford Street; thence easterly on Ford Street to Morris Street; thence north on Morris Street to Washington Street; thence east on Washington Street to Paterson Street; thence south on Paterson Street to Ford Street; thence easterly on Ford Street to NY Route 37, and northeasterly on NY 37 to OBPA Railroad and the Ogdensburg City limits.

WATERSIDE BOUNDARY

Beginning at the western intersection of the landward boundary at the Ogdensburg corporate limits extending northerly over the St. Lawrence River to the U.S. Canadian boundary; thence northeasterly along said boundary to the easternmost point of the Ogdensburg corporate limits; thence southerly following the corporate line to the easternmost landward boundary at Tibbits Creek.



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COASTAL AREA BOUNDARY MAP

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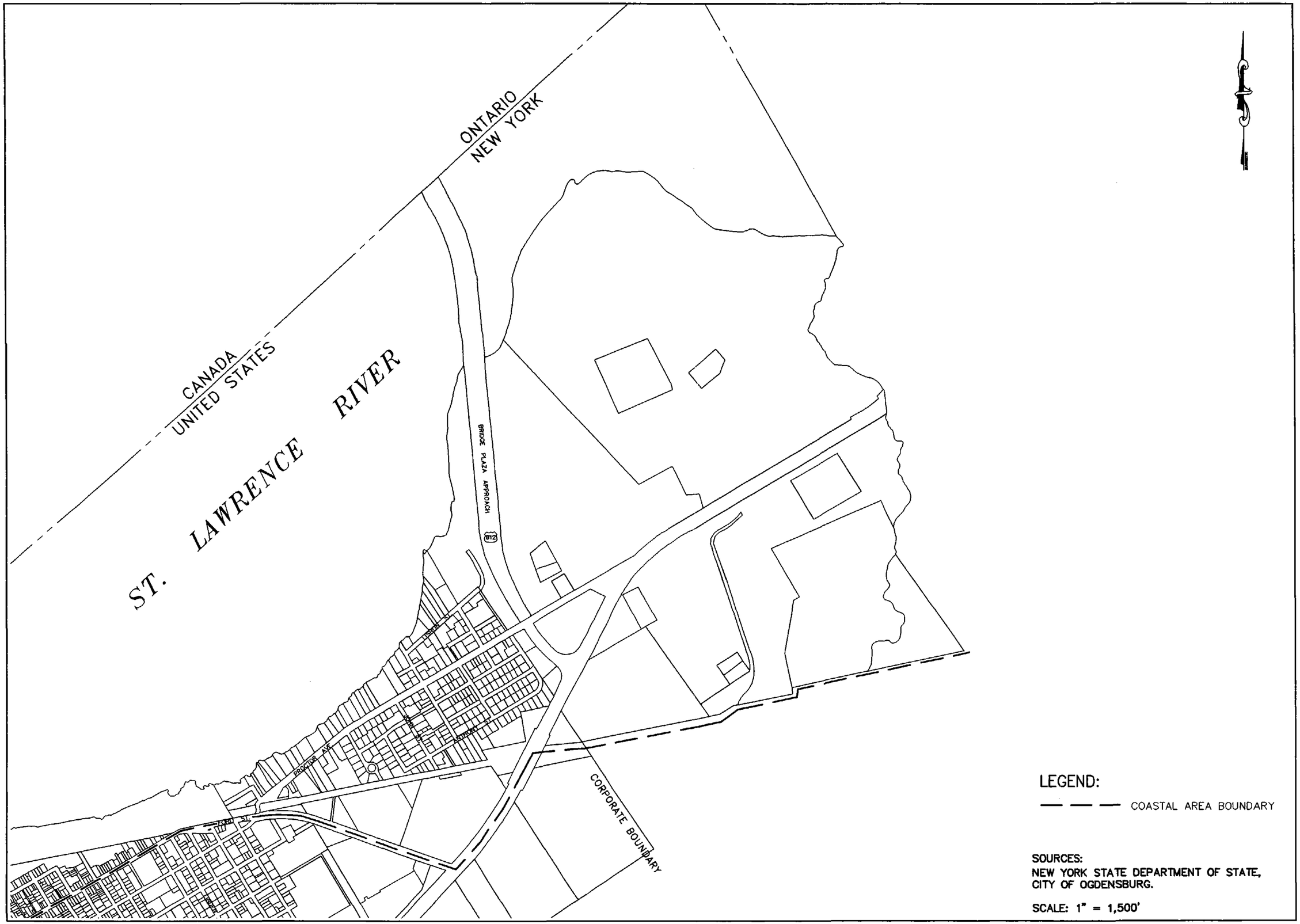

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SECTION II: INVENTORY AND ANALYSIS

This section provides an informational base for determining applicable state and local coastal policies in Section Three and designating appropriate land and water uses and projects in Section Four. Presented herein are brief descriptions of the coastal resources, existing land and water uses, and important economic activities of the Ogdensburg waterfront and harbor areas.

PREPARATION OF A LOCAL WATERFRONT AND HARBOR INVENTORY

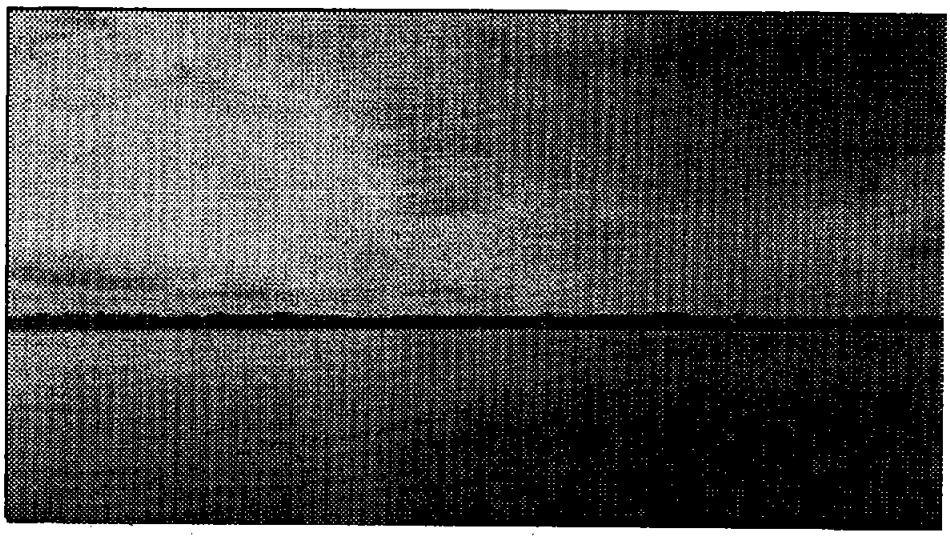
This inventory is an update of the inventory prepared for the City of Ogdensburg's 1986 Local Water Revitalization Plan (LWRP). The 1986 inventory was based on the review of NYS Coastal Atlas maps in conjunction with aerial photographs, tax maps, field surveys and numerous publications containing mapped and textual data concerning the City of Ogdensburg, its environs and, in particular, its waterfront. Pertinent information gathered from these sources was summarized under four topics: natural resources, community/cultural resources, current land and water uses, and important economic activities. The topic of Significant Coastal Resources and Conditions summarizes the section's highlights. This inventory also incorporates harbor-related information to be used as an informational base for the development of the Harbor Management Plan, incorporated in this document. The City's Harbor Management Law is provided in Appendix H of this document.

NATURAL RESOURCES

A. Water Resources

Existing Conditions

The surface waters of the St. Lawrence and Oswegatchie Rivers are Ogdensburg's most significant water resources. While the former provided a navigable route for early exploration and trade in the region, the latter offered, at its mouth, an attractive site for fortification and settlement. Tibbits Creek is the only other watercourse within the waterfront boundary area. It drains a large area of low-lying lands in the eastern and southern parts of Ogdensburg. It empties into the St. Lawrence River along the City's easternmost shoreline. Refer to Figures 2a and 2b.



A view of the St. Lawrence from the City of Ogdensburg.

From the early 1800's, growth of the City of Ogdensburg paralleled the growth of shipping through the St. Lawrence Valley until the St. Lawrence Seaway project was completed in 1959. Today, the Ogdensburg Bridge and Port Authority (OBPA) shipping terminal and other facilities provide a major basis for economic activity in the City and the region.

National Oceanic and Atmospheric Administration navigational charts (1990) for the Oswegatchie and St. Lawrence Rivers record depths of between 16 and 19 feet at the mouth of the Oswegatchie. The identified shipping lane in the St. Lawrence River has depths ranging from 21 to 79 feet. The most recent OBPA information records the depth of the port area at 27 feet.

The St. Lawrence River is also important to the City as a water supply. Its waters are designated as Class "A" by the NYS Department of Environmental Conservation. Class "A" waters are considered suitable for drinking and food processing if proper treatment is applied. From the area just west of the vacant former Diamond International site to the tip of the former car ferry pier on Lighthouse Point, the St. Lawrence River is classified as Class "C". The Oswegatchie River is designated as Class "B". The classes for the St. Lawrence and Oswegatchie Rivers were upgraded in the early 1980s to reflect improved water quality and enhanced capability to support a fishery resource. Tibbits Creek is classified as Class "D". See Footnote 1 at the end of the Inventory for a description of these water quality classifications.

SOURCES:
CITY OF OGDENSBURG, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION CHARTS 14763 (1983) & 14764 (1983).

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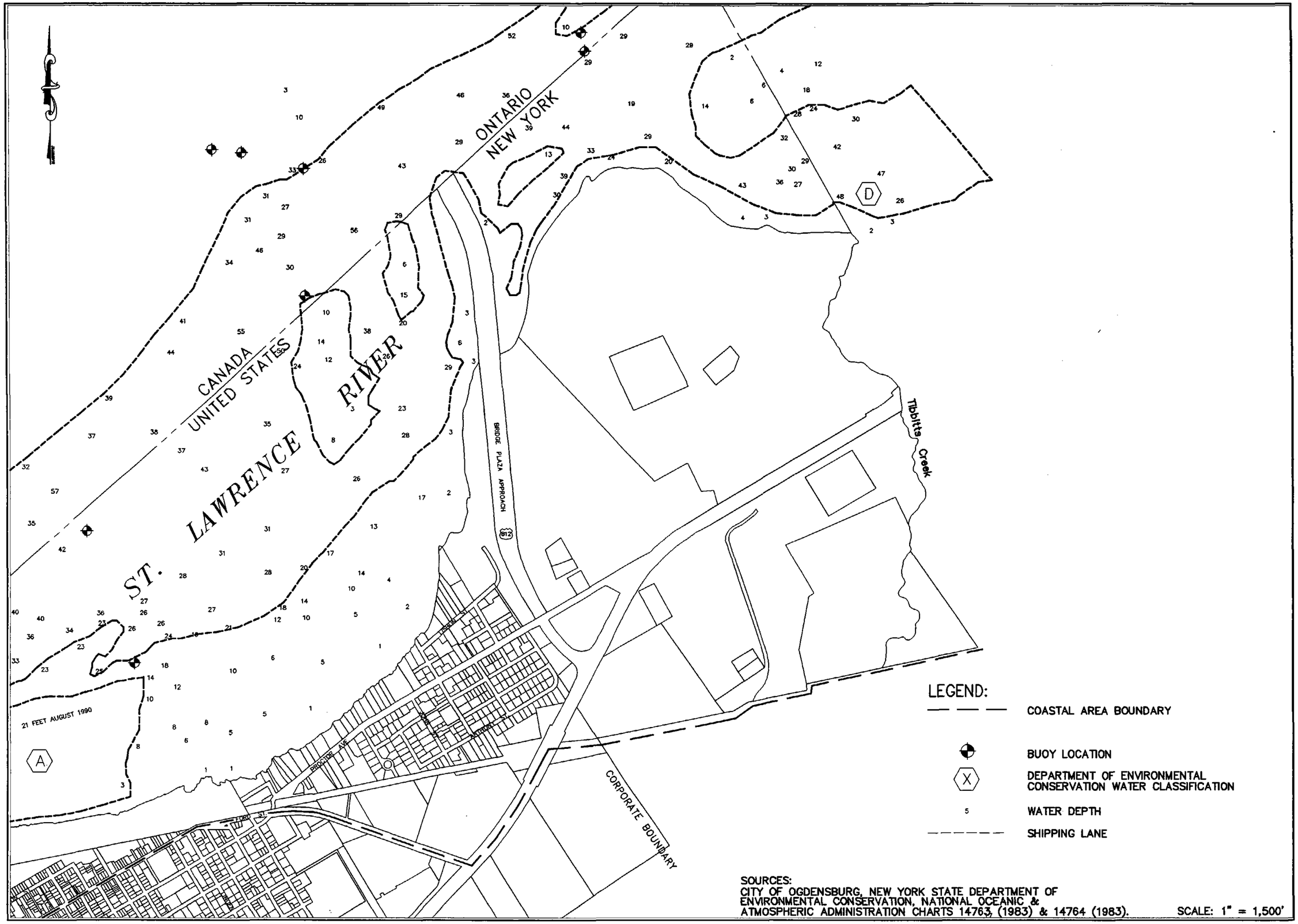

SOURCES:
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Ogdensburg's two principal water bodies contain state- and locally-designated significant habitats, scenic vistas and recreational values. The St. Lawrence River is foremost in giving the City its coastal setting and in supporting fishing and boating activities. Sport fishermen from the area and from elsewhere in New York State and Canada are attracted to the lower Oswegatchie and the Ogdensburg stretch of the St. Lawrence River for small-mouth bass, walleye, northern pike and muskellunge. Shore fishing is popular at various points along the shoreline, including the municipal docks. Three private marinas and one public marina accommodate approximately 260 watercraft, which use the two rivers.

The Oswegatchie River provides hydroelectric power generation at the site of the Ogdensburg dam. Trafalgar Power, Inc. has a lease agreement with the City for rights to the power generated. Power is currently sold to Niagara Mohawk.

The two rivers justify and support a variety of uses ranging from recreational to commercial to industrial. These uses often overlap. An example of this is the private marinas which are both recreational and commercial. These water-dependent uses are described in detail in this inventory section.

Analysis

Ogdensburg's water resources are unquestionably one of its most important assets and provide the basis for the City's very existence and its continued economic growth. In the past ten to twenty years, several waterfront industrial uses closed and were sold or abandoned. These properties present unique and significant opportunities for the City. In essence, the properties provide the City of Ogdensburg with the opportunity to reshape a significant portion of its waterfront and redefine its character. A fine balance between use of the rivers for water supply and scenic and recreational purposes versus port-related, commercial and residential activities must be maintained.

Care should be taken to consider and accommodate the recreational and environmental resources along the Oswegatchie and St. Lawrence Rivers in future planning and construction projects. Ogdensburg's tourism industry depends on the continued quality of the area's fishing, boating and recreational resources. New shoreline uses should be assessed for their potential impact on water quality since any changes are likely to affect the wildlife habitats and recreational resources of the water.

Although no specific water quality issues were identified as being problems in the waterfront and harbor inventories, sites with potential for affecting water quality do exist. Point or "end-of-the-pipe" discharges exist at the City's sewer treatment outfall and 12 storm overflows. See Figures 14a and 14b. The number of discharge points has decreased from 17 to 12 in the past ten years as the City has separated once combined sewer and water systems and as several industries closed. Overflow sites are under permit by DEC and five of the twelve are monitored on a regular basis. Past industrial uses of several sites along the St. Lawrence River create potential sources of non-point pollution. These sites include, but are not necessarily limited to, OBPA port facilities, former Augsbury and Mobil tank farms, Lighthouse Point and the proposed site of the recreation pavilion. Potential contaminants include, but are not limited to, petroleum and petroleum-based products, storm water runoff containing products associated with bulk cargos, and leachate from landfilled items. The redevelopment of these sites should include sub-surface investigation to determine what, if any, contaminants exist and to identify an appropriate remediation technique. Close coordination between City, former and current property owners, and appropriate state and federal agencies will help mitigate the problems as they arise.

Potential threats to water quality also stem from discharges of shipboard wastes from commercial and recreational watercraft and the potential for oil and hazardous substance spills in the City and in the St. Lawrence and Oswegatchie Rivers. The New York State Department of Environmental Conservation has record of approximately 150 oil spills (of varying severity) in the City of Ogdensburg in the years 1982 to 1996. Because of the City's location on the St. Lawrence River and Seaway, the City is subject to the dangers that may result from the discharge of untreated vessel wastes and hazardous substance spills. The jurisdiction over the discharge of such pollutants lies with state and/or federal regulatory agencies. The City should ensure that marinas provide facilities for pumping out marine holding tanks. It can also encourage the installation of such facilities through the review of new marina development or expansion proposals.

Storm water runoff is also a cause of non-point source pollution. If storm water bypasses the City's treatment facility, it enters the Oswegatchie River or St. Lawrence River and degrades water quality. Minimizing impervious surfaces and directing attention to drainage patterns can mitigate the volume and improve the quality of storm water runoff and decrease demand for treatment.

The current practice of dumping sand- and salt-laden snow plowed from City streets into the Oswegatchie River also degrades water quality and hampers current efforts to restore walleye spawning activities.

B. Geology, Soils and Topography

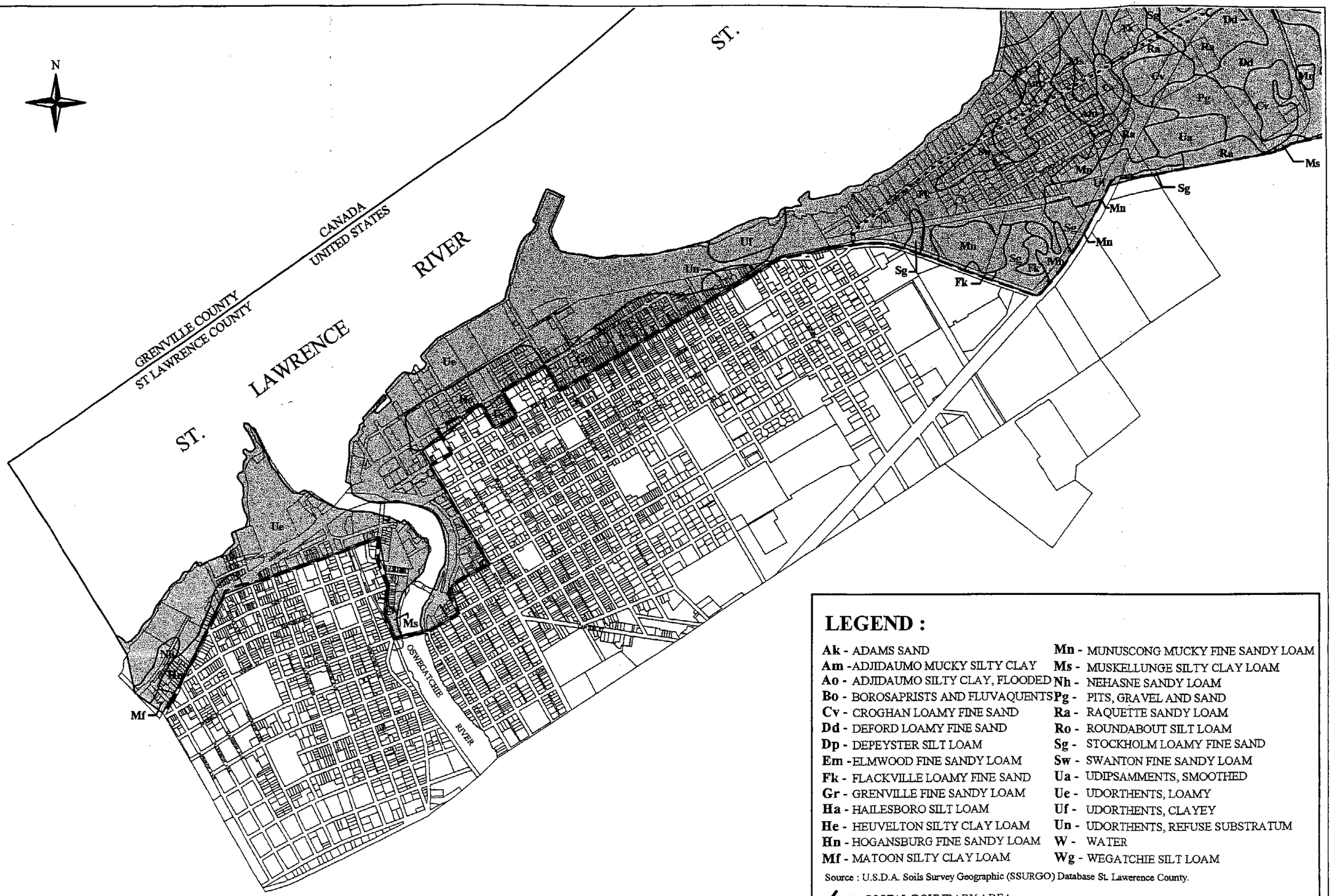
Existing Conditions

Blue and gray dolomites with granular fine-grained structure (called the Ogdensburg formation) underlie the St. Lawrence Valley where the City is situated. This sedimentary bedrock dates from Lower Ordovician origins during the latter part of the Paleozoic Era and tends to slope to the northeast. More recent sedimentary deposits dating from the Cenozoic Era overlie the dolomites in the eastern third of the City. Bedrock to the south and southwest of Ogdensburg dates to earlier geologic periods and gradually changes from sedimentary to metamorphic and igneous formations running from the Adirondacks to the massive Canadian shield through a narrow belt in the Thousand Islands.

During the closing stages of the glacial period, most of the St. Lawrence Valley was inundated by marine waters given passage as the huge ice sheet melted away. A thick mantle of glacial drift was deposited under the standing waters with considerable amounts of gravel, sand, silts and clay. Near the St. Lawrence River's present shoreline, the silts and clays reach depths of 50 to 60 feet. Moving away from the River, however, the glacial drift and marine deposits become increasingly shallow.

In general, the soils of the Ogdensburg waterfront area may be described as deeply laid soils comprised of either made lands (cut and fill) or post glacial material formed of lake laid, deltaic or fluvial sediments deposited principally from glacial melt waters. The made lands (termed Udorthents) are mostly loamy soils occupying all of the port and most of the developed City area west of the northern end of Linden Street. Post glacial soils, on the other hand, cover the areas east of Linden Street with six soil types or series being most prevalent: Flackville loamy fine sand, Croghan sand and loamy fine sand, Hailesboro silt loam, Raquette variant sandy loam, Matoon silt loam and Elmwood fine sandy loam. These and other less prevalent soil types are described in detail in Figures 3a, 3b and Appendix A.

The Udorthents are mostly loamy, poorly to well-drained and moderately to very rapidly permeable soils. Flackville, Croghan and Elmwood soils tend to be moderately well drained with rapid, rapid to



LEGEND :

Ak - ADAMS SAND	**Mn** - MUNUSCONG MUCKY FINE SANDY LOAM
Am - ADJIDAUMO MUCKY SILTY CLAY	**Ms** - MUSKELLUNGE SILTY CLAY LOAM
Ao - ADJIDAUMO SILTY CLAY, FLOODED	**Nh** - NEHASNE SANDY LOAM
Bo - BOROSAPRISTS AND FLUVAQUENTS	**Pg** - PITS, GRAVEL AND SAND
Cv - CROGHAN LOAMY FINE SAND	**Ra** - RAQUETTE SANDY LOAM
Dd - DEFORD LOAMY FINE SAND	**Ro** - ROUNDABOUT SILT LOAM
Dp - DEPEYSTER SILT LOAM	**Sg** - STOCKHOLM LOAMY FINE SAND
Em - ELMWOOD FINE SANDY LOAM	**Sw** - SWANTON FINE SANDY LOAM
Fk - FLACKVILLE LOAMY FINE SAND	**Ua** - UDIPSAMMENTS, SMOOTHED
Gr - GRENVILLE FINE SANDY LOAM	**Ue** - UDORTHENTS, LOAMY
Ha - HAILESBORO SILT LOAM	**Uf** - UDORTHENTS, CLAYEY
He - HEUVELTON SILTY CLAY LOAM	**Un** - UDORTHENTS, REFUSE SUBSTRATUM
Hn - HOGANSBURG FINE SANDY LOAM	**W** - WATER
Mf - MATOON SILTY CLAY LOAM	**Wg** - WEGATCHIE SILT LOAM

Source : U.S.D.A. Soils Survey Geographic (SSURGO) Database St. Lawerence County.

/v COSTAL BOUNDARY AREA

SOILS

SCALE : 1" = 1,500'

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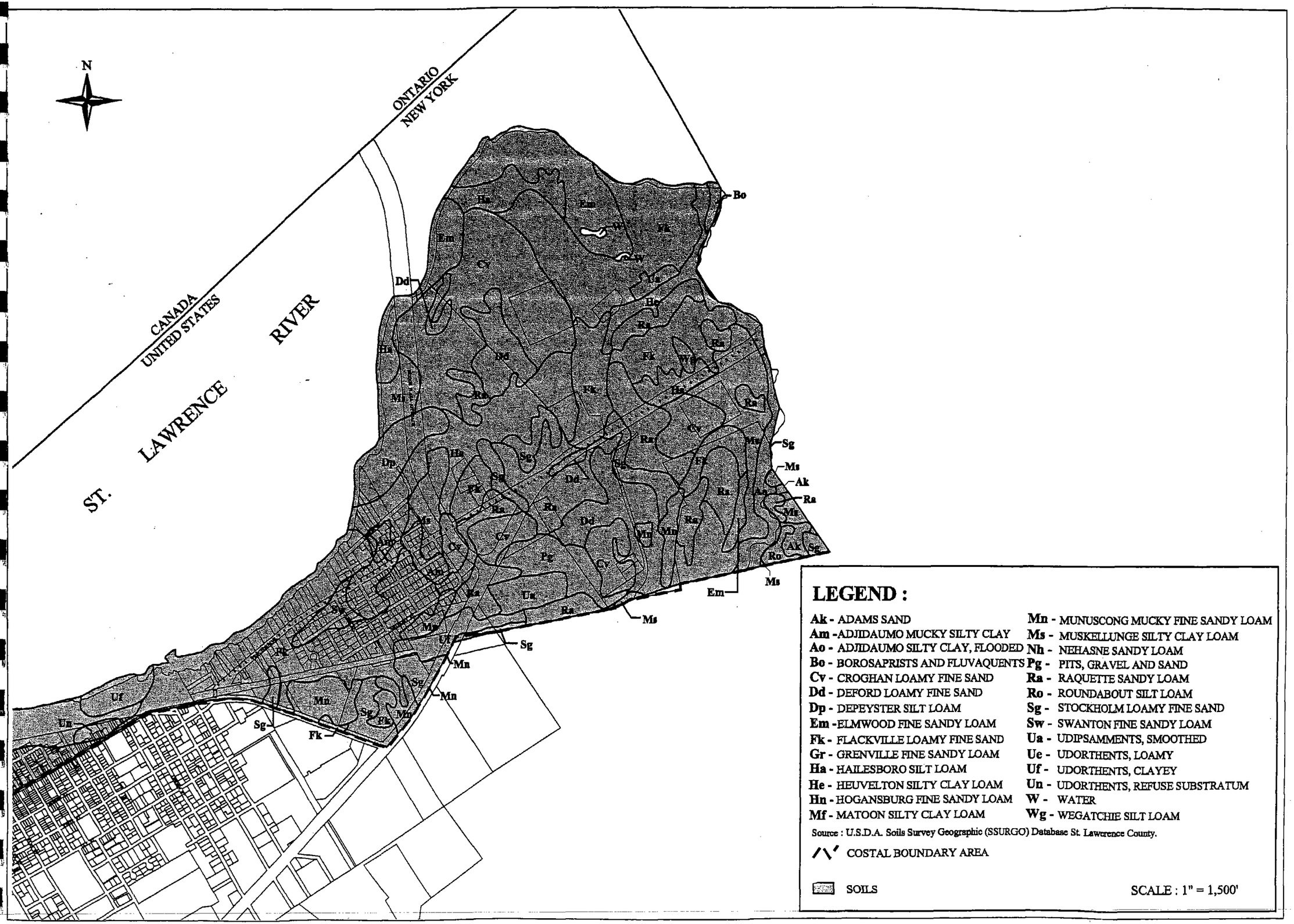

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3b

Slow, or rapid to very slow permeability, respectively. The Raquette soil is excessively drained with moderate to rapid permeability. Hailesboro and Matoon soils are somewhat poorly drained and exhibit moderately slow or slow permeability, respectively. Most of the waterfront area's soils present severe limitations to septic tank absorption fields and dwellings with basements. The erosion hazard of these soils is slight.

Topography along the waterfront and in the City as a whole is mostly level to slightly rolling with the only distinctive changes in elevation occurring along the banks of the St. Lawrence and Oswegatchie Rivers. The terrain rises gently away from the shore of the St. Lawrence River with sections of the City situated 25 to 50 feet above the level of the river. From southwest to northeast, there is relatively little change in elevation in the waterfront except at the Oswegatchie River and, in a broad sense, in the lower lying depressions along NY Route 37, east of the more developed parts of the City. Topographical information appears in Figure 4.

Areas of critical erosion were identified in Ogdensburg near the area of the OBPA port facilities, the municipal dock, and shoreline areas of the Greenbelt Park System. Ice damage, the effects of high water levels, and wave disturbances from the St. Lawrence Seaway shipping channel contribute to erosion action. The St. Lawrence Seaway Development Corporation has established and enforces speed limits for commercial vessels. The OBPA maintains cribbing and a bulkhead northeast of the port, near the former site of the grain elevator (see Figures 5a and 5b). There are no Coastal Erosion Hazard Areas (CEHAs) along the City's waterfront.

Areas of special flood hazard were identified and mapped in Ogdensburg by the Federal Insurance Administration. Soil limitations and high water tables frequently preclude Land development in flood hazard areas. Currently, development is subject to City flood control regulations (see Figures 5a and 5b).

Analysis

The area's level topography throughout most of the coastal area presents little problem for development. However, geologic and soil conditions, including poor drainage, high water tables, areas of special flood hazard and poor quality fill present development constraints in several sections of the coastal area. The constraints these conditions impose must be taken into account when any new development is considered in these areas. Development should not occur in special flood hazard areas unless it meets requirements of the Ogdensburg floodplain ordinance. Erosion along the shoreline presents a lesser problem than those mentioned above in most of the coastal area. If the NYS Department of Environmental Conservation identifies CEHAs in the future, the need for additional regulation may be necessary.

C. Vegetation

Existing Conditions

Terrestrial vegetation in the developed sections of Ogdensburg's waterfront is severely modified and limited due to the intense recreational, commercial, industrial, vacant industrial and residential land uses. Along the shore, such vegetation is generally restricted to sparse undergrowths or herbaceous and woody plants, with occasional stands of black willow. Pockets of deciduous trees and brush

Overgrowth characterizes the undeveloped areas of the waterfront further inland. Various species of wetland vegetation are present in the low-lying, poorly drained areas along Tibbits Creek.

A 1976-77 survey of aquatic vegetation by the U.S. Fish and Wildlife Service (USFWS) indicated that shoals and the littoral (near shore) zone adjacent to the harbor channels were areas where vegetation was most dense and where the submergent aquatic plant species were dominant. It was assumed that vegetation is sparse or absent in the existing channel where depths range between 21 and 79 feet. Most rooted aquatics occur in waters with depths less than 12 feet in the Ogdensburg harbor area.

The New York Natural Heritage Program identifies four species of vascular plants deserving special attention. The sensitive nature of this information prevents its release to the public without permission from the New York Natural Heritage Program. Two of the four species have an Unprotected Status; one species has a Rare Status; and, one species has an Endangered Status. The City has specific details regarding the species.

Analysis

Since most of the Ogdensburg coastal area is developed, vegetative cover is minimal in most areas. Some vacant or underutilized areas, such as Lighthouse Point, the west bank of the Oswegatchie River, lands adjacent to the port facilities, Ford Street Extension, and the railroad tracks, contain excessive vegetation and overgrowth. Small, scattered wetlands and low-lying land identified in the southeastern section of the coastal area were not deemed significant. The mature trees lining the Oswegatchie River and on the grounds of the St. Lawrence Psychiatric Center area are a valuable resource and should remain, with improved landscaping augmenting these scenic viewpoints.

Prior to site disturbance and/or new construction, the New York Heritage Program should be consulted to bring any species warranting special consideration to the City's attention.

D. Wetlands

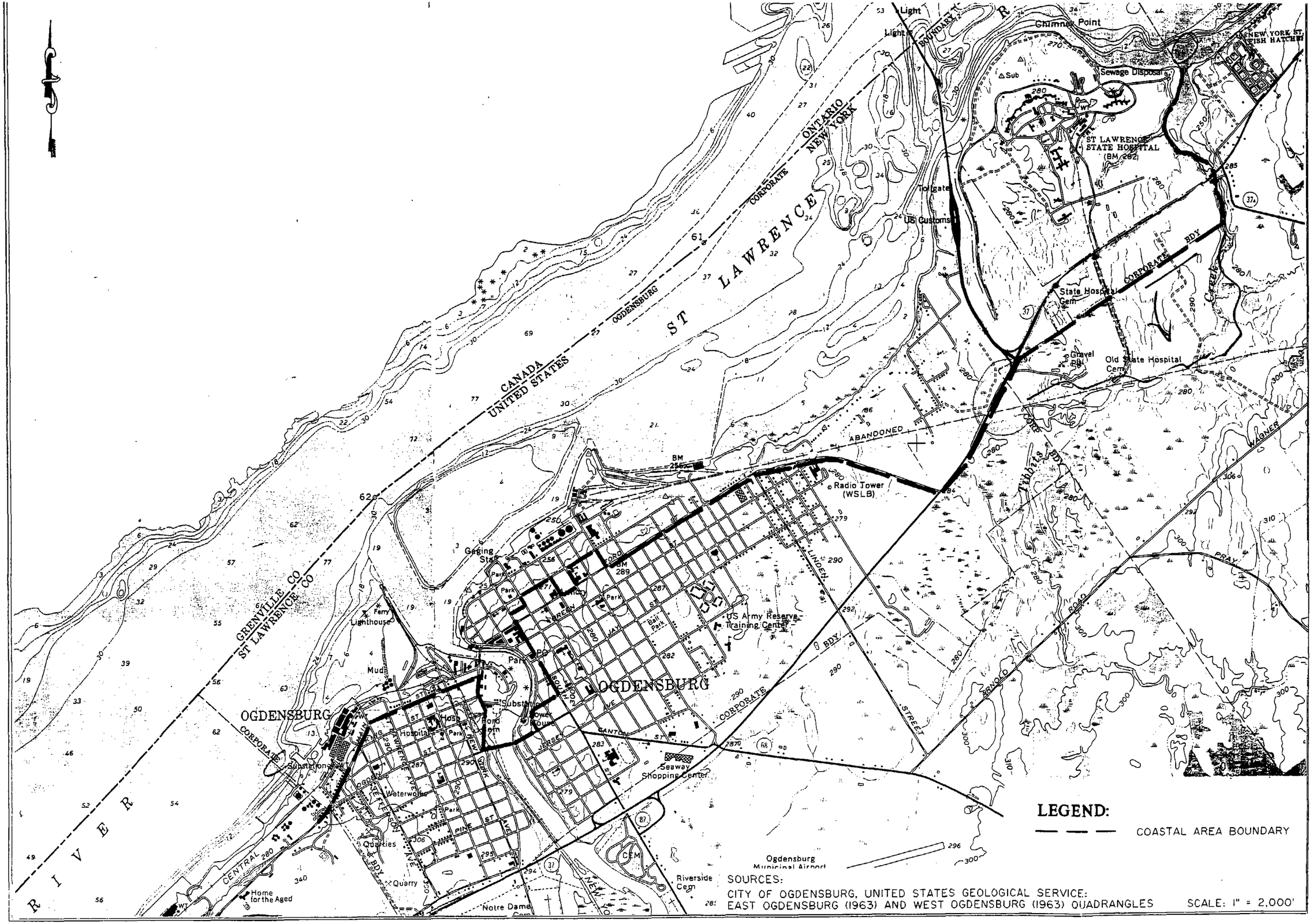
There are portions of two State-designated wetlands in or immediately adjacent to the coastal area. Wetland area OE-7, designated Class II, extends beyond the boundaries of the coastal area and in the towns of Oswegatchie and Lisbon. Wetland area OE-41, designated Class II, is immediately adjacent to the coastal area but is considered within the Town of Lisbon. Figures 6a and 6b identify the state-designated wetlands. See Footnote 2 for a description of these wetland classifications.

E. Fish and Wildlife

Existing Conditions

The coastal area is best known for its significant fisheries resources. Small mouth bass, walleye, northern pike and muskellunge constitute the most fished species in the area. Both the U.S. Fish and Wildlife Service and New York State Department of Environmental Conservation have identified May 15th through July 1st as the critical spawning period in the Ogdensburg area. Spawning and adult fish habitats vary by species, and, various habitat types are present.

The underdeveloped and overgrown areas of the waterfront serve as habitat areas for a small number of mammals such as rabbits, raccoons, skunks, gray squirrels, rats and mice. Over 265 species of birds have been observed in the Ogdensburg region, some native and other migratory. Shorebirds and



LEGEND:

— — — COASTAL AREA BOUNDARY

SOURCES:
CITY OF OGDENSBURG, UNITED STATES GEOLOGICAL SERVICE:
EAST OGDENSBURG (1963) AND WEST OGDENSBURG (1963) QUADRANGLES

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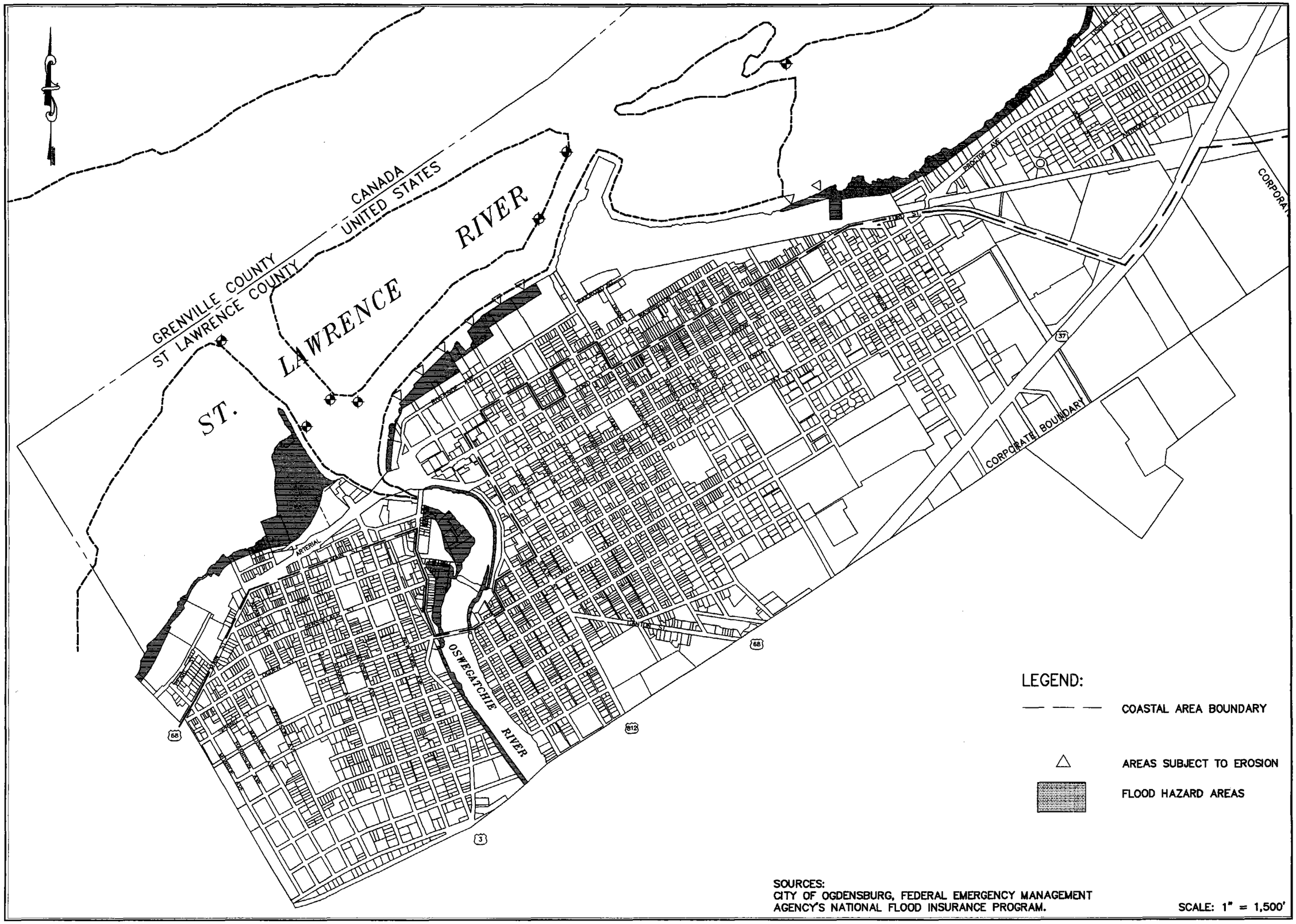

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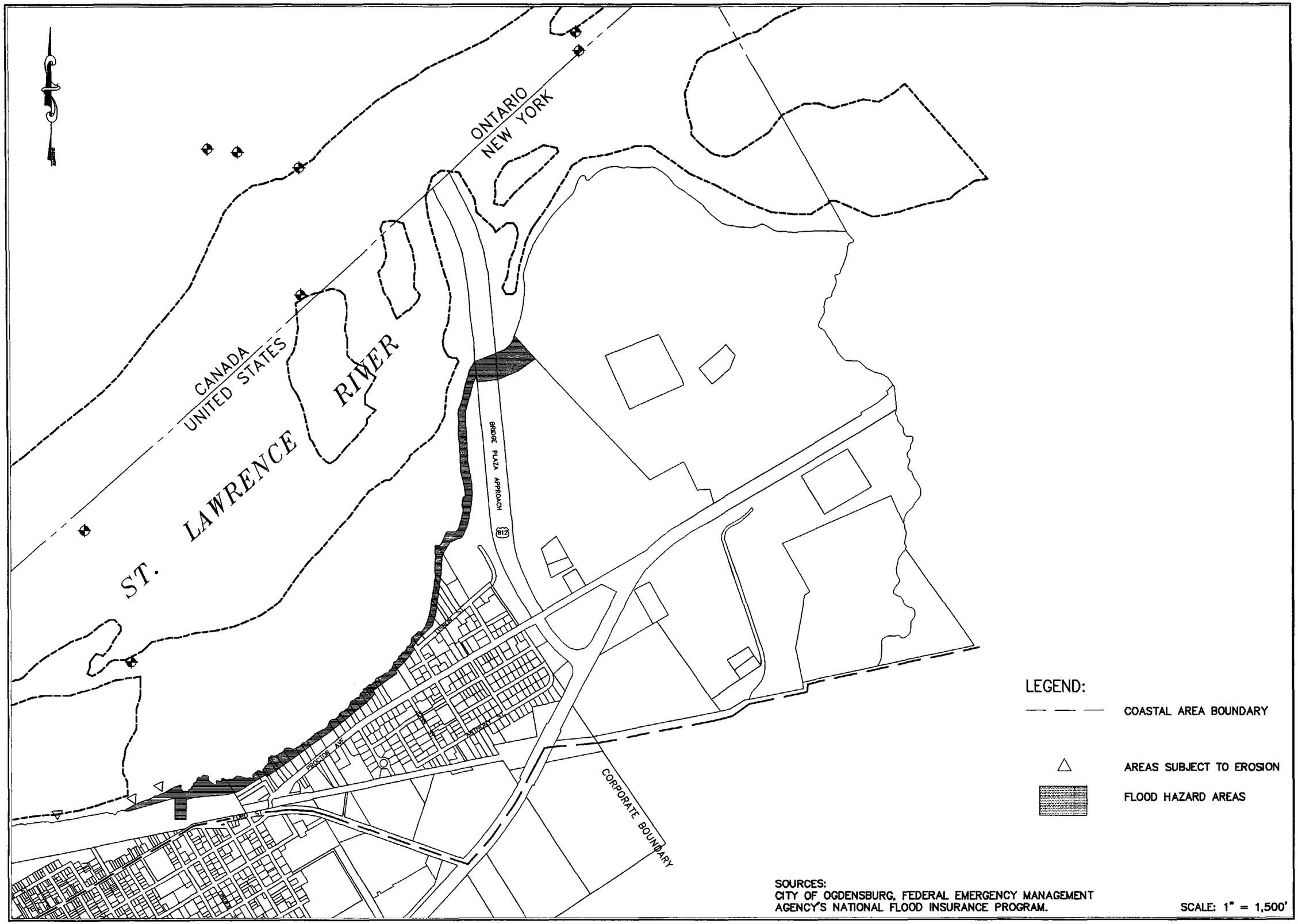
Local Waterfront Revitalization & Harbor Management Plan
CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title:
EROSION & FLOOD HAZARD AREAS MAP

Revisions
6/24/98
10/8/08

Project 96169
Date 7/3/97
CAD # 6169FLD

Drawing
5a



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City of Ogdensburg
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CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title:
DESIGNATED WETLANDS MAP

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10/8/03

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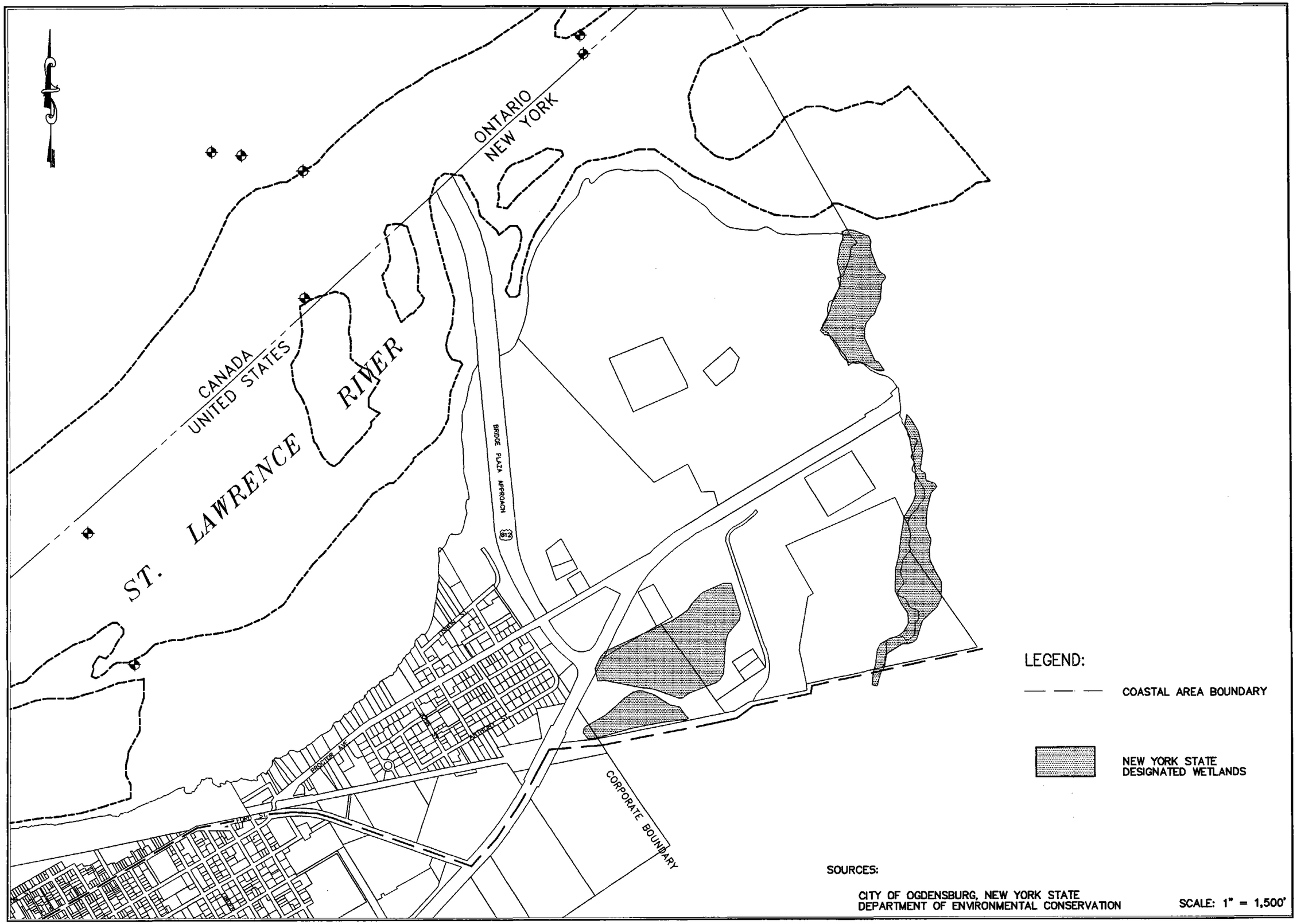
Date 7/3/97
CAD # 6169WET

Drawing
6a



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6b

The Oswegatchie represents the only significant area of riffle habitat on the lower St. Lawrence River. This enhances its potential for a walleye spawning area and attracts a major run of white sucker. Runs of Chinook salmon became established in the mid-1980s. Resident smallmouth bass also spawn in the riffle area.

The Oswegatchie River supports significant fisheries resources. There is habitat for a variety of warm water fish species including northern pike, walleye, muskellunge, smallmouth bass, yellow perch, bluegill, rock bass, pumpkinseed, black crappie, brown bullhead, channel catfish, and white sucker. The St. Lawrence Valley Sportsmen's Club, in cooperation with the Canadian government, sponsors a walleye-stocking program. Fish raised in a nearby hatchery are released into the St. Lawrence near Ogdensburg. The Club has built a spawning bed near Tackle Box marina. Records of lake sturgeon (T) and mooneye (SC) exist for the area but the extent of their use of the area has not been adequately documented.

This area attracts substantial recreational use by anglers from throughout the region. The Department of State's Habitat Narrative, rating form and map are provided at the end of the Inventory and Analysis section.

This habitat is also depicted in Figure 7a.

2. *Ogdensburg - Prescott Pool - Locally Important Coastal Habitat*

This large open water pool, present during the ice-in period in varying extent and dimension, extends between Ogdensburg and Prescott, Ontario.

Several species of diving ducks, dabbling ducks, gulls and herons use this pool in the winter. It is also a wintering ground for bald eagles. A few river-wide common fish species have been recorded in the area. Little, if any, spawning occurs in the deep-water area. Limited spawning occurs along the shoreline edge of the upper ground shoal area.

This habitat is depicted in Figure 7a.

3. *Chimney Point - Locally Important Coastal Habitat*

This habitat includes the area between the Ogdensburg-Prescott International Bridge and Tibbits Creek Bay, including portions of the St. Lawrence Psychiatric Center property.

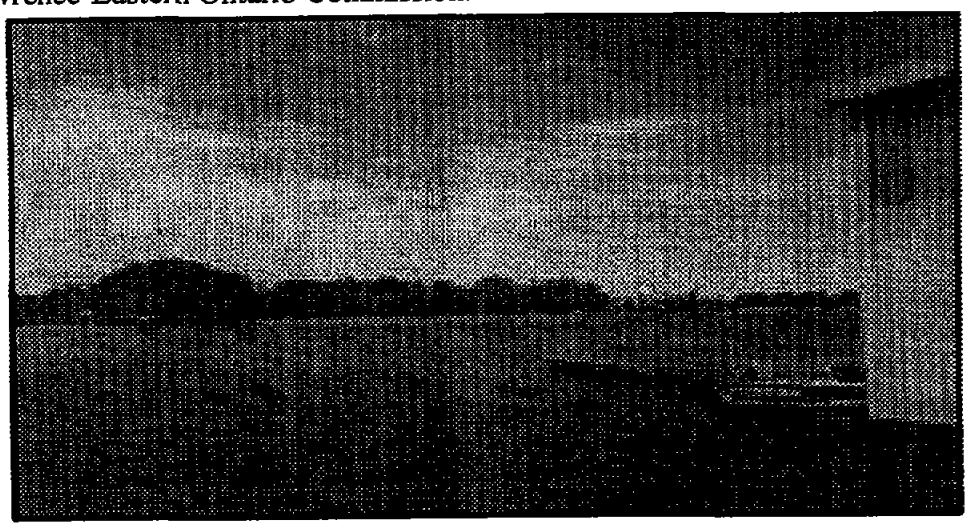
Dabbling ducks, diving ducks, herons, geese and hawks have been recorded in this area.

A few river-wide common fish species, including northern pike, have been recorded in this area. A few species such as small mouth bass, rock bass, sunfish and yellow perch spawn in a narrow band approximately two to fifteen feet offshore. The area includes an artificial spawning ground for lake sturgeon and is, therefore, highly significant. The New York State Department of Environmental Conservation will be listing this area as a significant habitat in the near future.

waterfowl are the dominant species close to the River. Although the immediate waterfront area offers little suitable habitat for the numerous migratory birds which follow the Lake Ontario-St. Lawrence River flyway, open waters of the St. Lawrence upriver from the mouth of the Oswegatchie River do serve as waterfowl wintering habitat.

Endangered or threatened (as designated by New York State fish and wildlife species present or observed in the Ogdensburg area include the bald eagle (endangered), the lake sturgeon, and the common tern (threatened). Lake sturgeon are found in Ogdensburg Bay and the other nearby river areas on occasion. Fish enthusiasts hope the lake sturgeon will use the newly constructed walleye spawning bed in the Oswegatchie River. The bald eagle has been noted in the Ogdensburg-Prescott Pool and areas downstream of Ogdensburg during the winter. The common loon and the black tern are species of special concern. (See Appendix A for a detailed listing of fish and wildlife in the Ogdensburg coastal area.)

Within the coastal area, there is one Department of State-Designated Habitat of Statewide Significance and four Locally Important Coastal Habitats. The information below is derived from the New York State Department of State, the New York State Department of Environmental Conservation, and the former St. Lawrence-Eastern Ontario Commission.

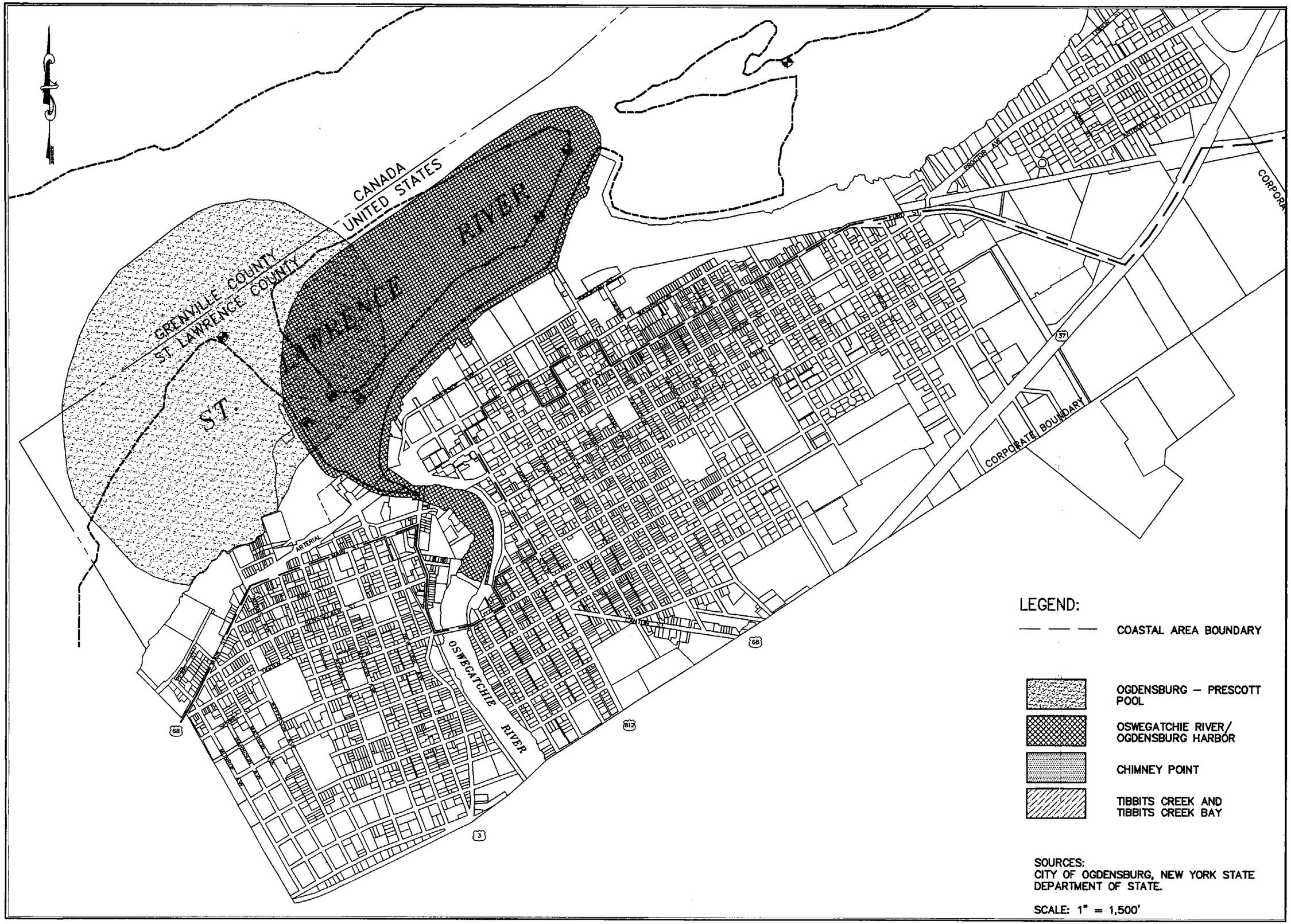


Lighthouse Point from the mouth of the Oswegatchie River.

I. The Oswegatchie River - Department of State Designated Habitat of Statewide Significance

The significant habitat area incorporates the one-half mile stretch of river below the Ogdensburg dam and approximately 270 acres of the River's mouth, encompassing much of the Ogdensburg Harbor area.

Immediately below the dam, the River is relatively shallow with a rock and rubble bottom causing a sizeable area of riffles. Farther downstream, the River is wider and deeper and extensively bulk headed in conjunction with waterfront development. A jetty west of the River's mouth creates a sheltered harbor area. Water depths in the harbor are generally less than 10 feet. Habitat disturbances occur in the Oswegatchie just below the dam where power generation discharge facilities have degraded portions of the river bottom and along the jetty and St. Lawrence shoreline where dredging has occurred. More general habitat disturbances include discharges of storm water and wastewater runoff into the river and potential flow alterations and river bottom disturbances caused by upstream hydroelectric operations.



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CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title:
HABITAT OF STATEWIDE SIGNIFICANCE & LOCALLY IMPORTANT HABITATS MAP

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Date 7/8/97
CAD # 6169HAB

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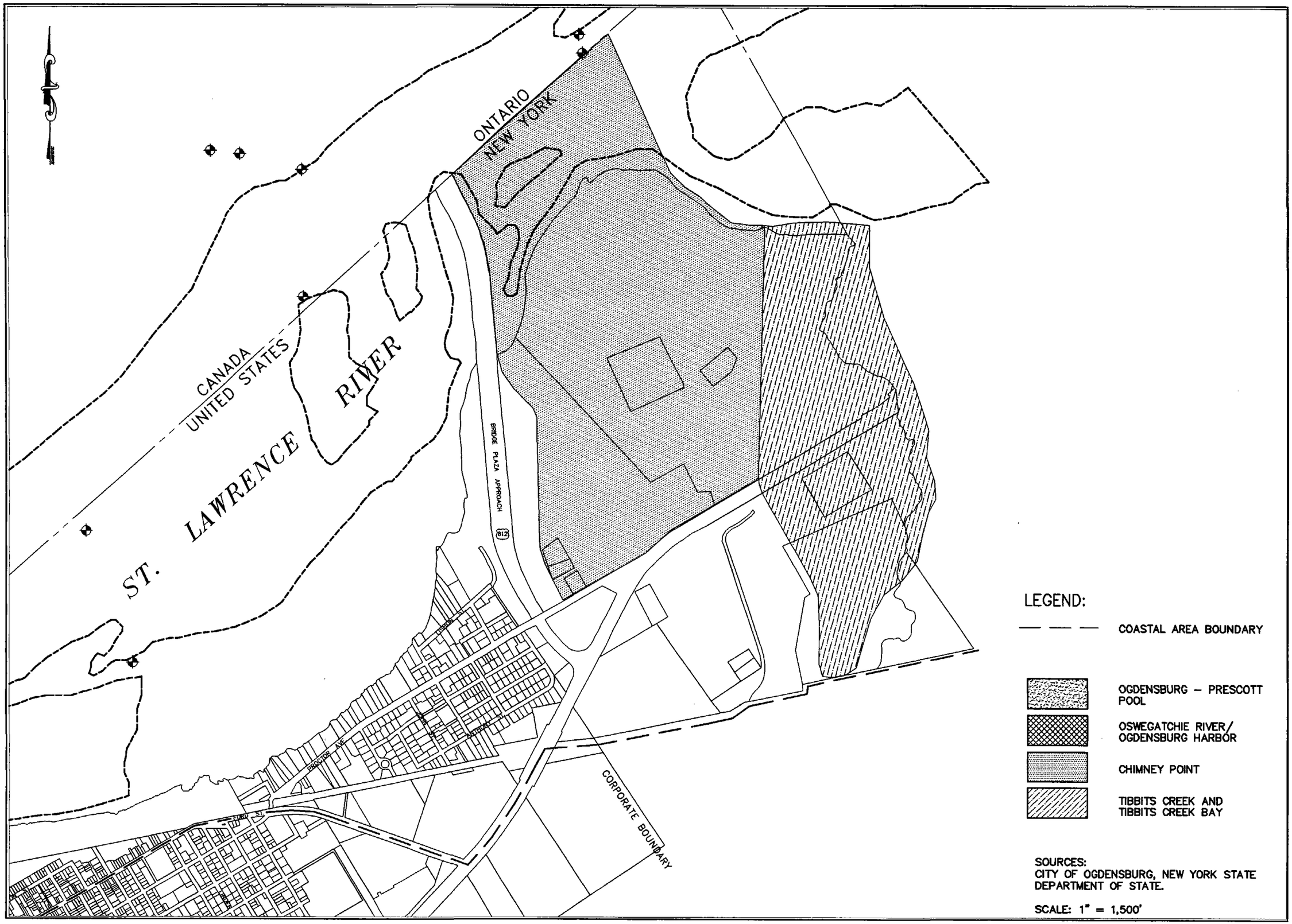

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7b

This habitat is depicted in Figure 7b.

4. Tibbits Creek and Tibbits Creek Bay - Locally Important Coastal Habitat

This habitat is a small, shallow bay containing open marshland. (Tibbits Creek forms the eastern boundary of the City limits; Tibbits Creek Bay is in the Town of Lisbon). Because portions of the creek are in the coastal area, its description is included herein. Corporate boundaries will be recognized in program application.

A diversity of dabbling ducks use the area for breeding and post-breeding activities. Fair numbers of diving ducks use the mouth of the bay and nearby areas in migration. It is also a very productive spawning and use area for a wide variety of fish species. Northern pike and muskellunge are present in the area. A wide diversity of mammals has been recorded in this area.

This habitat is depicted in Figure 7b.

Analysis

Local efforts to protect fish and wildlife habitats should include monitoring future intensification of land use activities which may impact this resource. Activities, particularly those directly impacting the habitats described above, should be monitored for their impact on the City's fish and wildlife resources.

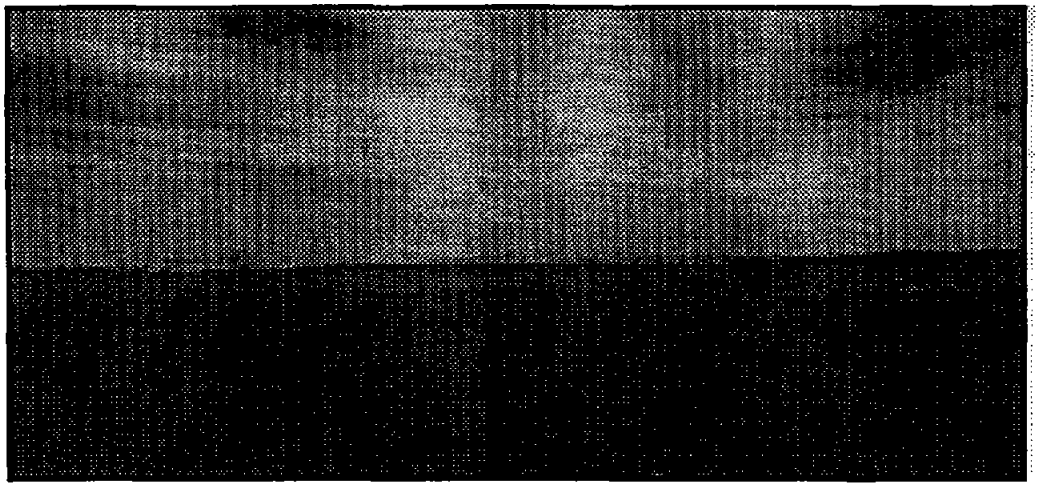
Through the expansion and improvement of existing public access and recreational facilities, the City can promote increased use of its fish and wildlife resources. The St. Lawrence River currently ranks third in total angler-days fished (up from fourth in 1986). The cooperative efforts of municipal and county officials and private business operators to facilitate sport fishing in the River can enhance local tourism.

These designations and their implications for potential future development are described in Policies 7, 7A, 7B, 7C, and 7D in Section Three.

F. Scenic Resources

Existing Conditions

Ogdensburg's location at the confluence of the St. Lawrence and Oswegatchie Rivers provides a setting of natural scenic beauty associated with the spans of both rivers. However, much of Ogdensburg's waterfront is occupied by industrial, vacant industrial, port, or state facilities which limits scenic access to these resources. Over the past several years, the City has expanded and improved its "Greenbelt" recreation area. Today, this area provides the highest quality scenic access in the City. The presence of several industrial and shipping related facilities on the Canadian side of the St. Lawrence River interrupts the natural scenic vistas of the River but nevertheless provides man-made points of interest for the viewer's eye. The Ogdensburg-Prescott International Bridge dominates the landscape at the eastern end of the coastal area. Scenic resources are identified in Figures 8a and 8b.



The St. Lawrence River with the International Bridge in the background.

Analysis

Although a great deal of Ogdensburg's waterfront is occupied for land uses that conflict with the scenic beauty of the area, potential exists for improved scenic quality in the coastal area. Areas that hold particular potential for improvement include the east and west banks of the Oswegatchie River shoreline, the former Diamond International site, the Shade Roller property, the former Mobil tank farm, the former Augsbury tank farm, and Lighthouse Point. These locations are currently marred by underutilized land uses and excessive vegetative growth which hampers visual access to these significant coastal features. Consequently, the scenic resource policies correspond closely with the development policies (Policies 1-6), in particular with Policy 1, Development of Deteriorated and Underutilized Areas.

COMMUNITY/CULTURAL RESOURCES

A. Public and Semi-Public Facilities

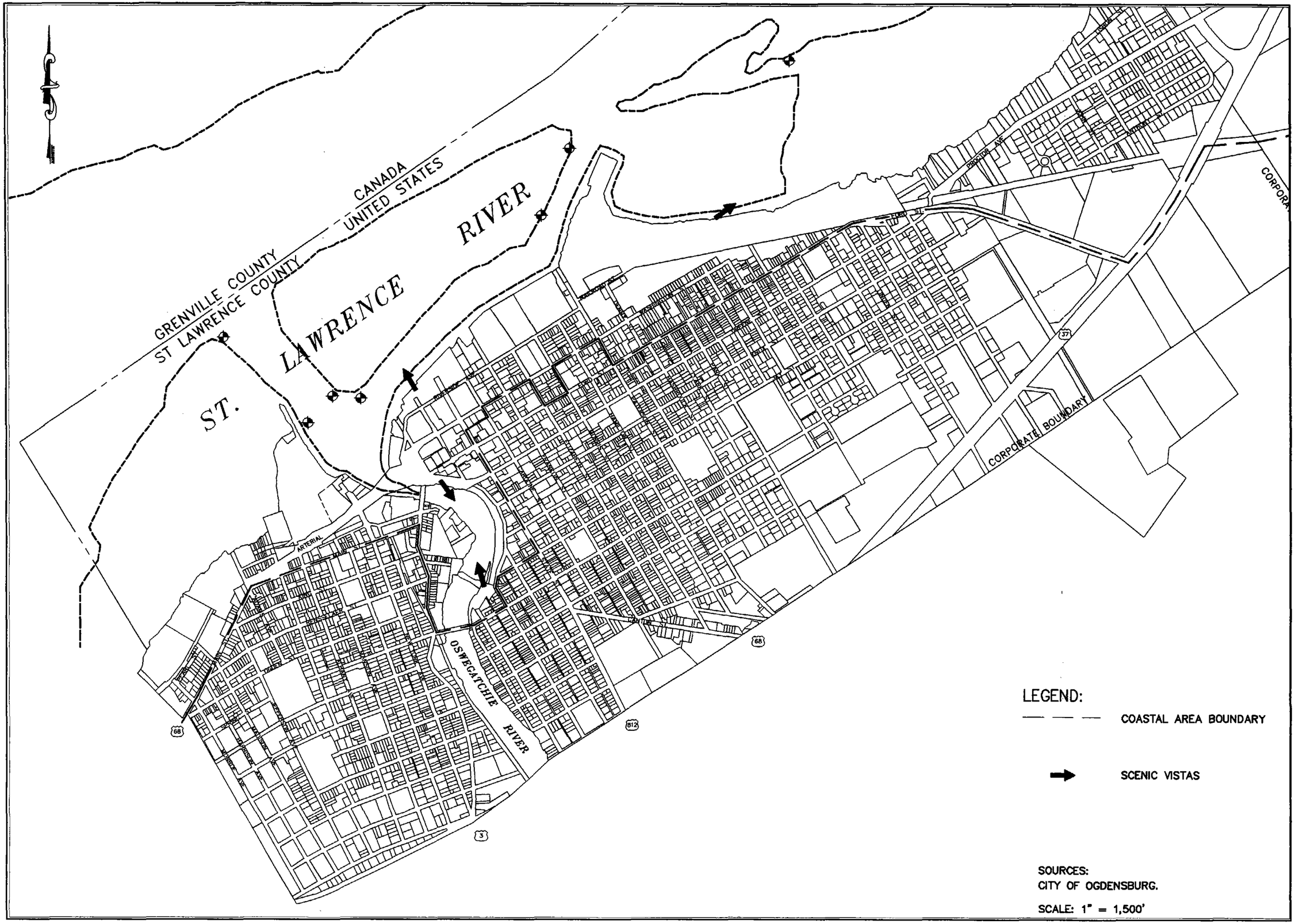
The public facilities inventoried in Ogdensburg's waterfront and harbor are divided into two categories: (1) governmental operations/services and (2) public access and recreation. Semi-public facilities include those facilities providing community services or cultural activities. Such facilities are open to the public and are generally operated or supported by private, non-profit organizations. Figures 9a and 9b identify both public and semi-public facilities.

1. Public Facilities

a. Governmental Operations/Services

Existing Conditions

Governmental operations/services are described for the City, County, State and Federal levels of government.



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CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

Title:
SCENIC RESOURCES MAP

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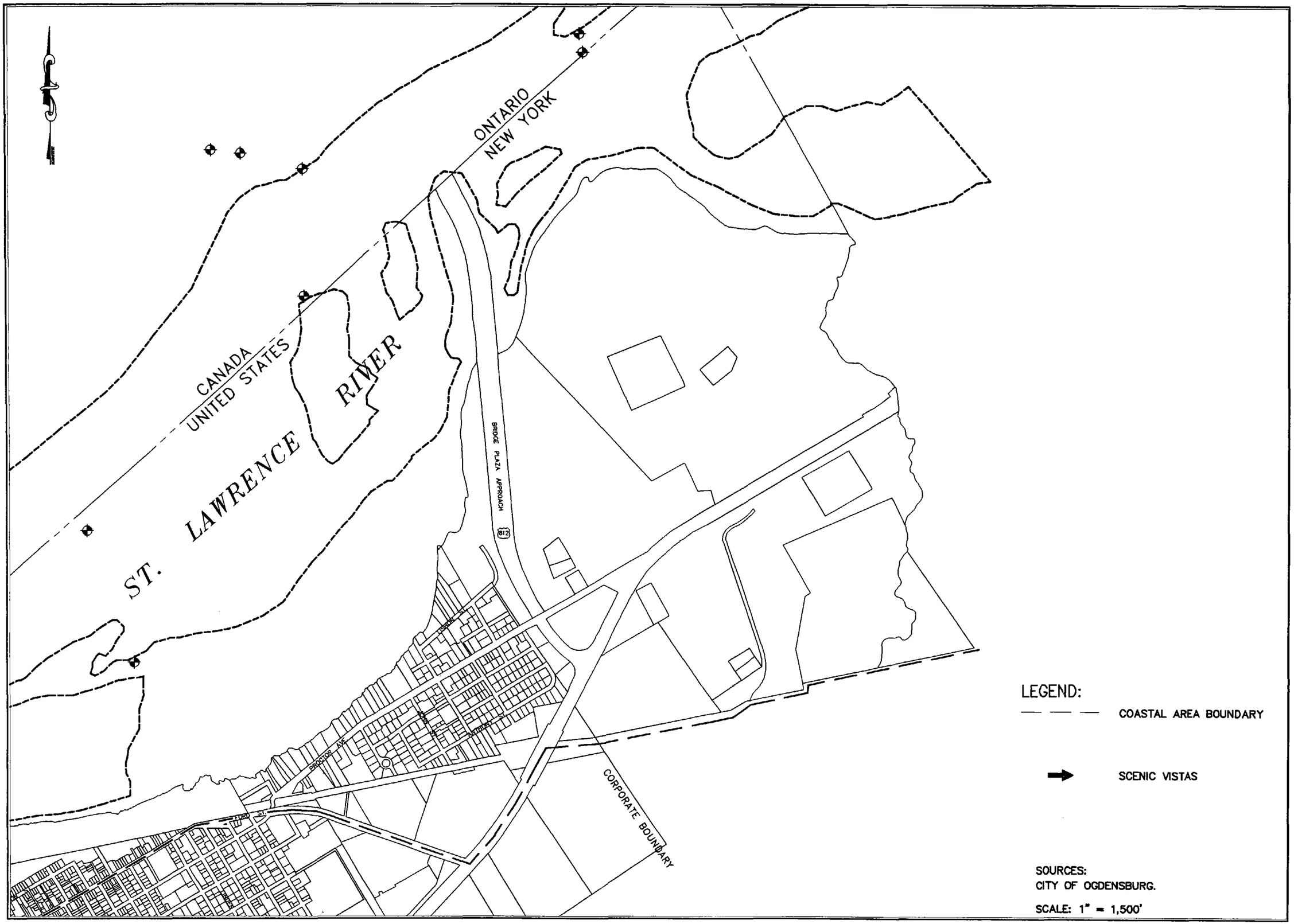
8a



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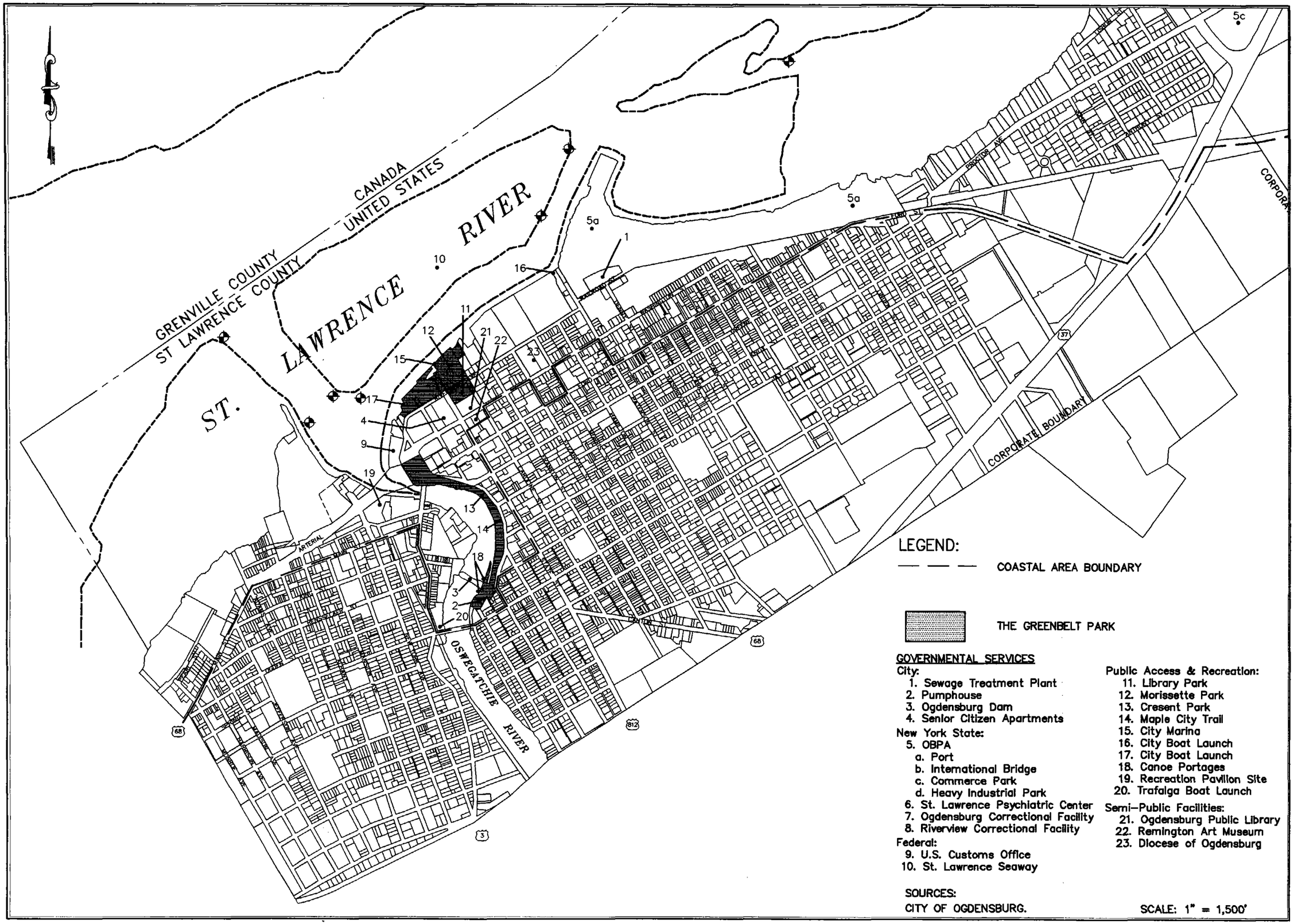

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Title:
PUBLIC & SEMI-PUBLIC FACILITIES MAP

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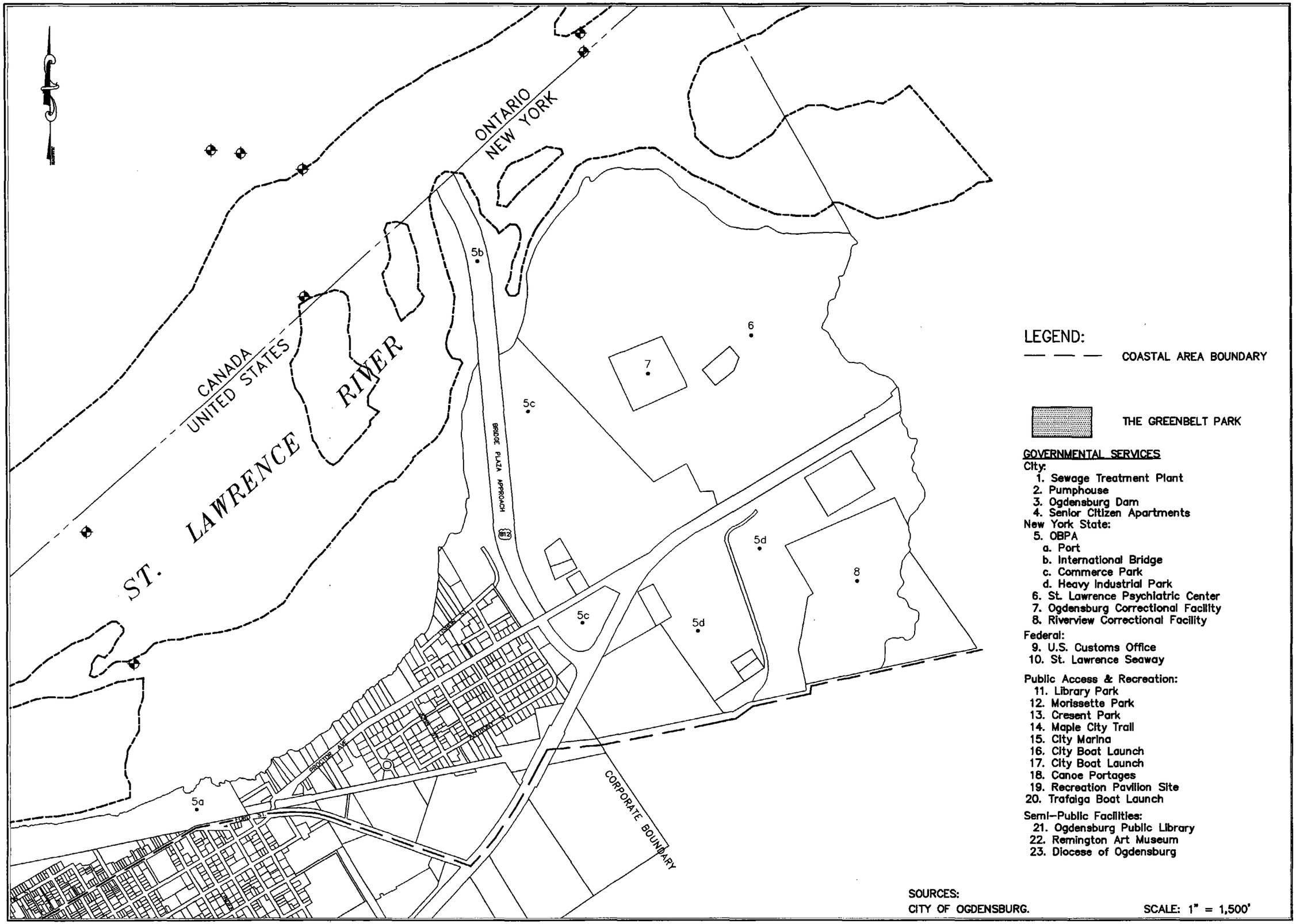

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City: The City water treatment facility is located outside the coastal area on Ogden Street and Jefferson Avenue. The sewage treatment plant is in the coastal area near the juncture of Denny and Railroad Streets. These are described in greater detail in Section F of this chapter. An unused pump house, dating from 1868, is situated on the east shore of the Oswegatchie. The City is considering a number of uses for this site including, but not limited to, a recreation office, equipment storage, outfitter rental operation (canoes, bicycles), and a visitor/interpretive center. Trafalgar Power, Inc. has a lease agreement with the City for use of the Ogdensburg dam to generate power. The dam dates back to 1910. Trafalgar Power sells the generated power to Niagara Mohawk. Also within the project area, the Ogdensburg Housing Authority owns and operates two senior citizen high rise apartment buildings (210 units) on Washington Street. There is a third senior citizen apartment building outside the project area.

County: The County owns no governmental operations or services in the project area.

State: Facilities within the coastal area under New York State jurisdiction include the Ogdensburg Bridge and Port Authority, the St. Lawrence Psychiatric Center, and the Ogdensburg Correctional Facility.

The Ogdensburg Bridge and Port Authority (OBPA) is a public benefit corporation created by the New York State Legislature to provide a broad range of transportation and economic development functions in the Ogdensburg area. Within the coastal area, the OBPA owns and operates the Port of Ogdensburg, the Ogdensburg-Prescott International Bridge, the light industrial Commerce Park, and the St. Lawrence Railroad (partially in the coastal area: leased to an operator). The OBPA also operates the Ogdensburg International Airport (outside coastal area).

The Marine Terminal (port) in Ogdensburg was constructed in 1970 and currently has a wharf capable of berthing two vessels. See Figure 10. Cargo handled at the Port has increased from 5,000 tons in 1971 to 69,500 tons in 1980 to between 165,000 and 175,000 tons per year in the mid 1990s. Liquid bulk receipts ceased in 1981 when the adjacent Augsbury tank farm closed. Estimates for future annual cargo range from 40,000 tons to in excess of 200,000 tons. Approximately 387,000 s.f. of paved outdoor storage area is located contiguous to the berth, with 16,700 s.f. paved and 490,000 s.f. unpaved storage area available away from the berth. The port is capable of handling both bulk and general cargo. The majority of the cargo handled is dry bulk commodities including zinc, wollastonite, salt, marble chips, and powdered milk. Steel rails, aluminum ingots railroad wheels and forest products are also shipped through the port.

Other port facilities include:

- direct pier-side rail service with accommodations for 150 rail cars
- a 30,000 s.f. bulk storage structure contiguous to the berth
- a 20,000 s.f. transit shed contiguous to the berth
- a 20,000 s.f. warehouse away from the berth
- a 15,000 s.f. warehouse away from the berth
- a 40,000 s.f. warehouse away from the berth
- a 23,000 s.f. bulk storage structure away from the berth
- a truck scale
- a port maintenance and office structure

The Ogdensburg Marine Terminal.

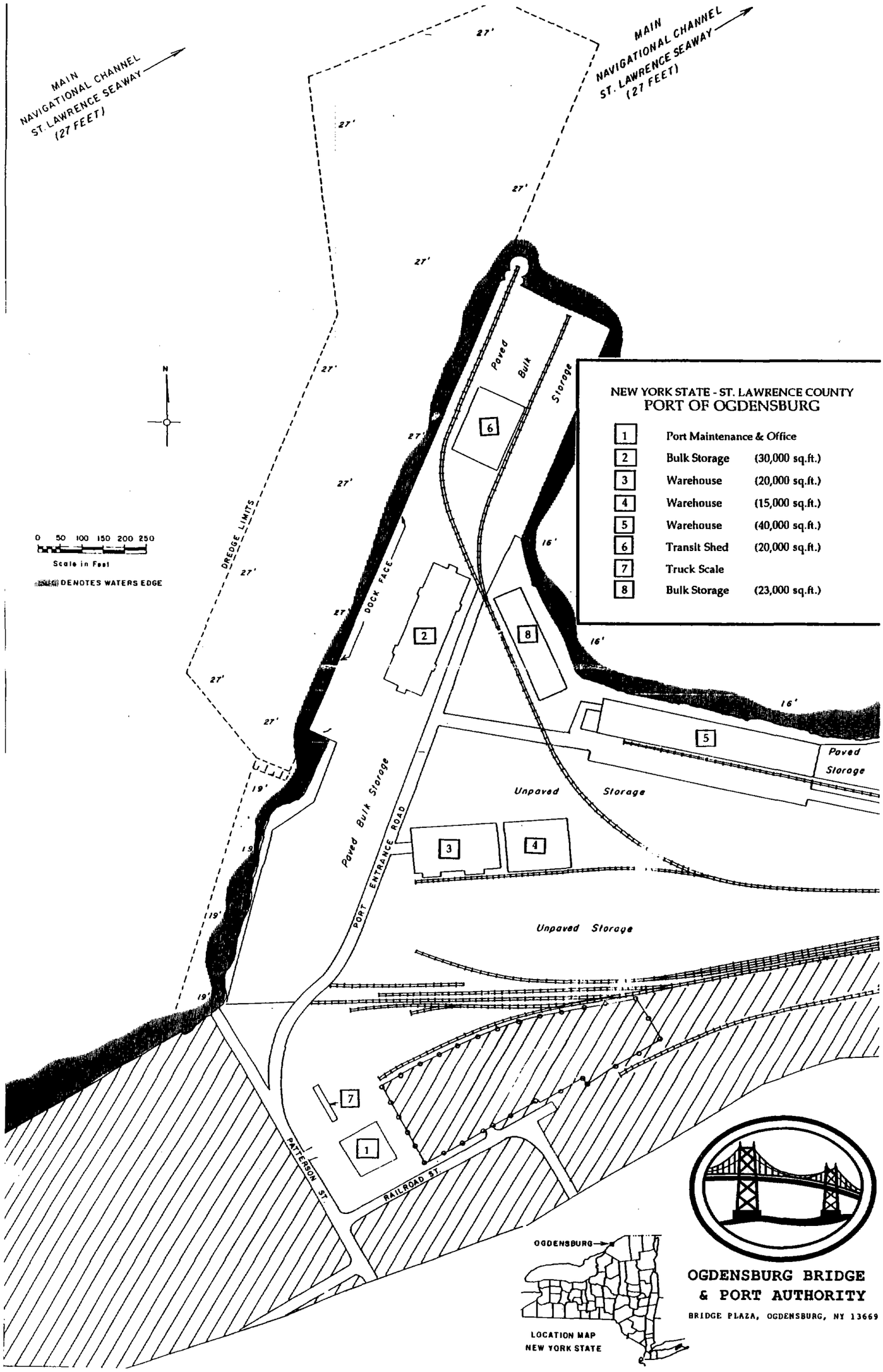
The port's *Master Plan and Development Study* established a three-phase port improvement program, with each phase tied to a range of port use tonnages.

Phase I, which includes the following, has been implemented.

- a 600 ft. extension of the existing berth enabling the port to offload two ships simultaneously
- dredging of the channel, the basin and the area along the wharf extension
- relocation of the second transit shed to a point just south of the Downing Building
- construction of a new bulk storage shed on the site of the existing second transit shed
- acquisition of a crane, with clamshell buckets and hooks and slings, possibly to be shared with other ports
- acquisition of a truck loader/stacker for handling bulk commodities
- relocation of the Marine Terminal's security fence
- paving of a road to the relocated shed's new location, and to the trunk scale

The OBPA is currently negotiating with New York State to proceed with Phase II of the port's master plan. Phase II involves additional dredging that will permit cargo tonnage above 200,000 tons per year. Additionally, Phase II entails:

- additional storage space including an extension to the main storage building
- a new transshipment shed, and other renovations
- additional material handling equipment including a larger crane, additional forklifts and front end loaders, a hopper/stacker, a mobile truck dumper/conveyer, and walls and dividers to separate bulk cargo storage
- utilities and other incidentals



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CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title:
OGDENSBURG BRIDGE & PORT AUTHORITY
TERMINAL FACILITY MAP

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Phase II projects are premised on dry bulk cargo remaining the dominant cargo form handled at the port. It is anticipated that Phase II will be implemented before the year 2000.

Phase III of the Master Plan is intended to allow the handling of 500,000 tons of cargo annually. This phase would include another berth extension, the acquisition of a whirly gantry crane, additional transit sheds and/or silos, inside conveyors, and other major material handling equipment items.

Ultimately, the pace of the Master Plan's implementation depends on the availability of state and federal funding. Currently, New York State is attempting to implement a $350 million multi-modal program that will assist ports, airports and rail facilities in the state.

The OBPA also operates the Ogdensburg-Prescott International Bridge. Bridge crossings in 1996 totaled 551,000, up from 443,491 in 1984. The toll is $2.00.

In recent years, industrial operations have been locating in one of the OBPA's two industrial parks located at the City's northern edge. The light industrial Commerce Park site contains approximately 70 acres. Of the 70 acres, approximately 40 acres are developed and 30 acres are undeveloped. The property is bounded on the north and east by the St. Lawrence Psychiatric Center, on the west by the Bridge Plaza and approach road, and on the south by NY Route 37. OBPA began developing Commerce Park in 1975. Since then fourteen buildings containing 21 businesses and approximately 256,000 s.f. have been constructed. Utility systems including sewer and water lines and a storm drainage system have been installed. Businesses include both public and private sector entities.

The heavy industrial park is outside the coastal area.

The light industrial Commerce Park is a Foreign Trade Zone (FTZ). Foreign trade zones are deemed outside customs territory and inside international commerce. Goods entering the FTZ, therefore, do not need to undergo formal entry, pay duties or government excise taxes. FTZ designation is intended to attract and promote international trade and commerce.

The St. Lawrence Psychiatric Center

The St. Lawrence Psychiatric Center is operated by the NYS Department of Health. As techniques and methods of treatment have evolved and some of the Center's buildings have aged, the number of Resident consumers has decreased significantly. As a result of these changes, the Center no longer utilizes all of the buildings and grounds. Currently, the Center has ten major buildings, six of which are partially or fully occupied. The hospital serves a six county area and services 140 inpatients and an estimated 1,150 outpatients. It employs 542 people. The Center's current plans call for the Trinity building to be vacated and the Bridgeview building to be used for Adult Inpatient Services. The Center also plans to build a support annex contiguous to Bridgeview and locate all the support services in the Bridgeview building and the new annex. In May of 1997, the State announced plans to auction off the unused portion of the Center, grounds and improvements thereon.

The Ogdensburg Correctional Facility is a medium security operation located at the southwestern end of the grounds of the Psychiatric Center. The complex contains thirteen buildings covering 31.5 acres, is capable of housing 810 inmates, and employs 399 people.

Federal: The only federally owned facility within the coastal area is the U.S. Customs Office at the Robert C. McEwen Customs House (127 N. Water Street). The U.S. Post Office, formally located at 431 State Street, currently leases space at 400 Ford Street, outside the coastal area. The St. Lawrence Seaway is a federally operated entity partially located within the project area.

Analysis

The waterfront area of the City of Ogdensburg has 6.5 miles of shoreline. With much of the shoreline in public ownership, significant opportunities exist for waterfront development and enhancement. Analysis of the various governmental operations/services is by level of government.

City: The City's water and sewage treatment facilities, discussed in greater detail in Section F, are functioning adequately. Upgrades are being made on an ongoing basis. The water and sewer demands of potential future uses and the related ability of the infrastructure to adequately meet those demands should be at the forefront of review-related discussions. Consideration of potential future uses should include the various costs and benefits to the City and its residents.

County: The County owns no governmental operations or services in the project area.

State: The OBPA is responsible for several diverse operations, all of significance to the City's and the region's continued economic development. While the port is subject to many factors beyond its control, certain known factors can be adequately addressed. The Ogdensburg Port Master Plan, in providing a guide for port development for the next ten years, cities several advantages and disadvantages of the port.

Advantages include the fact that Ogdensburg is the easternmost U.S. public port and has a large natural hinterland containing deposits or ores and minerals which require water transportation. The port's 27-foot Seaway depth channel and strong state and local support are also seen as advantages. Disadvantages include a sparsely populated hinterland with limited market expansion potential, and proximity to competitive Canadian ports. The port's initial design as a general cargo port with only one berth is also a disadvantage to overcome in light of the demand for dry bulk cargo facilities.

Completion of Phase I has enabled the port to handle up to 175,000 tons of cargo per year. As noted, the OBPA is in negotiations with New York State to proceed with Phase II.

Commerce Park is the site identified for light industrial firms. The OBPA, working in conjunction with the City, has managed to attract 21 businesses to the park and is actively pursuing additional firms. Proximity to Canadian markets is a definite advantage for the Ogdensburg park. Its designation as a Foreign Trade Zone in 1985 adds to the park's attractiveness. The firms in the light industrial park seem stable and the attraction of additional firms in the near future is a distinct possibility.

The St. Lawrence Psychiatric Center is a large and sprawling campus whose presence goes back to 1890. The Center represents a job market for many who live and work in the Ogdensburg area. Most recently, the New York State Office of Mental Health (NYSOMH) has undergone significant downsizing in consumer population, staffing levels and facilities. NYSOMH intends to improve efficiency with consolidation of facilities and services. Various and numerous buildings and vacant parcels are now, or soon will be, considered surplus and will provide an exceptional opportunity for development or redevelopment.

The Ogdensburg Correctional Facility employs close to 400 people and contributes greatly to the City's employment and economic stability. It, and the Riverview Correctional Facility, represent a steady source of employment for hundreds of Ogdensburg area residents.

Federal: The U.S. Customs House is both a visual- and employment-related asset for the City. The City should work closely with the federal government to ensure the continued use and maintenance of the site.

b. Public Access and Recreation

Existing Conditions

The main public access and recreation facilities in the coastal area are the Greenbelt Park, the Maple City Trail, a municipal marina, two City boat launches, the Trafalgar boat launch, and the Ogdensburg dam canoe portage.

The City's Greenbelt Park system extends from the Library Park area, through Morissette Park, beneath the arterial bridges, through Crescent Park, to the Pump House. Library Park is a 2.8-acre site on Washington Street and is part of the Library Park Historic District. Library Park contains the 1905 Soldiers and Sailors Monument and a gazebo. No picnicking is allowed on the grounds. Morissette Park contains picnic and playground facilities, benches, and tennis courts. The more recently developed section of the Greenbelt includes Dobisky Community Center offices, restrooms, a twin boat launch, 77 slips, approximately 200-225 feet of transient dockage, picnic facilities and a paved shoreline trail with benches and trash receptacles.

Crescent Park is a linear piece of land along the east bank of the Oswegatchie River. It extends from the pedestrian Lake Street Bridge to the Pump House.

The Maple City Trail, funded with Intermodal Surface Transportation Efficiency Act (ISTEA) funds, is a 1.8 mile paved multi-purpose recreation trail. Its route extends from Department of Transportation property on the east side of the Oswegatchie at its confluence with the St. Lawrence River along the east side of the Oswegatchie through Crescent Park, to the Spring Street Bridge. A stand of mature trees lines the riverbank and provides a point of scenic interest. The trail then crosses the Spring Street Bridge and follows the abandoned Penn-Central railway corridor. The trail provides linkages to several City streets, the pedestrian Lake Street Bridge, the County Route 3 bike route, the Black River Trail, and the Seaway Trail in downtown Ogdensburg.

The City owns and maintains a marina near the end of State Street and two boat launches. The City marina has 77 slips. Half of the slips provide power and water. 1998 seasonal rates for slips with and without power and water were $20 per foot and $17 per foot, respectively. 1998 transient rates for slips

The Greenbelt Park.

with and without power and water were $.85 per foot per day and $.75 per foot per day, respectively. In 1998, 44 slips were rented for the season. The marina's 1996 occupancy rate was estimated at 60%. This figure is misleading, however, due to the fact that boats sometimes occupy two slips but pay for one slip. Due to the increased number of privately owned and operated marinas in the City and the services they offer, the number of transient boaters utilizing the City marina has decreased. Prior to the opening of two additional private marinas, approximately half of all City marina slips were occupied by transient boaters. In 1996, for example, an estimated 90% to 95% of all boats docked at the City marina at any given time were owned by City residents. In 1998, the marina generated $17,800 for the City. This is down from recent years, reflecting the increased number of marinas and options for boaters.

The Paterson Street boat launch, constructed in the early 1990s, can launch four boats simultaneously and provides parking for 40 cars and trailers. The original twin boat launch, located off Riverside Avenue, can accommodate two boats with parking for 25 cars and 5 trailers.

The City is planning to construct a multi-use recreation pavilion on the western bank of the Oswegatchie at its confluence with the St. Lawrence River. One of the pavilion's primary uses will be ice skating. The arena will have a natural ice surface.

Analysis

Tourism and recreational activities have become a vital component of the City's economic development efforts. As such, further development of both public and private facilities, in balance with the appropriate protection of natural resources, will enhance further economic growth. The majority of the City's water-dependent recreational facilities are publicly owned and operated. Several public facility developments projects are ongoing.

Public Park Space

Over the last decade, the City has invested considerable effort in expanding public access to the waterfront by developing linear recreational areas on the St. Lawrence River and Oswegatchie River shorelines. The existing public access and recreational activities are attractive and should serve as a catalyst for additional development. The underutilized state of key waterfront areas such as Lighthouse Point, the former Diamond International site, the former Augsbury tank farm and the east and west banks of the Oswegatchie River provide great potential for increased visual and/or physical access to the water. Uses which promote and provide enjoyment of the waterfront's assets and benefit the area economy should be encouraged.

The St. Lawrence Psychiatric Center controls a large portion of the waterfront area. Due to the nature of the complex and the concern for the safety of the patients, public use of the grounds is not encouraged. Vehicles and pedestrians are allowed to use the grounds for scenic viewing, bicycling and jogging. Organized community groups may use the picnic area and baseball field by reservation with the Center's Rehabilitation Department, but the staff reserves the right to choose the groups they allow. Public swimming at the Center's beach is not allowed. The State decision to auction off the unused portions of the facility leaves the site's future use and development in an uncertain state. If the lands to be auctioned include waterfront, there is the possibility of greatly increasing public access to the waterfront. The future development potential depends, in large part, on the characteristics of the land and facilities to be auctioned.

The OBPA permits public access along Chimney Point Road in the light industrial park. The Commerce Park Master Plan recommendation to develop a jogging trail/exercise course around the perimeter of the property was realized in 1996. As funding permits, development of the grassy area between the Bridge Plaza approach and Chimney Point Drive should be carried out. The Master Plan's suggestion of several par 3 golf courses is a possibility.

The City should maintain open lines of communication with both OBPA and the State Department of Mental Health regarding their present and projected use of waterfront areas. When and where possible and practical, public access to, and use of, these waterfront areas should be developed and promoted.

At current levels, use of the St. Lawrence River for recreation and tourism does not conflict with its use for industry/shipping. The compatible multiple use of the river for commerce, recreation, and tourism is imperative for the City's short- and long-term economic health. No future conflicts are foreseen.

2. *Semi-Public Facilities*

Existing Conditions

The most widely known community facilities within the coastal area are the Ogdensburg Public Library at 312 Washington Street and the Remington Art Museum at Washington and State Streets. The Ogdensburg Public Library, chartered in 1893, is the oldest public library in St. Lawrence County. The Remington Art Museum houses a collection of oil paintings, sketches, bronzes, letters, books and furniture of Frederic Remington (1861-1909). Known as the Remington Art Memorial from 1923 to 1981, the Frederic Remington Art Museum includes the largest single collection of Remington's paintings and drawings and 14 of the 22 subjects he cast in bronze. A $2.5 million expansion project, completed in 1997, improved the space, linked the original museum to the newly acquired building next door (311 Washington Street), and converted the new building to museum use. The museum serves as Ogdensburg's single largest tourist attraction.

Other semi-public facilities within the coastal area include one church, the Ogdensburg volunteer rescue squad building, and property owned by the Diocese of Ogdensburg (residence and offices).

Analysis

Ogdensburg's semi-public facilities cover the usual range of such uses. The majority of such facilities, however, lie outside the coastal area. Both the Ogdensburg Library and the Remington Art Museum are housed in outstanding historically and architecturally significant structures and contain impressive collections. The Remington Museum contains one of the finest collections of Remington works and is a museum of national importance.

The Ogdensburg Public Library.

The museum is particularly important to the City's image and economy for its role as an attraction of great cultural significance. As a nationally renowned museum, it attracts people who may not otherwise visit the Ogdensburg area. Once in Ogdensburg, an expanded number of quality attractions, activities and/or special events may prompt museum visitors to prolong their stay and increase their expenditures. The museum's and library's proximity to the Greenbelt Park should be made well known through signage and landscaping detail. This proximity can serve to draw people to the river and along the trail to enjoy the scenic vistas and river activity. A number of unique and quality businesses and/or attractions along the waterfront would further enhance the experience.

B. Commercial Facilities

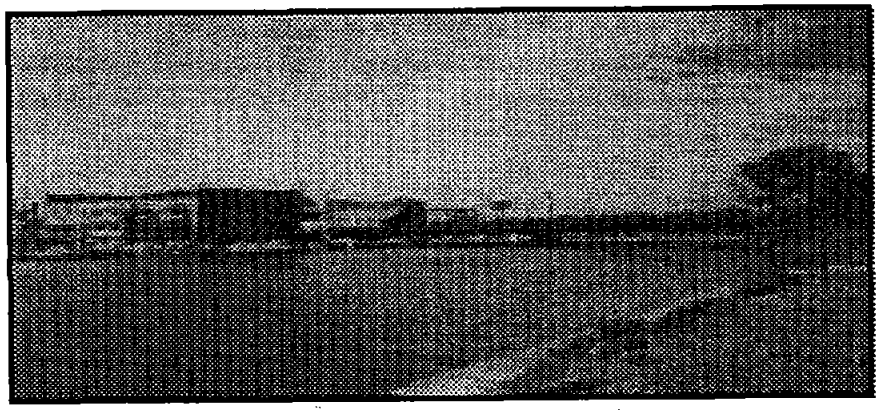
Existing Conditions

Small- to mid-scale local or regional commercial businesses and water-dependent businesses are concentrated in the City center. The three building complex once known as the Charlestown-Ogdensburg Factory Outlet is now called the Ogdensburg Business District and houses a mix of state agencies, light industrial operations, professional offices and fraternal organizations. One of the three buildings is City-owned. The City center's main intersection at Ford and State Streets provides access to City Hall, offices, banks, and retail shops. Ford Street, which once bisected the area now encompassed by the Ogdensburg Business District had been closed to traffic for a two-block area. The City recently re-opened Ford Street to one-way vehicular traffic. Figures 11a and 11b identify areas of commercial development.

West of the Oswegatchie, areas along Main Street, the arterial and Lake Street offer a variety of commercial businesses. Several areas within the coastal area have mixed residential/business uses. Specifically, east of the Oswegatchie, small areas along Ford Street have mixed use development. The City's current zoning permits these uses in these areas.

Following the closure of the Lake Street Bridge to motorized vehicles in the late 1970s, the number of commercial establishments in the western section of the City declined. In the past few years, however, the number of businesses have increased. Currently, one furniture store, two restaurants, two taverns, one food store/gas station, a beauty shop, a commercial print shop, a shoe store, laundromat, men's clothing store, and butcher shop constitute the main businesses. Most of the businesses in the coastal area are open year-round.

A riverfront hotel is located on the west bank of the Oswegatchie within the coastal area. It operates a 40-slip marina. Seven motels with an estimated 270 rooms exist within or just outside the City's limits.



Tackle Box Marina and a riverfront hotel.

Water-dependent commercial enterprises comprise some of the City center's largest businesses. There are two private marinas with a total of 130 slips on the Oswegatchie River -- Tackle Box and a riverfront hotel. Tackle Box has fuel and boat sales, service and storage. No pumpout facilities are available. The height limit of the Lake Street bridge and low summertime water levels restrict significant marine expansion on the Oswegatchie River There are also two marinas on the St. Lawrence River. The City marina has 77 slips and provides pumpout facilities, showers, restrooms, and ice. Alliance Marina, a privately owned marina, has 55 slips, sells fuel and offers dining. Ogdensburg Boat Works on River Street builds the St. Lawrence skiff and undertakes interior work on yachts.

Four businesses are located on East River Street: Lee Valley Tools, Duffy's General & Specific Millwork, Ogdensburg Boat Works, and St. Lawrence Boat Works. Ogdensburg Boat Works also operates a facility on Commerce Street.

Much of the mid- to large-scale commercial development and franchise development has occurred along NY Route 37 outside the coastal area boundary.

Analysis

Efforts to revitalize the city center include the re-opening of Ford Street to one-way vehicular traffic, the construction of a recreation pavilion and nautical museum, the reconstruction of Fort LaPresentation and the development of the Maple City Trail. The development of vacant and abandoned or underutilized sites along the St. Lawrence River is integral to these efforts and will greatly influence the City's image and the impression it makes on visitors.

C. Industrial Facilities

Existing Conditions

Historically, Ogdensburg's location along the St. Lawrence and Oswegatchie river waterfronts and its proximity to rail enticed a variety of industries to operate in Ogdensburg. With the evolution of markets and trends, however, the geographic focus of the industrial sector shifted from the waterfront to strategically located industrial parks. In the past ten to fifteen years, several industrial firms along the St. Lawrence waterfront closed. In some instances, buildings and structures have been demolished and removed; in others, they remain and are a deterrent to prospective property buyers. Several of the now vacant former industrial properties are known or suspected of containing varying levels of petroleum product pollution.

Most of the current industrial activity is occurring at the OBPA's light industrial Commerce Park on NY Route 37, northeast of the City center. With easy access to area highways, water, sewer and electric utilities, and, few, if any, resource constraints to development, Commerce Park is a natural choice for incoming industries. The Park's Foreign Trade Zone designation enhances its attractiveness. Currently, there are 21 businesses employing approximately 570 people at Commerce Park. These businesses represent light industrial firms, private and public offices and agencies, and associated services. The OBPA also sold space at its heavy industrial park outside the coastal area boundary.

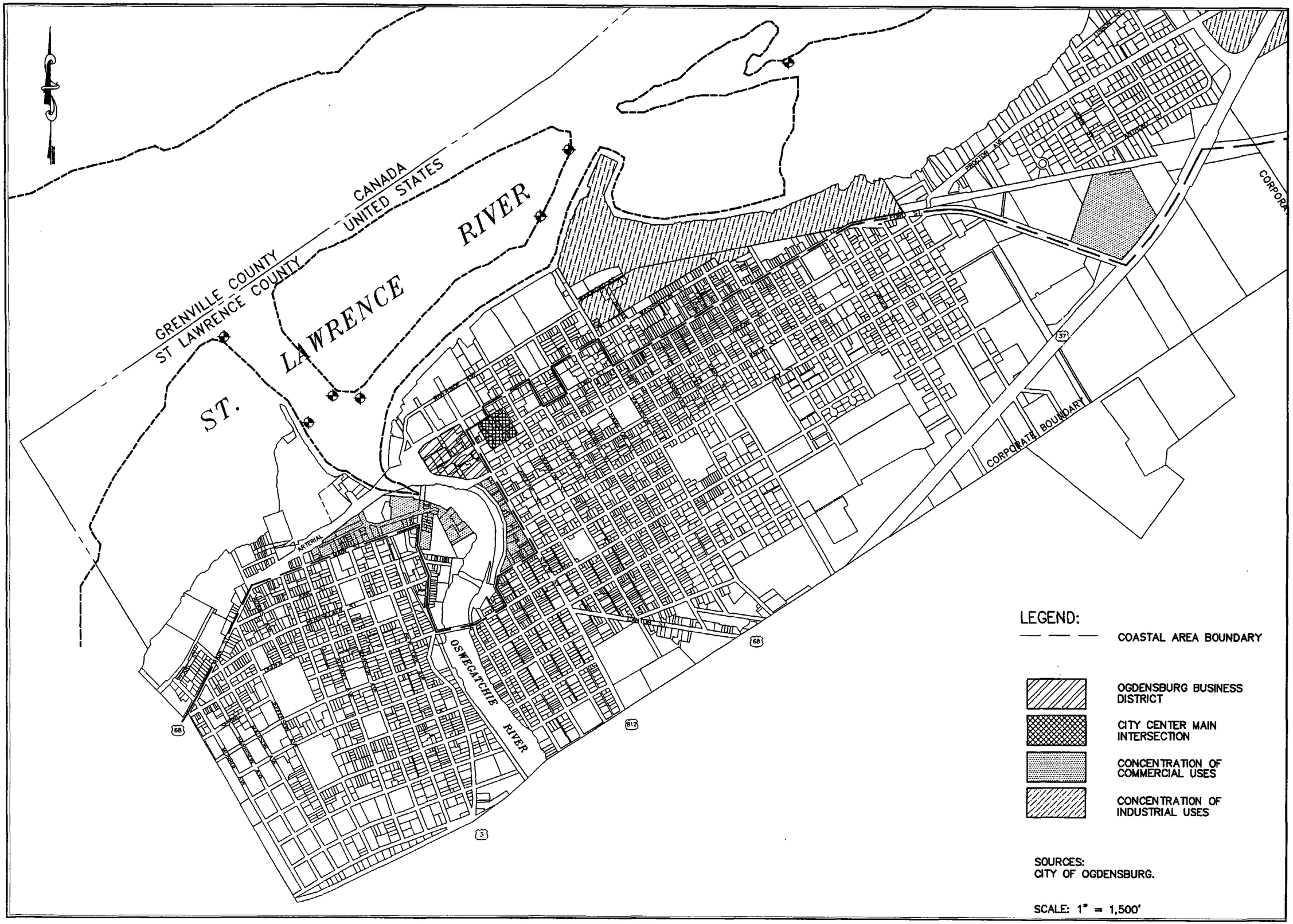
Active industrial operations in the City center are:

- OBPA marine terminal and port operations
- Hoosier Magnetics, Denny Street; magnetics-related manufacturing

Two other large employers are located adjacent to the coastal area and deserve mention for their contributions to the City's economic structure:

- Acco International, Inc., Riverside Drive (Town of Oswegatchie); manufacturing of office supplies
- St. Lawrence Dairy Foods Corporation, Inc., 30 Main Street; dairy processing plant

Industrial use areas are identified in Figures 11a and 11b.



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City of Ogdensburg
Local Waterfront Revitalization & Harbor Management Plan
CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

Title:
COMMERCIAL & INDUSTRIAL AREAS & FACILITIES MAP

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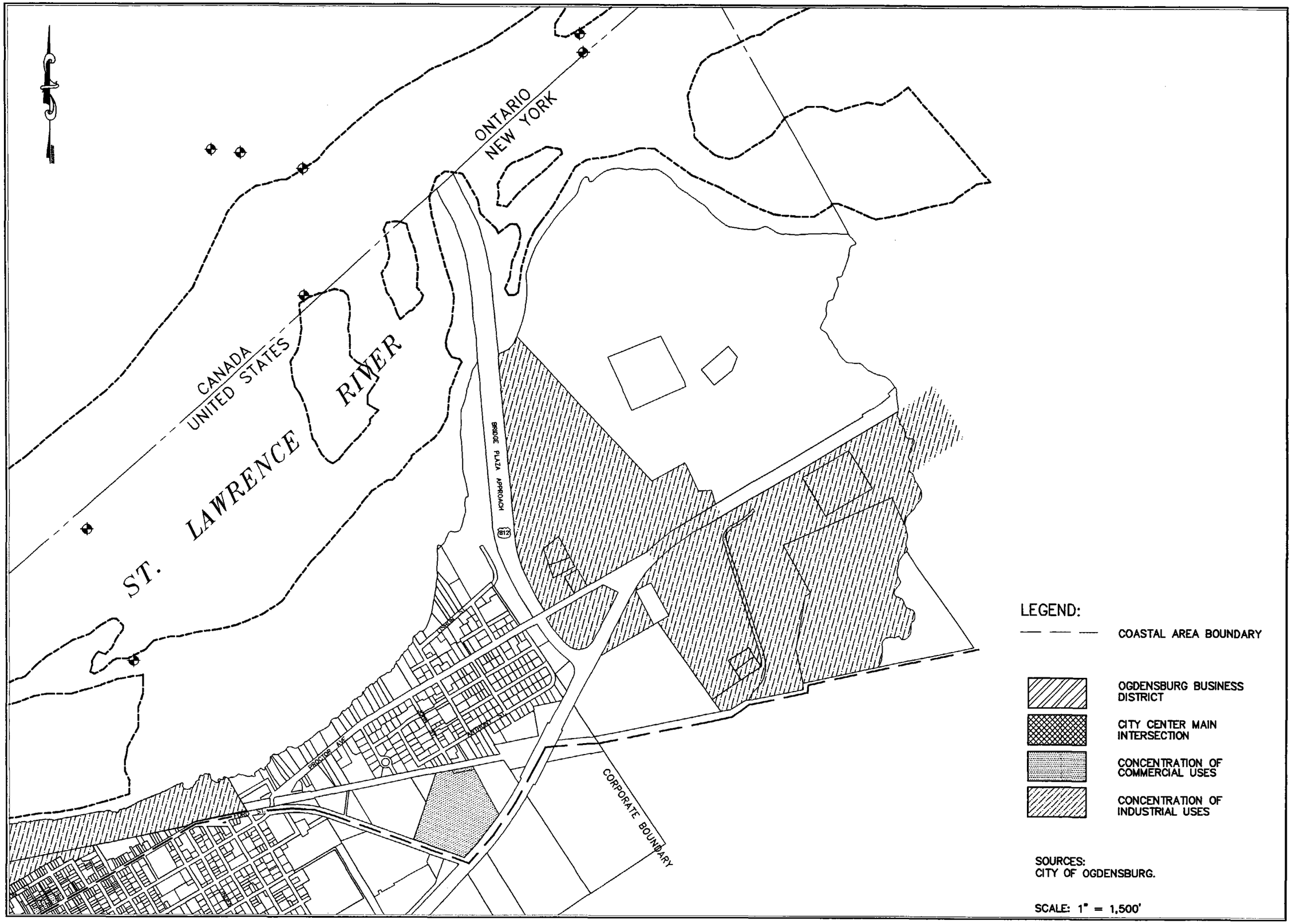
11a



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Drawing
11b

Analysis

A thriving industrial sector is essential to Ogdensburg's employment and economic pictures. Ogdensburg's industrial past is currently hindering its inner city growth, development and prosperity. The reality or threat of environmental contamination and the potential costs and difficulties associated with site cleanup, demolition, and construction and demolition debris removal have discouraged prospective buyers. A primary goal of this document is to identify realistic courses of action and available funds/programs to facilitate this process and, thereby, enhance these properties' attractiveness and development potential.

Existing City-center industrial operations are secure; there are no plans to close or relocate. Current industrial markets and trends, combined with OBPA and City efforts, have targeted the two industrial parks for future industrial development. Both parks have available land. The OBPA and City should continue to pursue quality firms for these locations.

D. Housing Stock

Existing Conditions

The 1990 Census identifies a total of 4,610 housing units in the City. The majority of the City's housing units (62%) are single-family detached. Another 26% are structures containing two to nine units. Just under 60% of those housing units classified as occupied are owner-occupied. Approximately 40% of those units classified as occupied are renter-occupied. When compared to 1980 Census data, a lower percentage of occupied units are owner-occupied; 60% versus 64%. Consequently, a higher percentage of occupied units are renter-occupied; 40% versus 36%. The City's vacancy rate is 5.3% (up from 2.3% in 1980).

The City's housing stock is aging. More than two-thirds of the City's housing units were built prior to 1939. Close to 850 units were built between 1950 and 1970. This represents close to 20% of the current housing stock. Approximately 6.6% of all housing units were built between 1980 and 1990.
Ten percent of the housing was built between 1970 and 1990.

Although only a small percentage of the City's housing stock is located in the coastal area (roughly one-tenth), the above figures generally hold true for housing in this area with one exception. A larger proportion of rental units are located in the coastal area than in the City as a whole due to the number of mixed commercial/residential structures in the commercial sections of the coastal area and two senior citizen towers containing 210 units. The remainder of the housing stock in the coastal area consists largely of single-family homes.

On the west side of the Oswegatchie River, Lake and Mill Streets contain a group of modest vernacular structures. Following demolition necessary for construction of the arterial, small isolated pockets or strips of homes remain on Main, Covington, Pearl and Monroe Streets. Most of the City's substantial large homes are located on the east side of the Oswegatchie River. Several of the older homes have been subdivided into apartments and a few of these lie at the waterfront ends of Franklin, Elizabeth, Hamilton and Paterson Streets. Both sides of Proctor Avenue are lined with large, single-family homes.

Analysis

The City's higher vacancy rate is likely attributable to the relatively large number of units built during the 1980s. Over 300 units, more than double the number of units built during the 1970s, were built during the 1980s. Many of these units are in the eastern end of the City, north and south of Proctor Avenue. And, while the 1990 Census population shows an increase of 1,146 people, much of this increase may be attributable to the Riverview Correctional Facility, opened in 1988, which can house up to 1,300 people.

The City Office of Rehabilitation and Development continues to improve housing conditions within targeted areas. Housing rehabilitation and associated public improvement should continue through investments of community development grants and City funds.

E. Archaeological and Historic Resources

Existing Conditions

The New York State Circles and Squares Map identifies general areas of archaeological and/or historic significance. The map identifies four sites from the New York State Museum archaeological site file and two sites from the New York State Historic Preservation Office archaeological site file. The site locations are approximate – one-mile diameter and one-mile square, respectively.

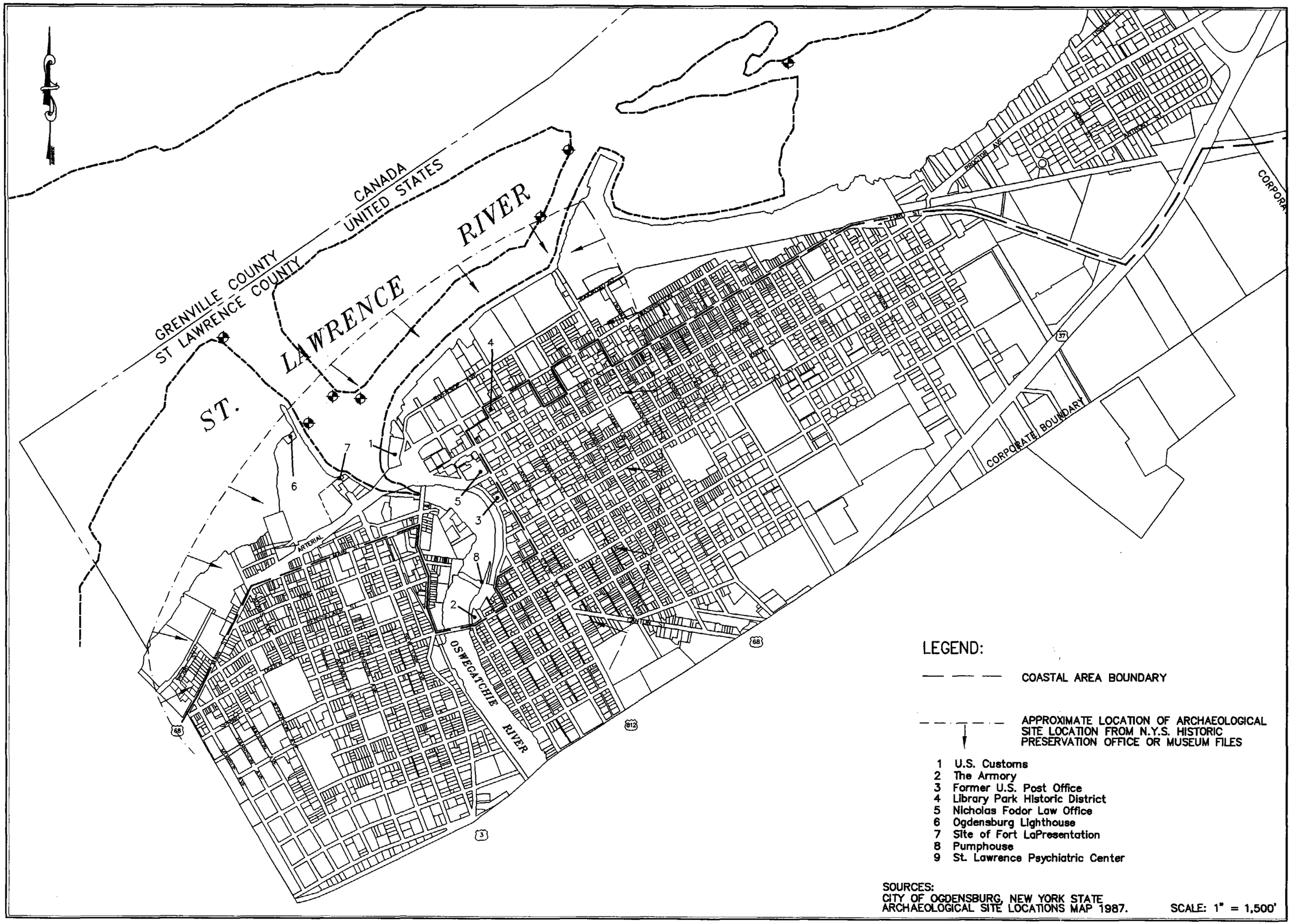
Structures and Areas

As a whole, the City of Ogdensburg retains only a modest portion of the architectural and visual integrity present during its heyday in the early 20th century. Heavy urban renewal clearance in the early 1970s removed many of the downtown commercial buildings replacing them with a one-story enclosed mall. The majority of Ogdensburg's historically and architecturally significant structures are large individually important structures scattered throughout the City. Several of these structures are located within the coastal area. Those listed on the National and State Registers of Historic Places are described below and identified in Figures 12a and 12b.

Robert C. McEwen Customs House, 127 N. Water Street. Built in 1809-10 as a store and warehouse for David Parish, this massive limestone structure has been designated by the General Service Administration as the oldest federal government building presently in use in the U.S. Listed on the National Register in 1974.

New York State Armory (The Arsenal), 100 Lafayette Street. This limestone building was constructed in 1858 by New York State for use as an armory. It currently houses offices. Listed on the National Register in 1976.

U.S. Post Office, 431 State Street. This imposing stone building is an important example of civic architecture constructed in northern New York in the nineteenth century. Built between 1867 and 1870 to house federal postal, customs, and court facilities, the building is now privately owned and vacant. Listed on the National Register in 1977.



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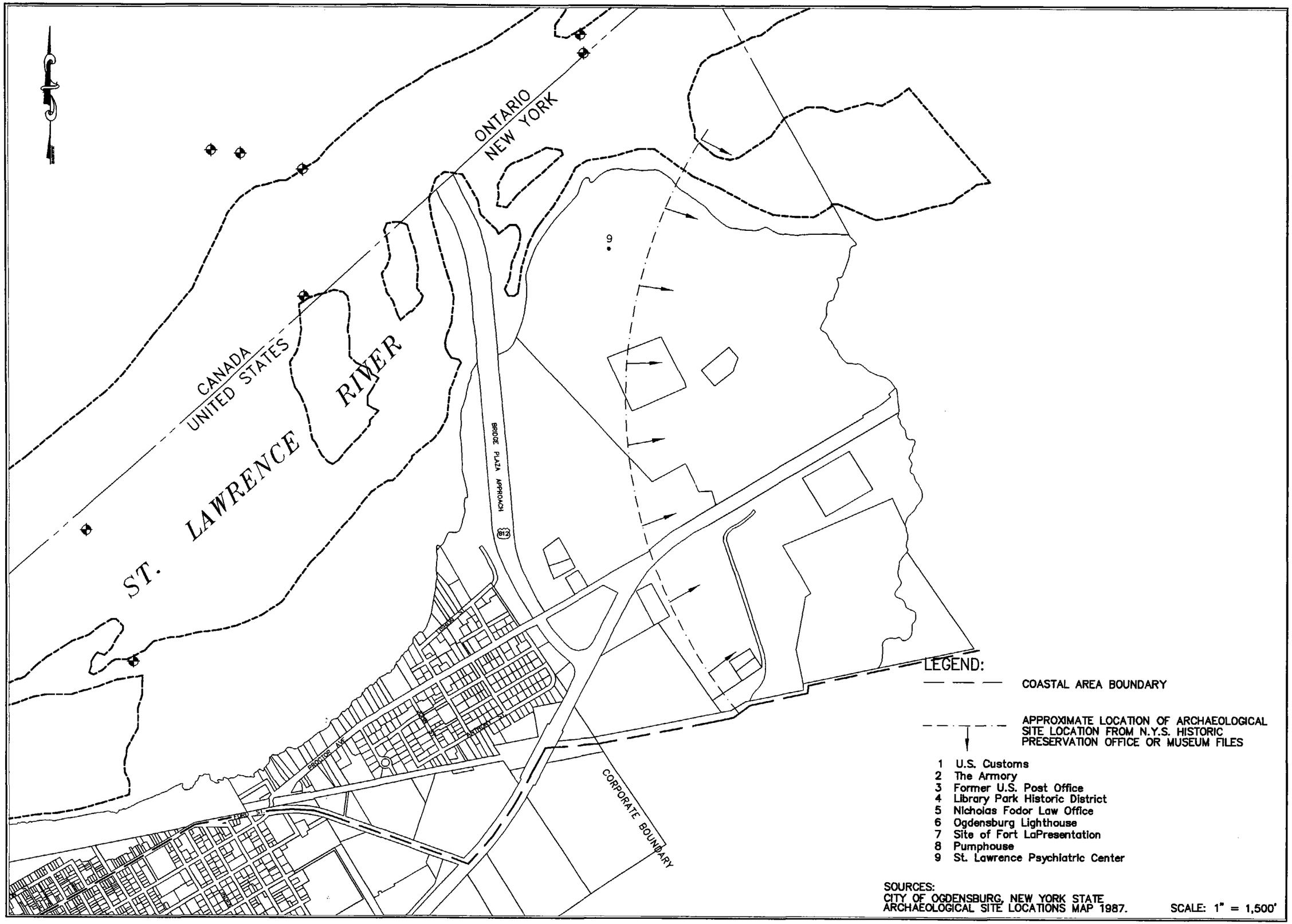

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Drawing
12b

The Robert C. McEwen Customs House

Library Park Historic District, 303-323 Washington Street, 100-112 Caroline Street, and Library Park. The Library Park Historic District is composed of several architecturally or historically significant structures, a park, and a war memorial monument. It is primarily a 19th century district occupying a section of land immediately adjacent to the St. Lawrence River which was of paramount importance in the settlement and development of the City. One of the buildings, the Dillingham residence at 311 Washington Street, was purchased by and is now a part of the Remington Art Museum. The buildings and sites listed on the National Register in 1982 include:

- The Remington Art Museum (303 and 311 Washington Street) 1809-1810 and 1883-1885, respectively.
- Ogdensburg Public Library (312 Washington Street) 1810. Reconstructed in 1888, remodeled in 1921.
- Newell Residence (323 Washington Street) 1888. Remodeled in 1931.
- Augsbury Residence (112 Caroline Street) 1891.
- Houston Residence (108 Caroline Street) 1880.
- Wheaton Residence (100 Caroline Street) 1880.
- Library Park (Bounded by Washington, Caroline, Riverside and State Streets). Originally laid out in 1903.
- Soldiers and Sailors Monument (Library Park). Civil War monument erected in 1905.

Nicholas Fodor Law Office, 315 State Street. Constructed in 1850, this small stone structure originally served as a Railway Express agency office and today remains in use as office space. Listed on the National Register in 1982.

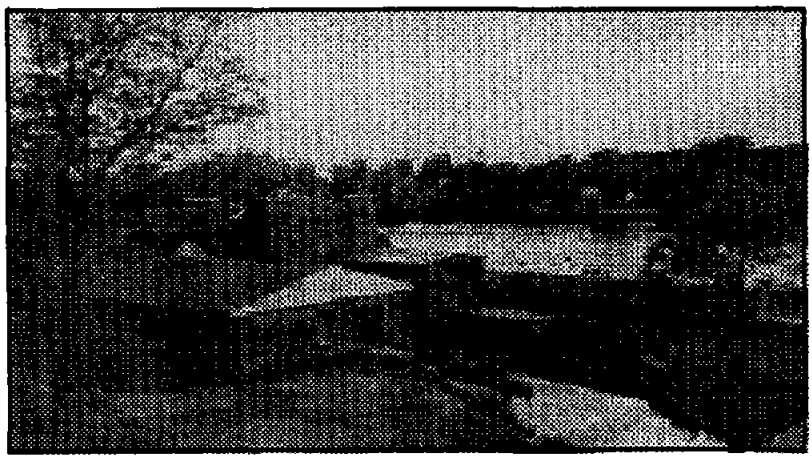
St. Lawrence Psychiatric Center -- The central core of the grounds of the Psychiatric Center contains the majority of the original structures built between the 1880s and 1920s. The Ogdensburg Correctional Facility is also located in the buildings considered to be within this core of historic structures. Although this complex is not listed on the State or National Register of Historic Places, it has been determined eligible for listing by the New York State Historic Preservation Office.

Other historically, architecturally or archaeologically significant sites not listed on the State or National Registers but worthy of note include the following:

Ogdensburg Lighthouse, Lighthouse (Van Rensselaer) Point. 1835. Renovated 1867-1870. This 65-foot stone lighthouse once guarded the St. Lawrence River shores and is now a private residence.

Site of Fort LaPresentation, Lighthouse Point. The original French fort at this site was built in 1749 by Abbey Francois Picquet and destroyed in 1760 as the British advanced and captured the City. The new Fort Oswegatchie erected on the same site was occupied by the British from 1760 until 1796. The exact location of these fortifications is unknown.

Oswegatchie Pump House, One Mechanic Street. Located adjacent to the Ogdensburg dam on the Oswegatchie River, this stone structure was erected in 1868 and served the City during the time when the water supply was derived from the Oswegatchie River. The dam was constructed in 1910. The City is considering several proposed uses for this site.



The Oswegatchie Pump House.

Monuments

Curtis Monument, adjacent to the Community Center in Greenbelt Park. Statue of Civil War General Newton Martin Curtis. Dedicated October, 1913.

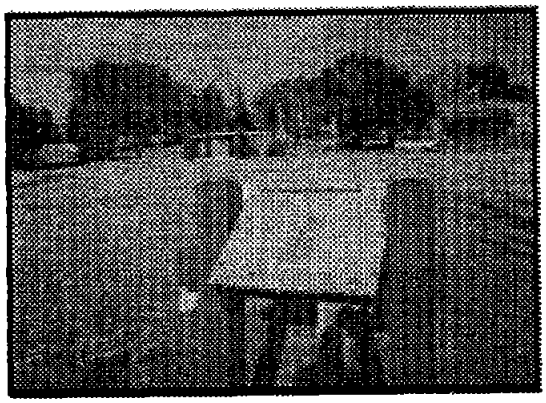
Ford Tomb, northwest of the Lafayette-Spring Street Bridge. Quarter-acre site facing Lake Street and the Oswegatchie River between N.Y. Central Railroad tracks and Lincoln Avenue. Contains the Ford family burial vault including Nathan Ford, founder of Ogdensburg. Monument erected over entrance to the vault in 1907.

Morissette Monument, Morissette Park. 1934. Named after former mayor Ralph J. Morissette. Soldiers and Sailors Monument Library Park. Dedicated in 1905 to soldiers of the Civil War (located in Library Park historic district).

Analysis

Much of Ogdensburg's historic and architectural resources have been demolished over the years, particularly in the downtown commercial core where the continuity of the nineteenth-century structures was broken up by a massive urban renewal project. In addition, the viability of the nineteenth-century commercial buildings on the west side of the City was threatened by the construction of the arterial and the closure of the Lake Street Bridge to motorized vehicles.

Because of this, the coastal area has little potential for additional National Register historic districts, although individual listings may be possible. However, many of the fine early residential structures remain, as well as several individual buildings of importance to the history of the City and the region. The City should make every effort to protect and encourage revitalization of these structures to ensure their continued contribution to the City's heritage.



Interpretive plaque in Greenbelt Park

The NYS Archaeological Site Locator Map indicates six, one mile diameter or one mile square sites in or adjacent to the Ogdensburg coastal area as possible prehistoric sites with sensitive archaeological resources. Three of these areas are in the vicinity of Lighthouse Point, and along the St. Lawrence and Oswegatchie Rivers. One is in the central part of the City straddling NY Route 37; and, two are in the eastern end of the City in the vicinity of Chimney Point and Tibbits Creek. Such sites may include encampment and fortification artifacts from Native Americans who fished or settled in the area. Lighthouse Point contains the remains of eighteenth century French fortifications. Proposed development within these areas should undergo a Phase I Historic and Archaeological analysis to determine the presence of significant resources.

Some of the City's historically and architecturally significant sites and structures have potential as visitor attractions if developed and promoted appropriately.

F. Infrastructure

Existing Conditions

Water

Water supply for the City is pumped from the St. Lawrence River via an intake pipe located at the end of Monroe Street near the western corporate boundary. The water filtration plant is located outside the coastal area at Jefferson Avenue and Ogden Street. Three storage facilities, also outside the coastal area, supply a 2.5 million gallon water reserve.

The plant's capacity is 4.8 million gallons per day. Average use is 3.2 million gallons per day.

Sewer

The sewage treatment plant is within the coastal area on Railroad Street and discharges to the St. Lawrence River at the extension of Paterson Street. Public sewers service all the developed areas of the waterfront. The plant was upgraded to secondary sewage treatment in 1980. It operates at an annual average volume of 4.2 million gallons per day. Plant capacity is 6.5 million gallons per day. Approximately half of the system is a combined storm and sanitary system with thirteen active outfalls along the two rivers. Overflows periodically occur during heavy storms. Outfalls are identified in Figures 14a and 14b.

There are no major problems with the water and sewer systems. Small upgrades are being made on an ongoing basis.

Transportation

The City's transportation system includes a network of local, county, and state roads. NY Route 812 crosses the Ogdensburg-Prescott International Bridge and connects north to the main route to Ottawa (Canadian Highway 16) and south to NY Route 11. Other major New York inter-city highways serving Ogdensburg include NY Routes 37 and 68. NY Route 37 parallels the St. Lawrence River and connects Ogdensburg with the Village of Massena to the northeast and the City of Watertown to the south. NY Route 68 runs east to the Village of Canton and NY Route 11. NY Route 37 skirts the southern part of the City. From NY Route 37, the main access routes to the central business district are Main Street from the west and Ford Street from the east. These streets funnel local traffic to the twin bridges over the Oswegatchie River. This river, which flows through the western half of the City, is the only main interruption in the northeast-southwest rectangular grid pattern. Major streets which provide access to the waterfront from NY Route 37 include Jefferson Avenue, New York Avenue, State Street, Paterson Street, Linden Street, and Champlain Street. The latter three, plus Ford Street serve the Port of Ogdensburg. The City reopened Ford Street to one-way traffic in the vicinity of the Ogdensburg Business District in 1997.

There is one active railroad line in Odgensburg. The OBPA owns the rail facilities which extend from the marine terminal to the junction with the main Conrail line in the Village of Norwood. The line provides freight service only The abandoned Penn Central line is being converted to a multi-purpose recreation path, part of the Maple City Trail.

The Ogdensburg Airport is a commercial airport served by scheduled certified air carriers. It has one paved runway 5,200 feet in length.

Analysis

Both the water and sewer systems are capable of meeting current demand. The City should continue to undertake system separation projects as funds allow to avoid periodic overflows. Until the separation is complete, the City should monitor the overflow situation closely.

The City center streets are not built or developed to accommodate large volumes of heavy truck traffic. Heavy truck traffic associated with the port primarily uses Paterson Street and, sometimes, Ford Street. Noise and dust associated with the traffic cause only occasional problems. If Phase II and/or Phase III of the Ogdensburg Port Master Plan come(s) to fruition, it may be necessary to rebuild Paterson Street or seek an alternative transportation route to access the port. There has been some discussion regarding the development of an alternative access route along the railroad right-of-way. The OBPA and City should consider the preparation of a cost-benefit analysis to clarify the issues and facilitate the decision.

The area's major travel corridors are better suited to handle heavy truck traffic. The industrial parks' location just off NY Route 37 recognize and take advantage of this. The opening of Ford Street to one-way vehicular traffic in the City center may encourage additional visitation and bring more people to the waterfront.

A highway which connects the Ogdensburg area to Interstate Routes 87 and 81 would enhance the City's attractiveness to both potential developers and visitors.

CURRENT LAND AND WATER USES; EXISTING AUTHORITIES

RESIDENTIAL
COMMERCIAL
INDUSTRIAL
RECREATIONAL
COMMERCIAL/RESIDENTIAL
VACANT

A. Current Land Uses

Figures 13a and 13b identify land uses. Nine main categories of land uses are identified, along with several sub-divisions within the main categories. Land and water uses for the coastal area are described in broader terms below. The most predominant land use types are listed first, in descending order of occurrence.

Public and Semi-Public. The largest share of the coastal area is occupied by public or semi-public entities at all levels of government. The Ogdensburg Bridge and Port Authority and the St. Lawrence Psychiatric Center are the two largest land owners in the city and most of their property lies within the coastal boundary. Within the coastal boundary area, the OBPA land is utilized for several land and water uses including rail, truck, and water transportation and light and heavy industry. Other large tracts of public land include the city's Greenbelt Park and Oswegatchie River shoreline holdings, and the former Diamond International site. The Fort LaPresentation Company, a local not-for-profit organization, currently holds title to most of Lighthouse Point, a prominent piece of land on the western side of the Oswegatchie River.

√ *Residential.* Residential land uses occupy a large portion of the coastal area, most predominately in the Proctor Avenue area and along Washington and Ford Streets. Residential cluster occur n the west side of the Oswegatchie along lake and Mill Streets, Main Street and Covington Street.

√ *Industrial.* The light and heavy industrial parks, while classified as public due to their ownership by the OBPA, contain the largest concentration of industrial uses within the coastal boundary. Most other industries previously located within the coastal boundary are now vacant, underutilized or been razed.

√ *Commercial.* Within the coastal area, commercial uses are clustered in several areas including Main Street, Ford Street, State Street and Ford Street Extension. The City's three privately owned marinas and a riverfront hotel constitute the City's largest waterfront commercial uses on the St. Lawrence and Oswegatchie Rivers. Large scale commercial uses and franchise uses tend to be at the fringes of the coastal area.

Not on the map *Forest/Forest Brushland.* While most of the coastal area is developed, there are sections which contain forest and forest/brushland vegetative cover and small scattered wetlands. Lighthouse Point, the former Augsbury and Mobil Tank Farms have excessive vegetative growth. Heavy vegetative growth is also evident on the OBPA property just east of the Port of Ogdensburg, at the St. Lawrence Psychiatric Center and on tracts of land north and south of Route 37 near the heavy industrial park.

Not on the map *Agricultural.* There are no agricultural land uses in the coastal area.

Trafalgar Power, Inc.

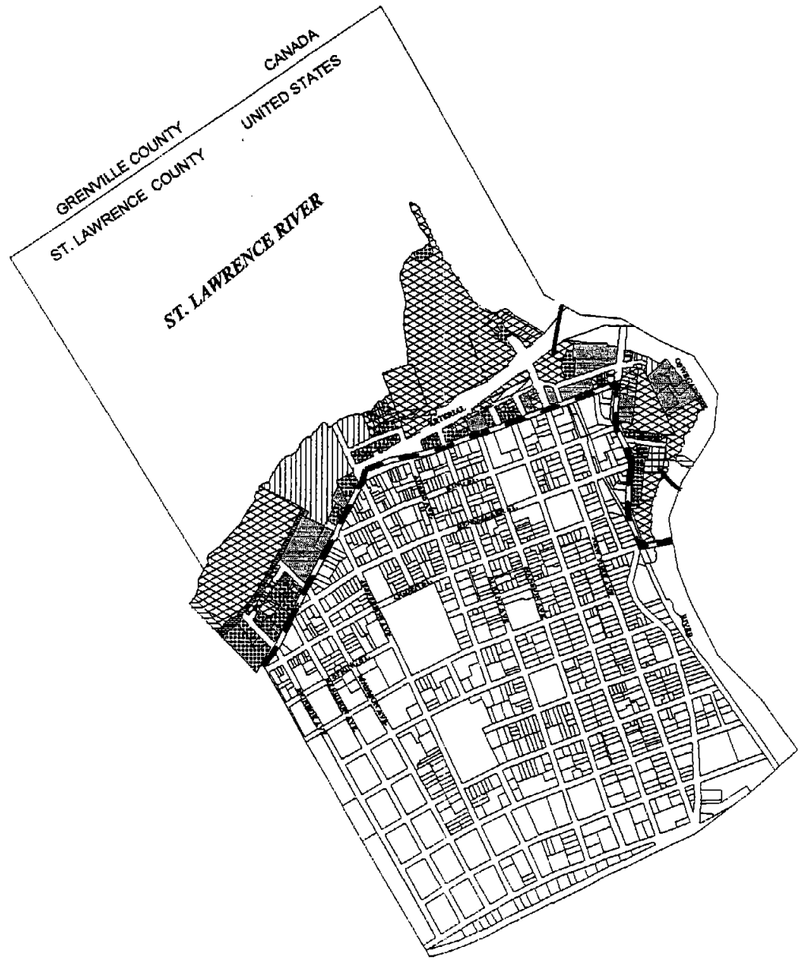
B. Current Water Uses

The Oswegatchie River and the Ogdensburg section of the St. Lawrence River support a diversity of water uses. The principal categories of water uses are shown in Figures 14a and 14b.

The Ogdensburg Dam

The rivers' fishery resources have improved in recent years with the return of the walleye and growing optimism regarding the lake sturgeon.

Commercial and recreational boating is significant along Ogdensburg's primary waterways. The Oswegatchie River supports only recreational boating due to fluctuating water levels and low bridge crossings. There are two marinas offering docking and mooring facilities on the Oswegatchie and the City has developed a portage around the Ogdensburg dam for canoeists. The St. Lawrence River Seaway carries both commercial and recreational boat traffic. The OBPA marine terminal serves commercial boat traffic. This type of travel is restricted to the shipping lane depicted on NOAA navigational charts. The navigational charts also identify the locations of the various navigational aids along the River. Two marinas, complete with docking and mooring facilities, and two City boat launches accommodate recreational boaters on the St. Lawrence River. An area in the St. Lawrence River, known locally as the Sand Bar, is popular with recreational boaters. Water depths at the Sand Bar are as shallow as three feet. The Trafalgar boat launch, just north of the Spring Street Bridge, provides access for both motorized and non-motorized vessels.



LEGEND

COASTAL AREA BOUNDARY

LAND USE KEY

- RESIDENTIAL
- COMMERCIAL
- INDUSTRIAL
- RECREATIONAL
- COMMERCIAL/RESIDENTIAL
- VACANT

SOURCE:
CITY OF OGDENSBURG

SCALE: 1" = 1500'

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City of Ogdensburg Local Waterfront Revitalization & Harbor Management Plan

CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

Title: **CURRENT LAND USE MAP**

Revisions

Project 96169
Date
CAD # 6169LAND

Drawing
13a

? { FOREST / FOREST BRUSH CANI
AGRICULTURAL

LEGEND

COASTAL AREA BOUNDARY

LAND USE KEY

- RESIDENTIAL
- COMMERCIAL
- INDUSTRIAL
- RECREATIONAL
- COMMERCIAL/RESIDENTIAL
- VACANT

SOURCE:
CITY OF OGDENSBURG

SCALE: 1" = 1500'

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City of Ogdensburg Local Waterfront Revitalization & Harbor Management Plan

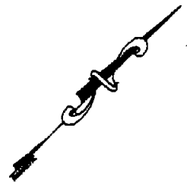
CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

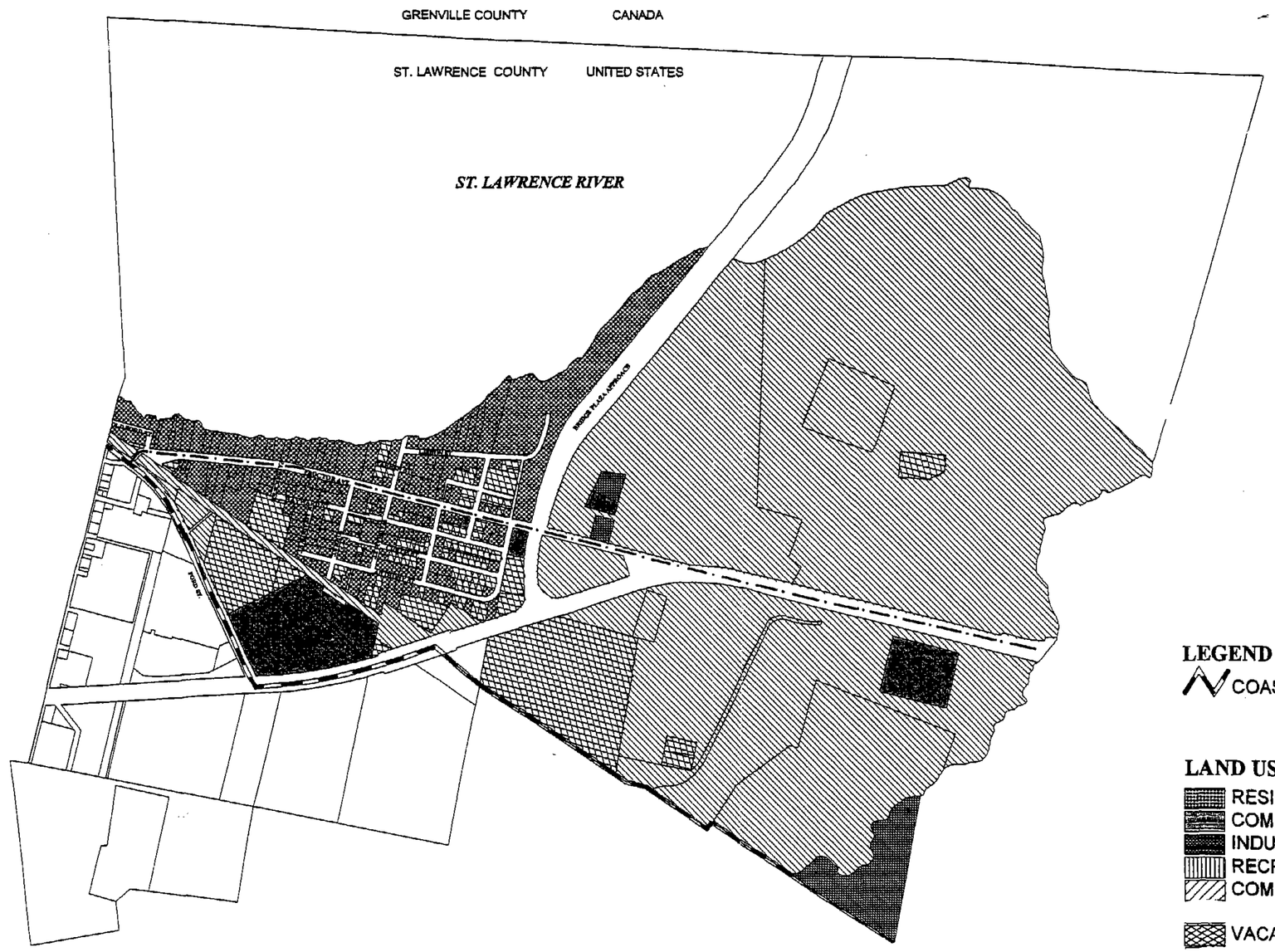
Title: CURRENT LAND USE MAP

Revisions

Project 96169
Date
CAD # 6169LAND

Drawing
13b





LEGEND

COASTAL AREA BOUNDARY

LAND USE KEY

- RESIDENTIAL
- COMMERCIAL
- INDUSTRIAL
- RECREATIONAL
- COMMERCIAL/RESIDENTIAL
- VACANT

SOURCE:
CITY OF OGDENSBURG

SCALE: 1" = 1500'

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City of Ogdensburg Local Waterfront Revitalization & Harbor Management Plan

CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

Title: CITY DRAFT LAND USE MAP

Revisions

Project 96169
Date
CAD # 6169LANI

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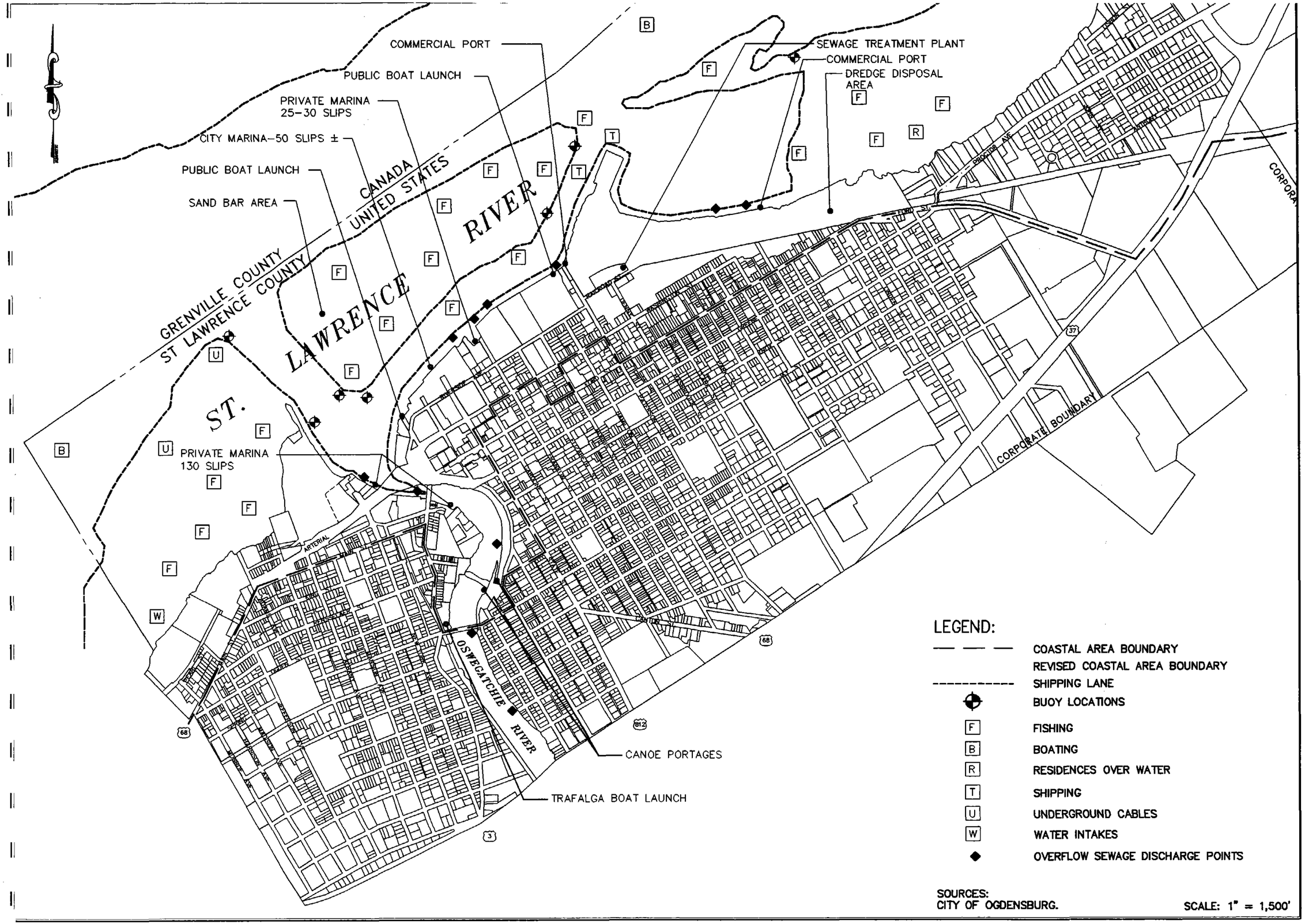

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City of Ogdensburg
Local Waterfront Revitalization &
Harbor Management Plan
CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title:
CURRENT WATER DEPENDENT USES MAP

Revisions
1/23/98
10/8/03

Project 98159
Date 7/8/97
CAD # 6169PLNU

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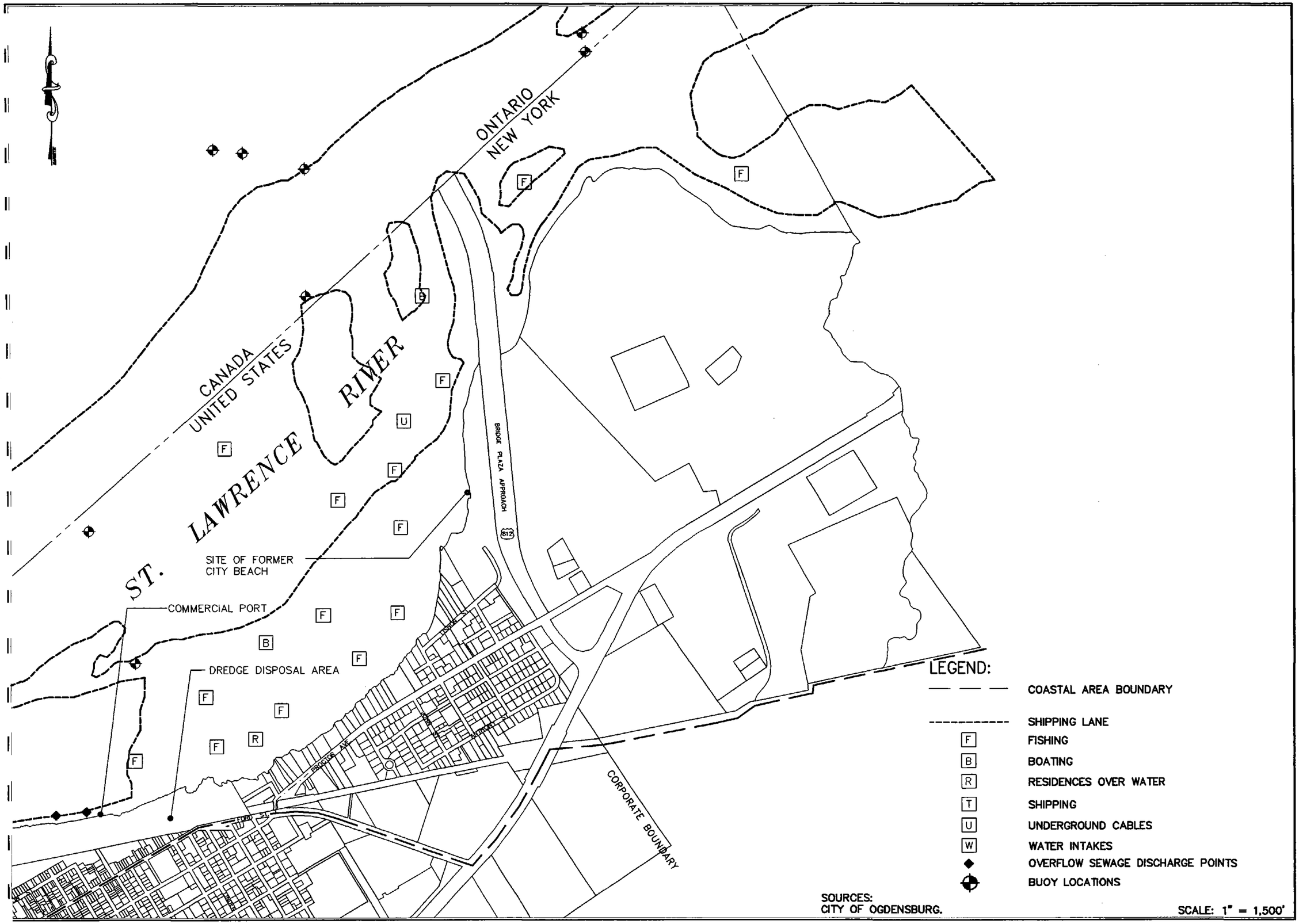
14a



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City of Ogdensburg
Local Waterfront Revitalization & Harbor Management Plan

CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK

Title:
CURRENT WATER DEPENDENT USES MAP

Revisions
1/23/98
10/8/03

Project [illegible]
Date 7/8/97
CAD # [illegible]

Drawing
14b

The City would like to increase the number and variety of water-related activities and attractions. This goal is a significant and integral component of the City's plans to revitalize the waterfront area.

C. Existing Authorities for the Ogdensburg Harbor Management Plan

A number of government entities at the local, county, state, and federal levels have roles and authorities that involve or impact Ogdensburg Harbor. These roles and authorities range from enacting local laws and issuing development permits to supporting boating safety and enforcing navigation and immigration laws.

Private entities including shorefront owners, the general public, and a private organization are also concerned with Ogdensburg Harbor.

This subsection identifies the public and private entities with authority or influence concerning the water or waterfront areas of Ogdensburg Harbor. The information presented in this section was obtained from the New York State Department of State representatives, from the different agencies and organizations described, and from the web sites of the different agencies and organizations described.

Local Authorities

The City's jurisdiction over the Harbor is influenced by state legislation that requires, permits, or restricts the types of jurisdiction the City may exercise. The principal state statutes influencing City jurisdiction are the Municipal Home Rule Law, the Navigation Law, and the Waterfront Revitalization and Coastal Resources Act.

The Municipal Home Rule Law provides basic authorizations, requirements, and procedures to adopt local laws that are consistent with both the State Constitution and general laws enacted by the State Legislature. Local law power is restricted where the proposed local law action has been pre-empted by the State. Section 46a of the State Navigation Law provides the City with authority to regulate certain activities on any waters within or bounding the City to a distance of 1,500 feet from the shore. The Waterfront Revitalization and Coastal Resources Act (Article 42 of the New York Executive Law) authorizes municipalities to prepare Local Waterfront Revitalization Programs (LWRPs) to guide coastal area land use and resource conservation in a manner consistent with the state's coastal management policies. Article 42 of the Executive Law was amended in 1992 to authorize local preparation and adoption of comprehensive harbor management plans to address "problems of conflict, congestion and competition for space" pertaining to the use of harbors, surface waters and underwater lands. The 1992 amendments also allow municipalities implementing harbor management plans to regulate certain activities on any waters within or bounding their jurisdictions to a distance of 1,500 feet from the shore.

The local public entities with some sort of authority or influence are:

- City Council
- City Fire Department
- City Planning Board
- City Volunteer Rescue Squad
- City Zoning Board of Appeals
- Ogdensburg Recreation Commission
- Local Waterfront Program Committee
- Ogdensburg Historian
- City Police Department
- Ogdensburg Growth Fund Development Corp.

City Council: The City Council is responsible for the general management and control of City finances. The City Council has the power to create and abolish offices, boards, agencies, and commissions, and to delegate powers to these units of the local government. The Council also appoints the members of the local boards, agencies, and commissions. The City Council established the Ogdensburg LWRP Committee.

The City Council may, after public hearing, also enact, amend, and repeal local laws, rules and regulations. As authorized by state statute, these laws may address navigation and other water-related activities in Ogdensburg Harbor as well as waterfront conditions that can have an important impact on the Harbor. All locally adopted laws must be filed with the Secretary of State. Any local law pertaining to navigation or boating safety must be approved by the New York State Office of Parks, Recreation and Historic Preservation (acting as the State's boating safety agency) in accordance with the Navigation Law.

As authorized by Article 42 of the New York State Executive Law, the City may adopt local laws, rules and regulations to:

- regulate and restrict the speed and operation of vessels within 1,500 feet from the shore,
- regulate and restrict the anchoring or mooring of vessels within 1,500 feet from the shore;
- regulate and restrict the anchoring or mooring of vessels used or occupied as living or sleeping quarters;
- restrict and regulate garbage removal from vessels; and
- designate and regulate the use of public anchorage areas.

The Navigation Law does not grant to local governments the authority to regulate docks, piers, and other in-water structures below the mean high water (mhw) line. This authority (supported by court decisions and opinions of the Attorney General) is reserved for the state. However, local governments may request special legislative authorization to regulate boathouses and docks (generally interpreted to include piers) under Section 46-a of the Navigation Law.

The 1992 amendments to Article 42 of the Executive Law also authorize municipalities preparing harbor management plans to "adopt, amend and enforce local laws and ordinances ... to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platform, breakwaters or other structures..." in or above the water, as well as the use of surface waters and underwater lands, to a distance of 1,500 feet from the shore. In other words, the City now has the opportunity to regulate in-water work and structures without applying to the State Legislature, as described above, for authorization to do so.

The only existing local regulation that specifically addresses issues of navigation in Ogdensburg Harbor is Section 209-36 of the City Code, Vessel Regulation Zone; Penalty. The regulation establishes a 5 mph vessel speed limit in the zone defined as:

> *the harbor shipping channel and contiguous shoreline of the St. Lawrence River between the extension of the center line of Elizabeth Street north to a point on the St. Lawrence River shoreline on the east, and a point of land on the east shore of Lighthouse Point established as the point of intersection between the extension of the east right-of-way line for Commerce Street with said shore of Lighthouse Point, on the west, and the Oswegatchie River south from its confluence with the St. Lawrence River to the Ogdensburg Dam. This zone is further delineated by the map on file and available for inspection in the office of the County Clerk.*

City Planning Board: The City of Ogdensburg Planning Board consists of seven members appointed by the Mayor. Its primary responsibility is "to advise the City Council, City staff and other agencies and boards on methods affecting community development (Section 221-72 of the Ogdensburg Code). As authorized in the Code, the Planning Board has jurisdiction over site plan review and special permit review. The zoning determines, by district, which uses require site plan or special permit review.

As set forth in Local Law #1 of 1987, the LWRP Consistency Law, the Planning Board shall review all City-sponsored Type I and Unlisted Actions (as designated via the State Environmental Quality Review Act), occurring within the defined coastal area, for their consistency with the 1986 LWRP.

Following approval of this LWRP, the Planning Board will retain this authority.

Ogdensburg Local Waterfront Revitalization Program Committee: The Ogdensburg Local Waterfront Revitalization Program Committee was established by the City Council in 1996. The Committee was responsible for overseeing preparation of the City of Ogdensburg Local Waterfront Revitalization Program (LWRP), and worked to obtain local consensus and support for the LWRP. The Committee consists of 12 members representing the City Council and City Planning Board.

The Committee will be dissolved upon completion of the LWRP.

City Police Department: The Ogdensburg Police Department enforces local laws including state boating laws within the City's jurisdiction. The Department maintains no active patrol on the Oswegatchie and St. Lawrence Rivers. It works in coordination with the St. Lawrence County Sheriff's Department and the New York State Park Police to enforce laws on those waters within the City limits. When a violation or problem is identified, the entity closest to the scene responds. The Department has a vessel for its purposes.

City Fire Department: The Ogdensburg Fire Department responds to fire and other emergency situations on the waterfront. It maintains a small rescue boat to undertake water-related rescues. The Department also has the capacity and training to perform ice rescues. The Department has no equipment to fight fires on the Oswegatchie and St. Lawrence Rivers. The U.S. Coast Guard and the DEC respond to these.

City of Ogdensburg Volunteer Rescue Squad: The Rescue Squad maintains a water response team with the training and equipment necessary to respond to a variety of emergency situations. The Squad has a 23' boat with cabin, docked at the City marina from April through November, and equipment capable of lifting 6,000 to 7,000 pounds from below the water's surface. The dive section of the Rescue Squad works in conjunction with the City's Fire and Police departments.

Ogdensburg Recreation Commission: This entity is an advisory body to the City Council. It meets regularly throughout the year to discuss and address recreation-related projects, issues, and goals. It assists the City in the preparation of relevant applications for funding. The City's waterfront boasts several recreation amenities. These are described in great detail earlier in this chapter.

Ogdensburg Historical Commission: This entity strives to enhance public knowledge and appreciation of the City's historic resources. As noted earlier in this chapter, the waterfront area contains numerous structures of historic significance.

Ogdensburg Growth Fund Development Corporation: This organization is incorporated as a local not-for-profit, 501-C-3 corporation. Its primary goals are to provide local residents/entrepreneurs with increased income and ownership and/or employment opportunities. The Development Corporation functions as a lending institution, making low interest secured loans for new construction, machinery, equipment, renovations and operations. Within the Coastal Area, funds have assisted the Ogdensburg Bridge and Port Authority, Alliance Marina, Duffy's Millwork, and Frank Ralph's Inc.

Private Organizations

Along with the different local, county, state, and federal agencies with roles and responsibilities that affect Ogdensburg Harbor, private entities may also be involved in the long-term protection or management of the Harbor.

There is one organization whose interests involve the Harbor.

St. Lawrence Valley Sportsmen's Club: This organization is involved with the River's walleye population. The construction of the Seaway Dam in Massena prevented the walleye from migrating. To address this, the Club built a miniature fish hatchery in the Ogdensburg area. In the mid 1980s, the Club, in cooperation with the United States, New York, and Canadian governments, obtained walleye eggs from Canada. Fish hatched at the hatchery were used to stock the St. Lawrence River between Oswegatchie and Massena. In 1996, the Club built a spawning bed in the Oswegatchie upriver from Tackle Box Marina. This area is a Department of State Designated Habitat of State-wide Significance. The goal is to restore a resident Walleye population.

County Departments and Agencies

The principal county departments and agencies concerned with Ogdensburg Harbor are:

- St. Lawrence County Planning Dept.
- St. Lawrence County Sheriff's Dept.
- St. Lawrence County Soil and Water Conservation District
- St. Lawrence County Industrial Development Agency

St. Lawrence County Planning Department: The primary functions of the St. Lawrence County Planning Department are to plan for county-wide development and to provide technical assistance to local governments. For example, the Planning Department offers assistance, upon request, to local governments formulating land use controls such as zoning regulations, subdivision regulations, and special ordinances.

While the County Planning Department has no regulatory authority, under Article 12-B of the State's General Municipal Law (Sections 239-1 and 239-m), the Department has statutory authority to review certain land subdivision and zoning activities that might be undertaken in a municipality. Each municipal body with jurisdiction to adopt or amend zoning regulations, approve site plans, issue special permits, or grant variances, must, before taking some of these actions (such as those within 500 feet of the municipal boundary) refer the proposed action to the County Planning Department for its recommendations.

St. Lawrence County Soil and Water Conservation District: The St. Lawrence County Soil and Water Conservation District (SWCD) is an authorized agency of county government and is considered a subdivision of state government. The primary objective of Soil and Water Conservation District is to protect natural resources, specifically soil and water resources and agricultural resources dependent on soil and water.

St. Lawrence County Sheriff's Department: The St. Lawrence County Sheriffs Department, located in Canton, enforces the New York State Navigation Law and any local laws pertaining to boating activity in St. Lawrence County. The Sheriff s Department shares jurisdictional responsibility for marine law enforcement in Ogdensburg Harbor with the City Police.

St. Lawrence County Industrial Development Agency: The Industrial Development Agency (IDA) provides tax-exempt financing to expanding or prospective businesses or industries in the county.

State Agencies

State agencies with roles and responsibilities affecting Ogdensburg Harbor are:

- Department of State
- Ogdensburg Bridge and Port Authority
- Department of Environmental Conservation
- Empire State Development Corporation
- Office of Parks, Recreation and Historic Preservation
- New York State Office of Mental Health
- Office of General Services

Department of State: The Department of State (DOS), through its Division of Coastal Resources and Waterfront Revitalization, administers the New York Coastal Management Program (CMP) and coordinates activities essential to the Program's implementation. Authority for the New York CMP was established by the State Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the New York Executive Law) which enables the state to manage its coastal resources pursuant to the provisions of the Federal Coastal Zone Management Act. The CMP covers the tidal portion of the Hudson River, the shores of Lake Erie and Lake Ontario, the Niagara and St. Lawrence Rivers, and the shores of New York City, Long Island and Westchester County.

The CMP establishes 44 management policies to carry out the legislative intent that a balance be established between economic development and coastal resource protection in the State's coastal area. Under the CMP, each coastal area municipality may prepare a Local Waterfront Revitalization Program (LWRP), based on local needs and objectives, to promote beneficial waterfront development and protect environmental resources.

Major responsibilities and interests of the DOS regarding Ogdensburg Harbor include review of proposed development activities for consistency with the CMP, designation of Significant Coastal Fish and Wildlife Habitat Areas, and assistance to the City for preparation of the LWRP. These responsibilities and interests are as follows:

- Protection of Coastal Resources through Consistency Review: All major actions proposed in the coastal area of New York State by federal agencies or by entities requiring federal permits (e.g., Army Corps of Engineers) must be consistent with the management policies established in the New York Coastal Management Program. The DOS evaluates the consistency of federal activities with the policies set forth in the CMP. If DOS deems a proposed action inconsistent, a permit cannot be issued.

  In addition to federal activities, state agency activities shall also be consistent with the Coastal Management Program. Each state agency that proposes to permit, fund or directly undertake an action in the coastal area must determine the consistency of its action with the policies and purposes of the CMP.

  Following final approval of the updated Ogdensburg LWRP, all major federal, state, and local actions affecting the coastal area of Ogdensburg, including Ogdensburg Harbor, must be judged for consistency with the Ogdensburg LWRP.

- Significant Coastal Fish and Wildlife Habitat Area and Scenic Area Designations: The DOS is responsible for assuring the protection of coastal fish and wildlife habitats and scenic areas of statewide significance. Once these types of areas are designated, the coastal management consistency requirements can be used to protect the fish, wildlife, and scenic resources of concern.

  Significant Coastal Fish and Wildlife Habitats may be designated by the State if the habitat:
  a) is essential to the survival of a large portion of a particular fish or wildlife population;
  b) supports populations of species that are endangered, threatened or of special concern;
  c) supports populations having significant commercial, recreational or educational value; or
  d) exemplifies a habitat type that is not commonly found in the state or in a coastal region.

The significance of certain habitats increases in proportion to the extent they could not be replaced if destroyed.

In addition to the Significant Habitat Program, the DOS administers a program to identify, evaluate and recommend areas for designation as Scenic Areas of Statewide Significance.

- Local Waterfront Revitalization Programs: The Waterfront Revitalization and Coastal Resources Act of 1981 provides the authority for local governments to prepare and implement Local Waterfront Revitalization Programs (LWRPs). The DOS provides financial and technical support for the preparation of these programs, and must review and approve the programs for consistency with the State's Coastal Management Policies. Local Waterfront Revitalization Programs are intended to promote beneficial development enhanced by or dependent on the communities' waterfront resources, and to balance this development with the protection of important coastal resources. Whereas the policies contained in the State's Coastal Program address resource protection and water and waterfront use from a general perspective, the LWRPs can add specificity to these policies, and provide a local basis for addressing important coastal management concerns.

  The City of Ogdensburg has an LWRP dated 1986. This document updates the 1986 document and includes the Harbor Mangement Plan (HMP).

Department of Environmental Conservation: The Department of Environmental Conservation (DEC) has the primary responsibility for protecting natural resources in the coastal area of New York State. The DEC exercises this responsibility through various permitting, review and management programs. For example, the DEC reviews proposed development activities with the potential for significant environmental impact in accordance with the requirements of the State Environmental Quality Review Act, the requirements of the Freshwater Wetlands Act, the Stream Protection Act and the Water Pollution Control Act. The DEC also oversees several regulatory programs including the Clean Water/Clean Air Bond Act and the Coastal Erosion Hazard Areas Act.

The DEC's central office in Albany establishes statewide policies and regulations and provides technical assistance to the regional DEC offices. DEC Region 6, headquartered in Watertown, has jurisdiction in the Ogdensburg Harbor area.

- The State Environmental Quality Review Act (SEQRA): SEQRA states that no agency involved in an action may undertake, fund or approve the action until it has complied with the provisions of SEQRA. Activities that trigger the SEQRA process are specified in the Act. Under SEQRA, local governments and state agencies can designate "critical environmental areas" within which all development proposals automatically receive special review under the Act.

- Freshwater Wetlands Act (Article, 24 of the Environmental Conservation Law): The State's Freshwater Wetlands Act authorizes regulation of the use and development of the State's freshwater wetlands. Under this Act, any activity that substantially impairs any of the several functions and benefits of freshwater wetlands (as specified in the law) are subject to regulation. DEC regulations set forth a system by which wetlands are mapped and classified according to the various functions and benefits provided. Four wetland classifications are established depending on the importance of the wetland cover types. Class 1 wetlands are of

the highest value. There is a 25 acre portion of a Class I wetland within the proposed revised coastal area.

- Stream Protection Act (Article 15 of the Environmental Conservation Law): Under this Act, a permit is required from the DEC for: a) altering the course, channel, or bed of a stream; b) erecting a dam or dock on the waters of the state; and c) dredging or filling in the navigable waters of the state or in adjacent marshes or wetlands.

  The permitting program established by this Act is the state counterpart of the federal Section 10 and Section 404 permitting programs carried out by the U.S. Army Corps of Engineers (see the later section on "Federal Agencies"). The section of the Stream Protection Act requiring a DEC permit for a dam across a stream or watercourse or for a permanent dock[3] is the state counterpart to the Section 10 program. The section of the Act requiring a permit for excavating or placing fill in the navigable waters of the state or in adjacent marshes and wetlands is a counterpart to the Section 404 program.

  "Navigable waters of the State" is defined in the State Navigation Law to include all lakes, rivers, streams, and waters within the boundaries of the state that are not privately owned, that are navigable in fact, or upon which vessels can operate.

- Water Pollution Control Act (Article 17 of the Environmental Conservation Law): In accordance with this Act and pursuant to the Federal Clean Water Act, New York has classified its coastal waters, and its rivers, streams, lakes, and ponds according to considerations of best usage, and has adopted water quality standards for each class of waters. The classifications are used by the DEC in issuing permits to industrial and commercial uses for effluent discharge into surface waters and range from AA (the highest classification) to D (the lowest).

  Under the State Pollutant Discharge Elimination System (SPDES), the DEC regulates all industrial, commercial and municipal discharges as well as discharges from residential subdivisions of five or more lots into the state's surface and ground waters. The City's sewage treatment plant operates under the conditions established in a SPDES permit issued by the DEC.

- Clean Water/Clean Air Bond Act: This 1996 bond act is referred to as the centerpiece of New York's environmental program. It provides funding for projects to protect and restore the State's environment. Under the Bond Act, there are five types of projects that are eligible for funding: clean water, safe drinking water, sold waste, municipal environmental restoration, and air quality. There are many potential projects that would positively impact the water quality of the Oswegatchie and St. Lawrence Rivers.

- Coastal Erosion Hazard Areas Act (Article 34 of the Environmental Conservation Law): This Act applies throughout the coastal area of New York State, including the Hudson River, and provides for local, county, or state regulation of certain activities and development within mapped erosion hazard areas. There are no designated Coastal Erosion Hazard Areas along the City's waterfront.

Office of Parks, Recreation and Historic Preservation: The main responsibility of the Office of Parks, Recreation and Historic Preservation (OPRHP) is to operate and maintain a statewide system of parks and historic sites that meets the recreational needs of the people of the state. The OPRHP is also responsible for marine and recreational vehicles programs and facilities, and for administration of the State's Navigation Law. The OPRHP's Bureau of Marine and Recreational Vehicles has general responsibility for boating safety in New York State and provides funding and training for marine law enforcement as well as boating education programs. Section 79-b of the Navigation Law provides for state financial assistance to a county, city, town, or village for authorized expenditures (e.g., vessel, personnel, and training costs) for enforcement of the Navigation Law.

The OPRHP conducts a Marine Law Enforcement School each year.

Office of General Services: Grants of underwater lands are now issued only for lands that have been filled for a long period of time. Easements and leases are more commonly issued. Most of the leases and easements now being issued are for a maximum term of ten years. Municipalities and utility companies, however, may be issued leases in perpetuity. The fee for leases and easements is worked out by a formula that takes into consideration fair market value, commercial revenue, and other factors.

The State originally owned land from the bed of the river to the top of the bank. Over time, some of the land has been granted to individuals and enterprises for a variety of purposes.

The application procedure for an easement or lease from the state is initiated after the necessary Army Corps of Engineers (ACOE) and DEC permits are obtained, along with certification of consistency with the State of New York's Coastal Management Program. As part of the application procedure, the applicant is required to serve adjoining owners and the municipality with notice of intention to secure a lease or easement. Adjacent owners and the municipality then have over 20 days to file any objections. If a project infringes on the rights of adjacent property owners, an easement or lease may still be granted if the applicant obtains an assignment of consent from the affected owners.

The OGS reviews all public notices for ACOE and DEC permit applications. If a project raises certain riparian rights issues (see later section on "The General Public and Waterfront Property Owners"), the OGS forwards its concerns to the ACOE and DEC during the public notice period. In many cases, the ACOE permits are conditioned on receipt of a lease or easement for the use of state lands.

In 1992, the Public Lands Law was amended to enable the OGS, in conjunction with the DEC and DOS, to establish regulations governing the use of state lands under water, as well as appropriate terms and conditions for conveyances (i.e., grants, easements and leases) of the state's interest to those who would place certain structures and conduct other work on state-owned underwater land. Those using State underwater lands for structures above a certain threshold must apply for a conveyance of the State's interest within one year of the effective date of the regulations. The conveyances are subject to environmental conditions stated by the DEC, and reservation, by the OGS, of the interests necessary to: a) protect the public use of State lands for navigation, commerce, fishing, and bathing, and b) serve the public interest in environmental protection, with due regard for the need of affected private property owners to safeguard their property.

Ogdensburg Bridge and Port Authority: The Ogdensburg Bridge and Port Authority (OBPA) is responsible for the development, operation and management of the Ogdensburg-Prescott International Bridge, the Port of Ogdensburg, Commerce Park, the Ogdensburg International Airport, and a short-line railroad. The port is the component of OBPA with the most direct relationship with Ogdensburg Harbor. The port is a principal point along the St. Lawrence Seaway. The OBPA and the City have maintained a close relationship since the port's construction in 1970.

The OBPA was an active and helpful participant in the update to the LWRP.

In order to keep the port open, the river in the vicinity of the wharf's two berths must be dredged occasionally. The OBPA is implementing its master plan, prepared in 1985. The details regarding this plan are found on pages 13-15.

Operation of the Port generates little if any conflict with other water-dependent or water-enhanced uses. The compatible multiple use of the river for commerce, recreation, and tourism is imperative for the City's short- and long-term economic health.

Empire State Development Corporation: The Empire State Development Corporation's (ESDC) goals are to create jobs and encourage economic prosperity by strengthening and supporting New York State businesses. ESDC acts as the business ambassador for New York State - providing information about various locations (e.g., comprehensive site and building information, community life), technical assistance, financial incentives and multi-faceted analyses. It also oversees the State's Economic Development Zone Program. This Program offers the most comprehensive package of technical assistance and financial incentives available in New York State.

In 1987, Ogdensburg was designated an Economic Development Zone. Further, the ESDC has provided grant funding to undertake numerous feasibility studies and a $225,000 Commercial Revitalization grant for façade improvements in the downtown central business district.

New York State Office of Mental Health: As a significant riverfront landowner, the Office of Mental Health (OMH) has the potential to impact the St. Lawrence River. Presently, no offshore activity exists. The fact that some of this land is destined for the auction block and new use(s) may become an issue.

Federal Agencies

In addition to federal agencies that would have a role or responsibility in any harbor, Ogdensburg's location along the United States/Canadian border triggers the involvement of several federal agencies. The involved agencies include:

- Army Corps of Engineers
- Border Patrol
- Coast Guard
- Customs
- Immigration and Naturalization Service
- St. Lawrence Seaway Development Corporation

Other federal agencies may also be concerned with the Harbor, although less directly. The "Federal Navigation Servitude" should also be noted. This is the paramount right of the federal government, acting in accordance with the Commerce clause of the U.S. Constitution, to compel the removal of any obstruction "without the necessity of paying just compensation as generally required by the fifth amendment." As a result, although navigable waters are generally subject to State control and jurisdiction, the rights of the federal government take priority where navigation is concerned.

U.S. Army Corps of Engineers: Ogdensburg Harbor is within the jurisdiction of the ACOE's Buffalo District, Ohio Rivers Division. An ACOE field office is located in Buffalo, New York. The ACOE has several important responsibilities relating to Ogdensburg Harbor, including regulation of any permanent or temporary structures below the mean high water line, and regulation of dredging or filling of wetlands and navigable waters. All regulatory and planning functions are carried out from the Buffalo office. The principal duties of the field office involve conducting surveys for navigation, and drift and snag removal.

- ACOE's Regulatory Authorities: Most of ACOE's regulatory authorities originate from Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act of 1977. Under Section 10, the ACOE regulates structures in, or affecting, navigable waters of the United States[4] as well as the excavation or deposition of material in navigable waters. Under Section 404, the ACOE is responsible for evaluating applications for Department of the Army permits to deposit dredged and/or fill material[5] into waters of the U.S., including adjacent wetlands.

  The ACOE issues two types of permits: individual permits and general permits. An individual permit is issued following evaluation of a specific proposal, and involves public notice of the proposed activity, review of comments and, if necessary, a public hearing. In general, an individual permit must be received from the ACOE for the following activities:

  √ filling of wetlands and navigable waters;
  √ placement of structures, including docks, piers, pilings, and bulkheads, in navigable waters; and
  √ dredging and disposal of dredged material.

  A general permit is issued for categories of activities judged to be substantially similar in nature and to cause only minimal individual and cumulative adverse environmental impacts. General permits include nationwide permits and regional permits. Activities that conform to the requirements of a nationwide or regional permit require neither a full application to the ACOE nor a public notice.

  Examples of activities permitted (subject to various conditions and restrictions) under the nationwide general permit include: aids to navigation authorized by the Coast Guard; non-commercial single-boat mooring buoys; temporary buoys and markers placed for recreational uses such as water skiing and boat racing; duck blinds; outfall systems where a wastewater discharge permit has been obtained; and repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill.

Following receipt of an application for an individual permit, the ACOE sends out a public notice describing the project to appropriate federal, state and local agencies, as well as to interested groups and individuals. The information received by the ACOE from these agencies and groups following their reviews of the project includes written recommendations and appropriate certifications. After the specified comment period, the ACOE evaluates the proposed activity using guidelines developed by the U.S. Environmental Protection Agency.

In New York State, the ACOE and the Department of Environmental Conservation use a joint application form for the various permits (e.g., permits for dock construction and dredge and fill operations) required from both agencies.

- ACOE's Navigation Responsibilities: The ACOE is also responsible for constructing and maintaining federal navigation projects specifically authorized by Acts of Congress. In exchange for using federal funds to construct and maintain navigation projects, the federal government, acting through the ACOE, requires that no private, commercial activities (such as marina development) occur within the project; that there be no encroachments (such as docks and moorings) into a designated channel or anchorage; and, that equitable opportunities for access to the navigation project by the general public are maintained. The ACOE may prepare basic guidelines regarding placement of moorings, piers, piles, and other structures adjacent to a channel. These guidelines typically include minimum distances that docks and piers should be set back from the boundaries of navigation channels to help ensure boating safety.

U.S. Coast Guard: Ogdensburg Harbor is within the jurisdiction of the Ninth District. The boundaries of this District encompass the shores of the Great Lake states of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York. Within this District, there are 48 stations/92 units. The Coast Guard Station nearest to Ogdensburg Harbor is Alexandria Bay, New York. Units perform the traditional tasks associated with boating safety, military readiness, search and rescue, aids to navigation, ice breaking, law enforcement, environmental protection, and port security.

The Ninth District maintains more than 3,300 buoys, navigational lights and fixed aids. The Coast Guard regularly conducts a Waterways Analysis Program through which the adequacy of aids to navigation is evaluated. The Coast Guard also establishes requirements for the marking, lighting, and standardization of all nonfederal ("private") aids to navigation.

Coast Guard search and rescue operations are carried out cooperatively with local, county, and state agencies. The Coast Guard shares responsibility for responding to oil and hazardous materials spills with the U.S. Environmental Protection Agency, in cooperation with state and local offices. By law, all oil spills must be reported to the Coast Guard, and the Coast Guard has the authority to close a harbor to navigation in the event of an emergency.

The Coast Guard has primary responsibility for enforcing federal boating laws and regulations, including the proper use of marine sanitation devices, and has authority to board and inspect vessels to ensure compliance with federal boating laws and regulations. Law enforcement responsibilities are shared with state, county, and local enforcement authorities.

United States Immigration and Naturalization Service: The Ogdensburg Office of the U.S. Immigration and Naturalization Service (INS) is part of the Buffalo District. Generally, its responsibility is to inspect the people that enter Ogdensburg by land, sea or air from other countries, including Canada.

The INS inspects arrivals by land at the Ogdensburg-Prescott International Bridge. The INS inspects crewmen on vessels at the Port of Ogdensburg. Civilians on cruise ships that stop at Morissette Park are also inspected. Individuals or groups of people that arrive in Ogdensburg, from Canada or elsewhere, via pleasure boat must check in with the INS via the two-way videophone installed at the Dobisky Community Center. INS also inspects foreign arrivals at the Ogdensburg International Airport.

United States Border Patrol: The U.S. Border Patrol maintains a station in Ogdensburg. It represents the enforcement arm of the INS. It enforces the country's immigration laws in order to prevent the illegal entry of aliens and to remove those who are here illegally or those who are here legally and have done something warranting their departure. It patrols the land and water areas of Ogdensburg and its environs.

United States Customs: U.S. Customs is responsible for enforcing over 400 federal, state and local laws at Ogdensburg's various points of entry. In conjunction with the INS, Customs enforces laws at the Ogdensburg-Prescott International Bridge, the Port of Ogdensburg, the City marina, and the Ogdensburg International Airport (arrivals and departures). Individuals or groups of people that arrive via pleasure boat are required to contact Customs for inspection. The three most searched for items are illegal drugs, currency, and high tech merchandise.

St. Lawrence Seaway Development Corporation (taken verbatim from web site): This entity is responsible for the 2,038 mile Seaway System that extends from the Atlantic Ocean in the east to the twin ports of Duluth, Minnesota and Superior, Wisconsin in the west. The regional office is located in Massena.

In a joint program with the U.S. Coast Guard, the Seaway Corporation screens vessels prior to entering U.S. waters to ensure compliance with U.S. safety and environmental protection laws.

Cargoes are diverse and include agricultural products, iron and steel products, mine products, and other processed and manufactured products.

The U.S. and Canadian Seaway agencies operate the Seaway's locks and channel and furnish vessels transiting the Seaway with vessel traffic control assistance. They jointly publish transit regulations for vessels, negotiate and establish toll policies, and set the Seaway's annual opening and closing dates. The Seaway Corporation promotes the waterway through an extensive domestic and international marketing program. Other services include: marketing advice, export/import trade data, trade and traffic reports, various special information newsletters, and seminars and workshops.

Regarding Ogdensburg, the Seaway channel exists offshore in the St. Lawrence River. Seaway traffic passes the City and may load/unload cargo at the Port of Ogdensburg. Vessel traffic presents little if any conflict.

Of course, the potential for a spill or some other accident exists. In 1989, the Corporation developed an Emergency Response Plan to quickly and safely handle any type of oil/chemical spill or vessel incident. Agencies including, but not necessarily limited to, the U.S. Coast Guard and DEC would respond.

Other Federal Agencies

Other Federal agencies with less direct roles and responsibilities concerning Ogdensburg Harbor are:

- Fish and Wildlife Service
- Federal Emergency Management Agency
- National Marine Fisheries Service
- National Oceanic and Atmospheric
- Environmental Protection Agency Administration

U.S. Fish and Wildlife Service: The Fish and Wildlife Service (FWS) provides advice and comments to the ACOE on the potential impacts that proposed development activities requiring an ACOE Section 10 or 404 permit would have on fish and wildlife resources. The FWS reviews and comments on the permit applications placed on public notice by the ACOE and would comment and review any proposal for use of dredged material disposal sites.

The FWS is not a permitting agency. Its recommendations with regard to the potential impacts of development proposals subject to the Section 10 and 404 permitting programs, however, must be considered by the ACOE and given equal weight to other environmental and socioeconomic factors in evaluating the permit application.

National Marine Fisheries Service: The National Marine Fisheries Service (NMFS) within the Department of Commerce has authority to comment to the ACOE on the potential impacts that proposed development activities requiring an ACOE Section 10 or 404 permit would have on marine fisheries resources. Like the FWS, the NMFS reviews and comments on the permit applications placed on public notice by the ACOE.

Also like the FWS, the NMFS is not a permitting agency but its recommendations with regard to the potential impacts of development proposals must be considered by the ACOE and given equal weight to all other factors in evaluating the permit application.

Environmental Protection Agency: The Environmental Protection Agency (EPA) has several responsibilities that indirectly impact Ogdensburg Harbor, particularly with regard to water quality. For example, the EPA is responsible for establishing standards for discharge of municipal and industrial wastewater, providing grants for construction of municipal sewerage systems, and administering the National Pollutant Discharge Elimination System (NPDES). In New York, responsibilities for administration and enforcement of the NPDES, in accordance with the provisions of the Federal Clean Water Act, has been turned over to the DEC.

Under Section 312 of the Clean Water Act, if a state or municipality wishes to establish a no-discharge zone within which marine sanitation devices cannot be discharged directly to the water, the EPA must determine if there are adequate pump-out facilities available to permit such a prohibition on direct discharges. Also under Section 312 of the Clean Water Act, the EPA is responsible for establishing federal standards of performance for marine sanitation devices.

The EPA also has responsibility for reviewing and commenting on applications submitted to the ACOE for dredging and filling in navigable waters. The EPA may veto an ACOE permit for dredging or filling if it determines that the proposed development activity would have an unacceptable adverse effect on environmental resources.

Federal Emergency Management Agency: The Federal Emergency Management Agency (FEMA) is responsible for conducting studies (flood insurance studies) and publishing maps (flood insurance rate maps) to determine flood vulnerability. The flood insurance rate maps are also prepared for the purpose of providing flood insurance to residents of the communities that participate in the National Flood Insurance Program (NFIP). FEMA establishes the minimum floodplain regulations that a community must adopt to participate in the NFIP. The City of Ogdensburg's floodplain regulations were adopted in 1980 and are in accordance with the FEMA guidelines.

National Oceanic and Atmospheric Administration: The National Oceanic and Atmospheric Administration (NOAA) also has some responsibilities that impact Ogdensburg Harbor. Within NOAA, the Office of Ocean and Coastal Resources Management is responsible for administering the Federal Coastal Zone Management Program through which New York's Coastal Management Program is authorized and funded. The National Weather Service (NWS) is responsible for issuing weather forecasts and coastal storm warnings. The National Ocean Service is responsible for conducting bathymetric surveys, preparing navigation charts, determining changes in sea level, and publishing tide tables, when applicable.

The General Public and Waterfront Property Owners

The general public and waterfront property owners have important rights and interests in Ogdensburg Harbor. The rights of the general public are in accordance with the Public Trust Doctrine.[6] Waterfront property owners have important riparian rights of access to the Harbor.

The General Public: In general, navigational rights take precedence over other in-water rights. Boaters have the right of free navigation (generally interpreted to including fishing) subject to lawfully enacted restrictions. The right of navigation includes the right to anchor, but does not include the right to a mooring (a mooring is a structure subject to a permit from the ACOE).

In New York State, the general public also has the right of access along the foreshore (between mean high water and mean low water), even if the adjacent upland is in private ownership. The general public, however, does not have the right of access across privately owned upland to reach the publicly-owned foreshore or open tidal waters.

Waterfront Property Owners: Certain rights - referred to as riparian or littoral rights[7]- are inherent in the ownership of land that borders on navigable waters. The right of access to navigable water is a fundamental riparian right of waterfront property owners. This right is distinct from, and in addition to, the general right of the public to use these waters in accordance with the Public Trust Doctrine.

The riparian owner has certain rights not available to the general public, including "a right of access to the water body adjoining his land ... [and a right to] wharf out to the point of navigability or channel, subject to reasonable state regulations intended to preserve the public's interest in the flow of water and in subaqueous land." State regulations include, for example, DEC permit requirements for the construction of docks, piers, and wharves. In addition, where a wharf or pier is to be constructed in navigable waters of the United States, a permit from the ACOE must also be obtained.

With regard to shoreline changes (such as result from erosion and accretion) "it is a generally well-recognized principle of riparian law that whatever is added to riparian lands as a result of gradual and imperceptible growth through the operation of natural causes belongs to the riparian owner. And conversely, whatever is taken away from riparian lands under similar circumstances is lost to the upland owner."

Limitations on the riparian or littoral property owner's rights "are based on concepts of nuisance or of police power regulation rather than on any theory of public rights," as well as on limitations related to the Federal Navigation Servitude.

IMPORTANT ECONOMIC ACTIVITIES

The City's economic base is centered primarily in the health services, retail, and manufacturing sectors. The 1990 Census figures for the City of Ogdensburg indicate that 23.2% of employed persons over the age of sixteen work in the wholesale or retail trade sector, 21.8% of those employed work in the health industry; and, 12.7% of those employed work in the manufacture of durable and non-durable goods. Just over 11% of employed persons over the age of sixteen work in public administration. Education accounts for 9.2% of employed workers. Educational employment consists of not only public and parochial schools, but also Ivy Ridge. All other industries, taken separately, account for less than 6% of all employed workers.

Almost 53% of employed persons work in the private-for-profit sector while 13.6% work in the private not-for-profit sector. Approximately 4% of all workers are self-employed. State government employees represent 20% of those employed while 7.8% of those employed work at the local government level. The number of state workers has changed since the 1990 Census with the start-up of the Riverview Correctional Facility (outside the coastal area) and the downsizing of the Psychiatric Center. In 1990, approximately 1.4% of those employed worked for the federal sector.

The City operates the Ogdensburg Growth Fund Development Corporation to provide low interest loans for small businesses to start up, expand, renovate or buy new equipment. The Growth Fund is a local development corporation set up by the City with repayments made on Urban Development Action Grant (UDAG) loans. Generally, the funds will put up $1.00 for every $2.50 in private funds. Currently the Ogdensburg Growth Fund totals nearly $375,000. The City has also actively pursued outside grant sources to supplement its general revenues. Several Community Development Block Grants and Urban Development Action Grants have been received and used for a variety of programs including housing rehabilitation, water and sewer improvements, and downtown capital improvements.

Since 1975, the OBPA and the City government have conducted a marketing campaign to acquire tenants for Commerce Park. To date, the park has fourteen buildings, and twenty-one businesses. The foreign trade zone in Commerce Park is an attraction for businesses to locate in Ogdensburg.

Special community events also contribute to the area economy and serve not only residents but tourists as well. Annual events such as the Seaway Festival, River Shiver, Ogdensburg Expo, and Founders Days hundreds of people for several days of the year. Other events such as fishing derbies, Remington Museum exhibits, and other community activities contribute to municipal revenues.

SIGNIFICANT COASTAL RESOURCES AND CONDITIONS

The City of Ogdensburg has several significant coastal resources, all of which play a vital role in the effort to revitalize the waterfront and the entire City.

A. Vacant Waterfront Parcels

There are several sizeable vacant parcels that have varying degrees of potential for the City. Each presents a unique set of challenges and opportunities.

1. Former Augsbury Corporation Oil Tank Farm Site, Riverside Avenue

The Augsbury Corporation operated a petroleum dock and oil tank farm at this site until 1982 when it filed for protection under Chapter 11 of the federal bankruptcy laws. The oil tanks were removed and the property was sold. A strip of the land along the eastern boundary functions as a public boat launch and parking area. The western 5.8 acres is owned by the local Kiwanis Club. The remaining 9.8 acres are in private ownership.

Available test results for the western 5.8 acres do not show significant levels of soil or groundwater contamination. Test results are not available for the vacant portion of the site.

The owners of the 9.8 acre vacant parcel have formally and informally publicized several development scenarios, none of which has advanced beyond the proposal stage.

2. Lighthouse Point, Covington Street

Lighthouse Point covers approximately 38 acres of land at the confluence of the St. Lawrence and Oswegatchie Rivers and is one of the City's most valuable scenic resources. The point is the site of Fort LaPresentation, a former fort and missionary, established in 1749 by Abbey Francis Piquet. The fort served as a combination church, school, trading post, Native American settlement and citadel. The site was renamed Fort Oswegatchie when, in 1760, it was rebuilt under British rule.

While most of the Point is vacant, there are several residences on the peninsula. The Ogdensburg Lighthouse (1835), now a private residence, stands at the peninsula's end. With the exception of four acres of City-owned land fronting the arterial, the area is in private ownership.

An approximately four acre piece of land near the peninsula's western shore is a former landfill and suspected of contamination.

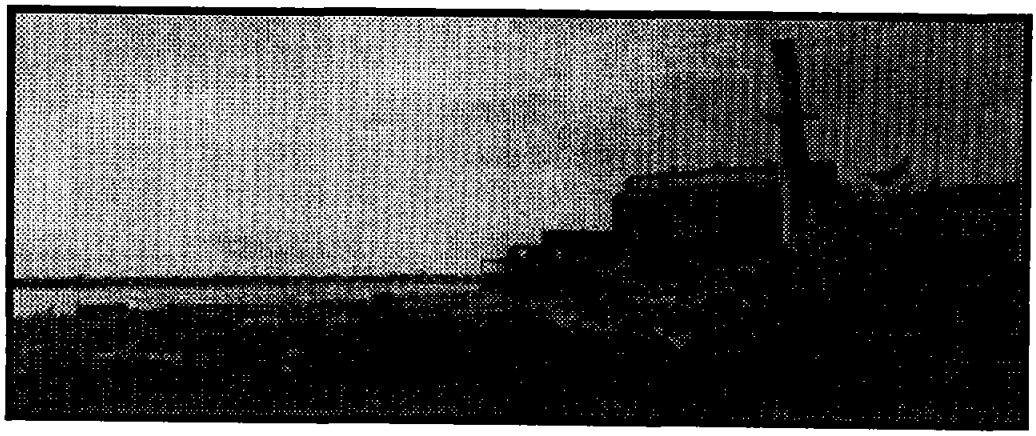
3. *Former Mobil Oil Tank Farm Site, off Railroad Street*

This 3.0 acre site is still owned by Mobil Oil but is vacant.

B. Underutilized and/or Abandoned Parcels

1. *Former Diamond International Site, off Madison Avenue*

This 5.7 acre parcel contains the former Diamond International site. The federal Environmental Protection Agency removed barrels containing hazardous substances and assessed on-site asbestos. Testing of river sediment and fish raised no significant concerns. Upon acquisition, the City razed the all the building structures. Redevelopment plans are being prepared.



The Diamond International Site

The New York State Department of Environmental Conservation may continue to be involved in the site's assessment.

2. *Former Shade Roller Company Site, off Madison Avenue*

This 11.8 acre parcel is immediately adjacent to the Diamond International site on the St. Lawrence River waterfront. This parcel is for sale.

3. *Pump House, Mechanic Street*

This structure was built in 1910 and served the City when the Oswegatchie River was the City's water source. A new roof was built in the mid 1990s but the building's interior requires work. It is currently vacant. The Pump House is listed on the National Register.

4. *East and West Banks of the Oswegatchie River*

There are a variety of land uses along the eastern and western banks of the Oswegatchie River including residential, recreational, commercial, industrial, and

The East Bank of the Oswegatchie River

community service. Some of the recreation areas are underutilized for one or more reasons including, but not necessarily limited to, lack of public awareness, inadequate access, their isolated nature, and their relatively undeveloped character.

C. Natural Resources

1. Fishery Resources

The Oswegatchie and St. Lawrence Rivers are renowned for their fishery resources. The stretch of the Oswegatchie from the Ogdensburg dam to its confluence with the St. Lawrence River is a State-designated significant habitat. And, there are several locally-designated significant habitats for fish. These are all listed and described in detail in Section II(E) of this document. The maintenance and enhancement of these habitats' condition are vital to the City's environmental and economic health.

2. Scenic Resources

Ogdensburg's setting lends itself to beautiful vistas. Whether it is the Ogdensburg Lighthouse on Lighthouse Point, one of the City's historic structures, the boats at the City marina with the St. Lawrence River and the Canadian shoreline in the background, or the Ogdensburg-Prescott International Bridge, the scenic resources associated with the City of Ogdensburg and its waterfront are inspiring.

The number of currently vacant, underutilized and abandoned properties along the waterfront and in the coastal area represent a tremendous opportunity to further improve upon the already impressive list of scenic resources.

SECTION II: FOOTNOTES

Footnote 1

Class A waters are suitable as a source of water supply for drinking, culinary or food processing purposes and any other usages with treatment.

Class B waters are suitable for primary contact recreation and any other uses except as a source of water supply for drinking, culinary or food processing purposes.

Class C waters are suitable for fishing and all other uses except as a source of water supply for drinking, culinary of food processing purposes and primary contact recreation.

Class D waters are suitable for secondary contact recreation, but due to such natural conditions as intermittence of flow, water conditions not conducive to propagation of game fish, or streambed conditions, the waters will not support the propagation of fish.

Footnote 2

Class I wetlands. A wetland shall be a Class I wetland if it has any of the following seven enumerated characteristics:

(1) It is a classic kettlehole bog (664.6[b][2]);
(2) It is a resident habitat of an endangered or threatened animal species (664.6[c][2] and [4]);
(3) It contains an endangered or threatened plant species (664.6[c][4]);
(4) It supports an animal species in abundance or diversity unusual for the State or for the major region of the State in which it is found (664.6[c][1] and [6]);
(5) It is tributary to a body of water which could subject a substantially developed area to significant damage from flooding or from additional flooding should the wetland be modified, filled or drained (664.6[d][1]);
(6) It is adjacent or contiguous to a reservoir or other body of water that is used primarily for public water supply, or it is hydraulically connected to an aquifer which is used for public water supply (664.6[d][2],[3] and [4]); or
(7) It contains four or more of the enumerated class II characteristics. The department may, however, determine that some of the characteristics are duplicative of each other, therefore do not indicate enhanced benefits, and so do not warrant class I classification. Each species to which paragraphs (b)(6)-(8) of this section apply shall be considered a separate class II characteristic for this purpose.

Class II wetlands. A wetland shall be a Class II wetland if it has any of the following 17 enumerated characteristics:

(1) It is an emergent marsh in which purple loosestrife and/or reed (phragmites) constitutes less than two thirds of the cover type (664.6[a][2]);
(2) It contains two or more wetland structural groups (664.6[b][1]);
(3) It is contiguous to a tidal wetland (664.6[b][3]);
(4) It is associated with permanent open water outside the wetland (664.6[b][4]);

(5) It is adjacent or contiguous to streams classified C(t) or higher under article 15 of the Environmental Conservation Law (664.6[b][5]);
(6) It is traditional migration habitat of an endangered or threatened animals species (664.6[c][3] and [4]);
(7) It is resident habitat of an animal species vulnerable in the State (664.6[c][2] and]5]);
(8) It contains a plant species vulnerable in the State (664.6[c][5]);
(9) It supports an animal species in abundance or diversity unusual for the county in which it is found (664.6[c][7]);
(10) It has demonstrable archaeological or pale ontological significance as a wetland (664.6[c][8]);
(11) It contains, is part of, owes its existence to, or is ecologically associated with, an unusual geologic feature which is an excellent representation of its type (664.6[c][9]);
(12) It is tributary to a body of water which could subject a lightly developed area, an area used for growing crops for harvest, or an area planned for development by a local planning authority, to significant damage from flooding or from additional flooding should the wetland be modified, filled or drained (664.6[d][1]);
(13) It is hydraulically connected to an aquifer which has been identified by a government agency as a potentially useful water supply (664.6[d][4]);
(14) It acts in a tertiary treatment capacity for a sewage disposal system (664.6[d][3]);
(15) It is within an urbanized area (664.6[e][1]);
(16) It is one of the three largest wetlands within a city, town, or New York City borough (664.6[e][3]); or
(17) It is within a publicly owned recreation area (664.6[3][4]).

Class III wetlands. A wetland shall be a Class III wetland if it has any of the following 15 enumerated characteristics:

(1) It is an emergent marsh in which purple loosestrife and/or reed (phragmites) constitutes two thirds or more of the cover type (664.6[a][2]);
(2) It is a deciduous swamp (664.6[a][3]);
(3) It is a shrub swamp (664.6[a][5]);
(4) It consists of floating and/or submergent vegetation (664.6[a][6]);
(5) It consists of wetland open water (664.6[a][7]);
(6) It contains an island with an area or height above the wetland adequate to provide one or more of the benefits described in section 664.6(b)(6) of this Part;
(7) It has a total alkalinity of at least 50 parts per million (664.6[c][10]);
(8) It is adjacent to fertile upland (664.6[c][11];
(9) It is resident habitat of an animal species vulnerable in the major region of the State in which it is found, or it is traditional migration habitat of an animal species vulnerable in the State or in the major region of the State in which it is found (664.6[c][1]-[3] and [5]);
(10) It contains a plant species vulnerable in the major region of the State in which it is found (664.6[c][1] and [5]);
(11) It is part of a surface water system with permanent open water and it receives significant pollution of a type amenable to amelioration by wetlands (664.6[d][3]);
(12) It is visible from an interstate highway, a parkway, a designated scenic highway or a passenger railroad, and serves a valuable aesthetic or open space function (664.6[e][2]);
(13) It is one of the three largest wetlands of the same cover type with a town (664.6[e][3]);
(14) It is in a town in which wetland acreage is less than one percent of the total acreage (664.6[e][3]); or
(15) It is on publicly owned land that is open to the public (664.6[e][5]).

Class IV wetlands. A wetland shall be a Class IV wetland if it does not have any of the characteristics listed as criteria for Class I, II or III wetlands. Class IV wetlands will include wet meadows (664.6[a][1]) and coniferous swamps (664.6[a][4]) which lack other characteristics justifying a higher classification.

Footnote 3

Excluded from this permit requirement are docks, piers, wharves, or other structures built on floats, columns, open timber, or smaller open-work supports having a top surface of 200 square feet or less, or which are removed in the fall of each year and replaced in the spring of the following year.

Footnote 4

The term "waters of the United States" is currently defined by regulation to include all navigable and interstate waters, their tributaries and adjacent wetlands, as well as isolated wetlands and lakes and intermittent streams.

Footnote 5

"Dredged material" is material that is excavated or dredged from the waters of the U.S., and "fill material" is any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a water body. The term "discharge of fill material" refers to the addition of fill material into waters of the U.S., and includes fills for site-development purposes as well as shore protection devices such as riprap, seawalls and revetments.

Footnote 6

The Public Trust Doctrine is based on the common law principle that certain lands and waters are so important to the public that private ownership or other impediments to public uses should not be permitted.

Footnote 7

With regard to water rights law, water rights arise when property either abuts or contains water. If the water in question is flowing (e.g., river or stream) the rights are said to be riparian. If the property is subject to the ebb and flow of the tide, or is located on a lakeshore, the rights are said to be littoral rights. Despite these distinctions, the term "riparian" and "littoral" are commonly used interchangeably. Riparian/littoral rights are usually defined to include: a) the right of access to navigable waters, including the right to wharf out to navigability, and b) the use of the water for general purposes such as swimming.

COASTAL FISH & WILDLIFE HABITAT RATING FORM

APR 21

Name of Area: **Oswegatchie River**

Designated: **May 15, 1994**

County(ies): **St. Lawrence**

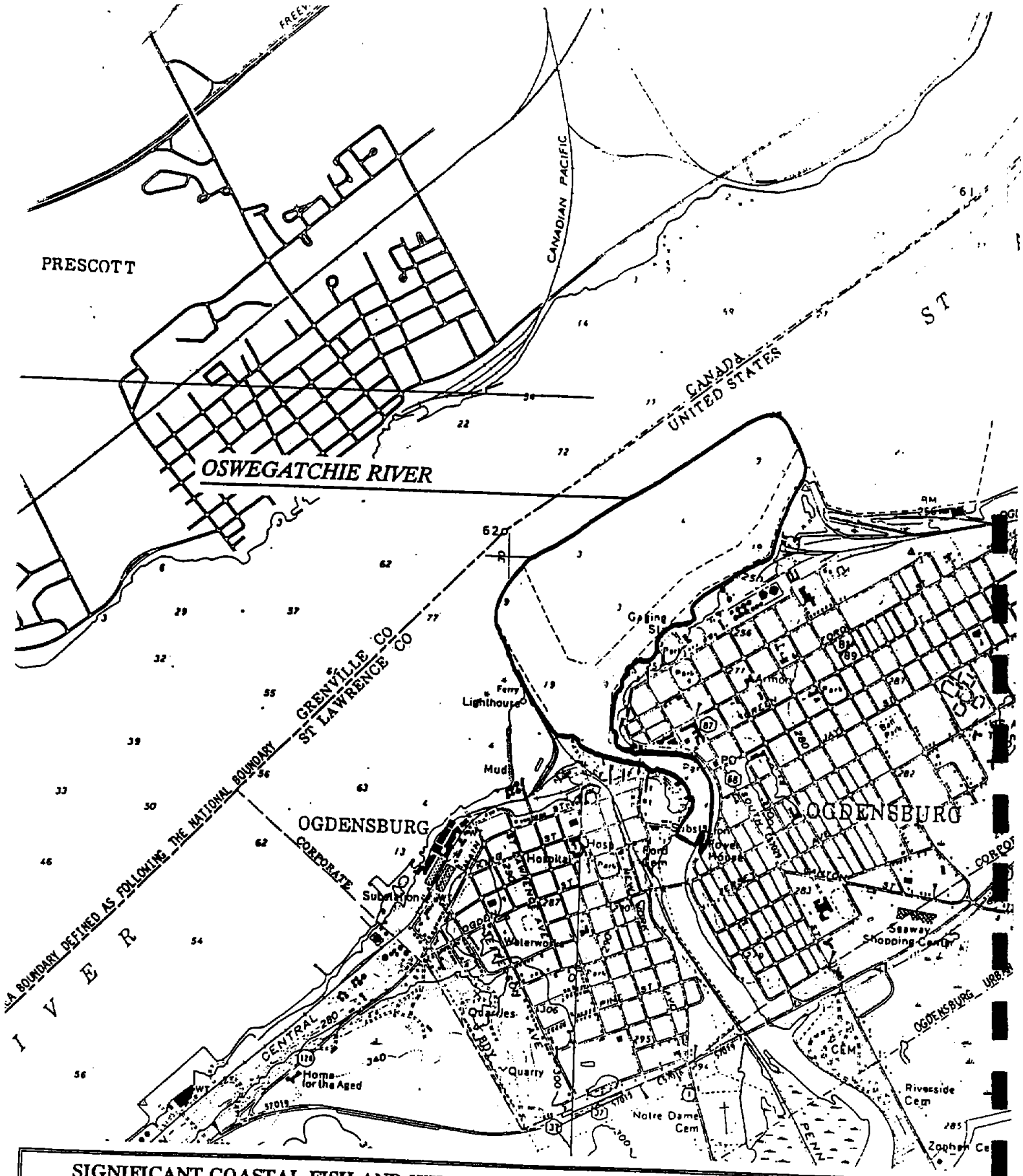
Town(s): **Ogdensburg**

7½′ Quadrangle(s): **Ogdensburg East, NY; Ogdensburg West, NY**

Score	Criterion
12	Ecosystem Rarity (ER) The only significant area of riffle habitat associated with the lower St. Lawrence River (ecological subzone), but rarity reduced by human disturbance. Geometric mean: $(9x16)^{½} = 12$
0	Species Vulnerability (SV) No endangered, threatened or special concern species are known to reside in the area.
9	Human Use (HU) Diverse recreational fisheries attract considerable use by residents of the Thousand Islands region of New York.
0	Population Level (PL) Spawning runs of walleye occur in the area, but no evidence of successful reproduction has been documented.
1.2	Replaceability (R) Irreplaceable.

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]

= 25



SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS

Oswegatchie River

N

feet

0 2000

New York State Department of State Division of Coastal Resources and Waterfront Revitalization Prepared by T. Hart and G. Capobianco March 1992

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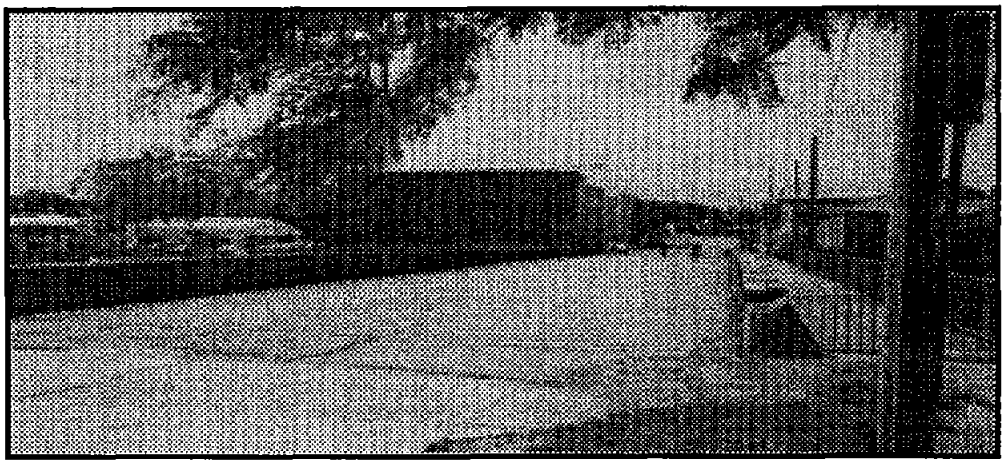
WATERFRONT REVITALIZATION PROGRAM POLICIES

DEVELOPMENT POLICIES

Policy 1 **Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.**

Policy 1A **Restore, revitalize and redevelop City-owned sites for the following uses:**

a. Lake Street Bridge: Implement streestscape and visual improvements to enhance linkage between riverbanks and recreational opportunities and to encourage use for special events, exhibitions and demonstrations. Structural improvements are needed to stabilize the bridge's integrity and maintain pedestrian safety.



The Lake Street Bridge.

b. Pump House: Continue improvements to this historic structure to encourage an adaptive reuse.

c. Dobisky Community Center: Renovate and update this facility to accommodate a compatible mix of commercial, recreational and cultural uses.

d. Paterson Street Boat Launch: Continue to use as a quad-boat launch. The parking area needs to be expanded to accommodate this use.

e. Recreation Pavilion Site: Develop this site for multi-purpose recreation facility. The primary use is to be ice skating.

f. Lighthouse Point Parcel: Pursue efforts to reconstruct Fort LaPresentation, develop a nautical museum and/or establish a visitor center.

g. Elsa Luksich Pool: Develop further for public recreational use.

h. Former Diamond International Site: Water dependent uses are highly desirable. Commercial use(s) and/or commercial recreation use(s) with consideration of public recreational access as a multiple use are especially encouraged. A theme park (armed forces?) is a desirable use. Industrial development of the site, while not desirable, is not precluded.

Policy 1B **Promote the restoration, revitalization and redevelopment of the following sites through encouragement and support of private or joint public and private sector projects for the following uses:**

a. Kiwanis Property (part of former Augsbury Tank Farm): Recreational development of this property is desirable.

b. Parcel of Land Between Kiwanis Property and Paterson Street Boat Launch (part of former Augsbury Tank Farm): Commercial, residential, recreational and cultural uses with public recreational access as a multiple use are desired and encouraged.

c. OBPA land along Proctor Avenue: Residential and/or recreational development of this land is desirable.

d. St. Lawrence Psychiatric Center: Development potential includes residential, recreational and/or commercial uses.

e. West Bank of Oswegatchie River bounded by Lake Street, Main Street and the Oswegatchie River: In the Trafalgar Power/Ogdensburg Dam area, utility/ electric generation uses are planned. In the Trafalgar public park area and other areas, a mix of commercial and/or residential uses is encouraged.

Lighthouse Point.

f. Lighthouse Point: Residential, commercial, recreation and cultural uses are most appropriate for this area.

g. Former Mobil Tank Farm: Commercial, recreation and water-dependent uses with consideration of public access are desired and should be encouraged.

h. Shade Roller Property: Industrial reuse of this property and site is feasible and, at this time, desirable.

i. Mill Street: The City should continue to acquire residential lots for future redevelopment. Moderate density residential development would be most appropriate.

j. East River Street: Restore the right-of-way to City ownership.

Policy 1C **In those instances when the reuse or adaptive reuse of industrial sites or structures is prohibitive for structural, environmental and/or practical reasons, the site may be cleared and reused in a manner which is consistent with the remaining applicable policies of this document.**

Explanation of Policy

All government agencies must ensure that their actions further the revitalization of the waterfront areas within the City of Ogdensburg. The transfer and purchase of property; the construction of new buildings, roads or parks; and the provision of tax and other incentives to businesses, and establishment of enterprise zones are examples of governmental means for spurring waterfront revitalization. When any such action, or similar action is proposed, it must be analyzed to determine if the action would contribute to or adversely affect the City's waterfront revitalization efforts.

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

The City is committed to promoting the revitalization and beneficial use of these areas in a manner sensitive to other coastal policies including port development (Policy 3); fish and wildlife habitats (Policies 7 through 9); public access and recreation (Policies 19 through 23); scenic quality (Policy 25); and water quality (Policies 30 through 39).

In addition to these considerations, several other policies must be considered. Uses requiring a location abutting the waterfront must be given priority in any redevelopment effort. Policy 2 provides the means to effectuate this priority. As explained in Policy 5, one reason for revitalizing previously dynamic waterfront areas is that the costs for providing basic services to such areas is frequently less than providing new services to areas not previously developed. The likelihood for successfully simplifying permit procedures and easing certain requirements (Policy 6) will be increased if a discrete

area and not the entire waterfront is the focus for this effort. In turn, ease in obtaining permits should increase developers' interest to invest in these areas. Further, once this concentrated effort has succeeded, stabilization and revitalization of surrounding areas is more likely to occur.

When a federal, state or local government action is proposed to take place in an urban waterfront area regarded as suitable for development or redevelopment the following guidelines will be used:

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

b. The action should enhance existing and anticipated uses. For example, a new highway should be designed and constructed so as to serve the potential access needs for desirable industrial development;

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

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

e. The action must lead to development which is compatible with the character of the area as required by the zoning law, with consideration given to scale, architectural style, density, and intensity of use;

f. The action should have the potential to improve the existing economic base of the community, and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve industrial needs would be inappropriate in an area where no increased industrial demands were expected and existing development was already meeting demand;

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

h. The action should improve the potential for multiple uses of the site.

If a state, federal or local government action is proposed to take place outside of a given deteriorated, underutilized waterfront area suitable for redevelopment, and is either within the relevant community or adjacent coastal communities, the agency proposing the action must first determine if it is feasible to take the action within the deteriorated, underutilized waterfront area in question. If such an action is feasible, the agency should give consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause further deterioration of that area.

Cross references to other LWRP sections for areas described in Policies 1A and 1B are as follows:

1. A. **a.** **(pp. 17, 21, 124)**
b. **(pp. 13, 17, 26, 48, 123, 124)**
c. **(pp. 17, 123, 124)**
d. **(pp. 18, 29, 31, 102, 104, 123, 124)**
e. **(pp. 5, 18, 22, 47, 106, 122, 132, 134)**
f. **(pp. 4, 8, 12, 19, 26, 27, 29, 47, 102, 105, 118, 122)**
g. **(pp. --)**
h. **(pp. 4, 12, 19, 29, 48, 102, 105, 120, 121, 132, 141**

1. B. **a.** **(pp. 5, 30, 47, 104, 123)**
b. **(pp. 30, 104, 123, 132, 134)**
c. **(pp. 29, 124)**
d. **(pp. 8, 10, 13, 15, 16, 17, 19, 25, 29, 31, 105, 110, 124)**
e. **(pp. 3, 12, 18, 19, 29, 48, 49, 109)**
f. **(pp. 4, 5, 8, 12, 19, 25, 27, 30, 47, 49, 102, 105, 118, 122, 132)**
g. **(pp. 5, 12, 47, 106, 122)**
h. **(pp. 12, 48, 105, 124)**
i. **(pp. --)**
j. **(pp. --)**

Policy 2 **Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.**

Explanation of Policy

There is a finite amount of waterfront space suitable for development purposes. Although demand for a specific piece of property will vary with economic and social conditions on both a city-wide and state-wide basis, long-term expectations are for increased demand for waterfront property.

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

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

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

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

3. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short- and long-term storage facilities);

4. Structures needed for navigational purposes (for example: dams and lighthouses);

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

6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);

7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants);

8. Uses that rely heavily on the waterborne transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (for example, coal export facilities, cement plants, quarries);

9. Uses which operate under such severe time constraints that proximity to shipping facilities become critical (for example: firms processing perishable foods);

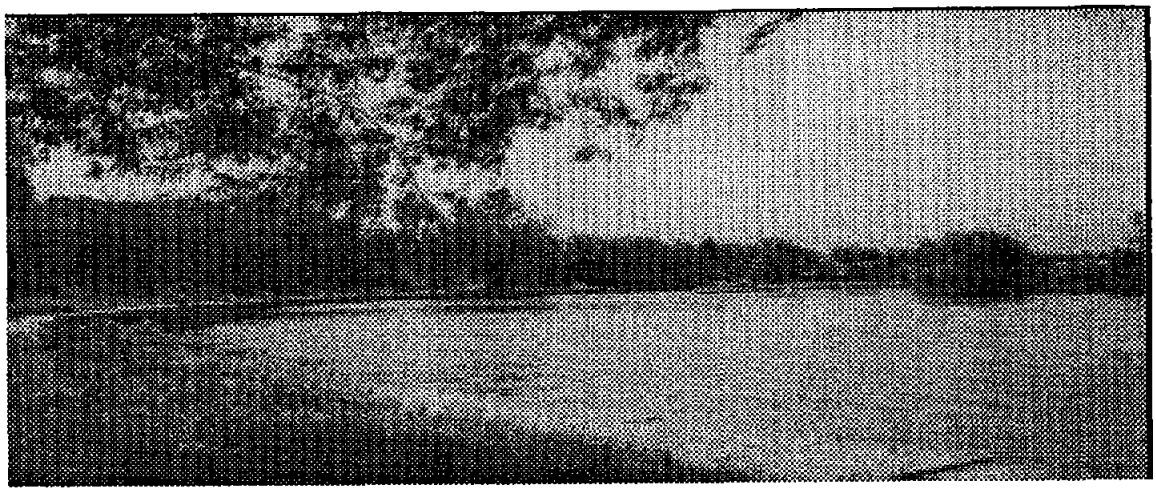
10. Scientific/educational activities which, by their nature, require access to coastal waters (for example: natural resource nature centers); and

11. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent uses, they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.

In addition to water-dependent uses, uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water-dependent uses. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront (e.g., parks, restaurants, hotels, other tourist accommodations, and cultural/educational uses). A restaurant which uses good site design to take advantage of a waterfront view, and an industrial park which incorporates the waterfront into the site layout while providing for public access are two examples of water-enhanced uses.

If there is no immediate demand for a water dependent use in a given area, but a future demand is reasonably foreseeable, temporary non-water-dependent uses would be considered preferable to a non-water dependent use which involves irreversible, or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which would likely be considered as "temporary," non-water-dependent uses.

The City will facilitate the location and expansion of water-dependent uses in its waterfront with particular emphasis on those which will contribute to local revitalization efforts. The City has designated the following locations as those best suited for water-dependent or water-enhanced uses:



The East Bank of the Oswegatchie River.

- Port of Ogdensburg: port facilities; water, rail and truck transport.
- East bank of Oswegatchie River: recreational uses.
- West bank of Oswegatchie River: recreational uses; boat building enterprises.
- Lighthouse Point Parcel: future development of the site should consider and recognize Fort LaPresentation re-creation, other historic, cultural and educational facilities, and commercial uses to augment attractions; boat building enterprises.
- Mobil Tank Farm: public access along the riverfront.
- Kiwanis Property: recreational use
- Land between Kiwanis Property and Paterson Street Boat Launch: a recreation link joining the two active recreation parcels. The riverwalk should cross the parcel at the riverfront.
- Diamond International: potential for multi-family residential, commercial, recreation or mixed use development. This site also has potential for a theme park (armed forces).

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

1. Competition for space - Competition for space or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The anticipated impact could either be one of increased protection to existing water dependent activities or else the encouragement of water-dependent development.

2. In-place facilities and services - Most water-dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water dependent uses, consideration should be given to the following factors such as:

   a) the availability of public sewers, public water lines and adequate power supply;
   b) access to the area for trucks and rail, if heavy industry is to be accommodated; and
   c) access to public transportation, if a high number of person trips are to be generated.

3. Access to navigational channels - If commercial shipping or recreational boating is planned, the City should consider setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels would be assured.

4. Compatibility with adjacent uses and the protection of other coastal resources - Water-dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential area from odors, noise and traffic. Affirmative approaches should also be employed so that water-dependent uses and adjacent uses can serve to complement one other. For example, a recreation-oriented water-dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, fishing pier or swimming area would enhance, and in turn be enhanced by, nearby restaurants, motels and other non-water-oriented tourist activities. Water-dependent uses must also be sited so as to avoid adverse impacts on the significant coastal resources.

5. Preference to underutilized sites - The promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting, and other state and local actions that will be used to promote the site. Nowhere is such a stimulus needed more than in those portions of the City's waterfront areas which are currently underutilized.

6. Providing for expansion - a primary objective of the policy is to create a process by which water-dependent uses can be accommodated well into the future. State agencies and the City should therefore give consideration to long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed in the near future.

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

- Favored treatment to water-dependent use areas with respect to capital programming. Particular priority should be given to the construction and maintenance of port facilities, roads, railroad facilities, parking area, and storage areas suitable for water-dependent uses.
- When areas suitable for water-dependent uses are publicly owned, favored leasing arrangements should be given to water-dependent uses.
- Where possible, consideration should be given to providing water-dependent uses with property tax abatements, loan guarantees, or loans at or below market rates.
- State and city planning and economic development agencies should actively promote water-dependent uses. In addition, a list of sites available for non-water dependent uses should be maintained in order to assist developers seeking alternative sites for their proposed projects.
- Local, state and federal agencies should work together to streamline permitting procedures that may be burdensome to water-dependent uses. This effort should begin for specific uses in deteriorated and underutilized areas.
- Local land use controls should be considered as a tool of local government for assuring Local Revitalization and Harbor Management Plan adequate space for the development of water-dependent uses and the protection of sensitive areas. Refer to Appendix H for the City's Harbor Management Law.

Policy 3 **Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg and Oswego as centers of commerce and industry, and encourage the siting in these port areas including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.**

Explanation of Policy

The Port of Ogdensburg is designated as one of five major ports in New York State. As such, it is a vital component of not only the City's but the state's economic well being. The aim of this policy is to support port development and activities in the City of Ogdensburg.

Three other development policies, discussed in this Section, also have significant implications for port development, namely: water dependency (Policy 2); concentration of development (Policy 5); and the expediting of permit reviews (Policy 6). In implementing this policy, state, federal and local agencies will recognize that jurisdiction of this policy extends over the Ogdensburg Bridge and Port Authority (OBPA) marine terminal facilities as illustrated in Figure 10, as well as any future expansions or improvements to such facilities. If an action is proposed for a site within or abutting the port, or if there is a reasonable expectation that a proposed action elsewhere would have an impact on the port, then the following guidelines shall be used in determining consistency:

1. In assessing proposed projects within or abutting the port, given that all other applicable policies are adhered to, consideration shall be given to the maintenance and enhancement of port activity, i.e., development related to waterborne transportation.

2. Dredging to maintain the economic viability of the port will be regarded as an action of regional or statewide public benefit if: a clear need is shown for maintaining or improving the established alignment, width, and depth of existing channels or for new channels essential to port activity; and, it can be demonstrated that environmental impacts would be at acceptable levels according to state regulations governing the activity.

3. Landfill projects in the near shore areas will be regarded as an acceptable activity within major port areas, provided adverse environmental impacts are acceptable under all applicable environmental regulations and a strong economic justification is demonstrated.

4. If non-port related activities are proposed to be located in or near to the port, these uses shall be sited so as not to interfere with normal port operations.

5. When not already restricted by existing laws or covenants, and when there is no other overriding regional or statewide public benefit for doing otherwise, surplus public land or facilities within or adjacent to the port shall be offered for sale, in the first instance, to the Port Authority.

6. In the programming of capital projects for the port area, highest priority will be given to projects that promote the development and use of the port. However, in determining such priorities, consideration must also be given to non-port related interests within or near the port that have demonstrated critical capital programming needs.

7. No buildings, piers, wharves, or vessels shall be abandoned or otherwise left unused by a public agency or sold without making provisions for their maintenance in sound condition or for their demolition or removal.

8. Proposals for the development of new major ports will be assessed in terms of the anticipated impact on: a.) existing New York State major ports including Ogdensburg; b.) existing modes of transportation; and c.) the surrounding land uses and overall neighborhood character of the area in which the proposed port is to be located; d.) and other valued coastal resources.

9. Port development shall provide opportunities for public access insofar as these opportunities do not interfere with the day-to-day operations of the port and the Port Authority and its tenants do not incur unreasonable costs.

The *Ogdensburg Port Master Plan and Development Study* (1984) sets forth a ten-year, three-phase development program for the Port of Ogdensburg. Phase One of this plan has been implemented (see Inventory and Analysis, p.14). Future development and improvements at the port shall be in accordance with this Master Plan. The City of Ogdensburg shall work with the Port Authority in furthering port development plans and activities and, given that all other applicable policies are adhered to, will give top consideration to such development. The Port Authority shall, in turn, abide by all applicable coastal policies in carrying out port development programs and activities. The constraints of intra-city port transportation routes will be considered in any future Port of Ogdensburg development. The Port Authority and the City shall continue to maintain open communication and cooperation on port-related plans and projects. The City's Harbor Management Law is provided in Appendix H.

Policy 4 **Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.**

Explanation of Policy

This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the state's coastal area contribute much to the economic strength and attractiveness of these harbor communities. In Ogdensburg, traditional uses include skiff building (Leyar Boat Works and Spaulding Boat Works). Existing operations such as Ogdensburg Boat Works and St. Lawrence Boat Works continue in this vein. Thus, efforts of the state, federal and local agencies shall center on promoting such desirable activities as recreational and commercial fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors which, in turn, can make significant contributions to the State's tourism industry. For related information, refer to the City's Harbor Management Law in Appendix H.

The following guidelines shall be used in determining consistency:

1. The action shall give priority to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.

2. The action will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.

3. The action shall not be out of character with, nor lead to development which would be out of character with, existing development in terms of the area's scale, intensity of use, and architectural style.

4. The action must not cause a site to deteriorate, e.g., a structure shall not be abandoned without protecting it against vandalism and/or structural decline.

5. The action will not adversely affect the existing economic base of the community, e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.

6. The action will not detract from views of the water and smaller harbor area, particularly where the visual quality of the area is an important component of the area's appeal and identity.

Policy 5 **Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other coastal areas.**

Explanation of Policy

Through governmental actions, development in the waterfront area will be encouraged to locate within or in close proximity to existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development.

This policy is intended to accomplish the following:

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

In assessing the adequacy of an area's infrastructure and public services, the following points shall be considered:

a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;

b. Development's water needs (consumptive and fire fighting) can be met by the existing water supply system;

c. Sewage disposal system can accommodate the wastes generated by the development;

d. Energy needs of the proposed land development can be accommodated by existing utility systems;

e. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and

f. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

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

1. Economic activities which depend upon sites at or near locations where natural resources are present, e.g., lumber industry, quarries.

2. Development which by its nature is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, second home development.

3. Development which is designed to be a self-contained activity, e.g., a small college, an academic or religious retreat.

4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available.

5. Development which because of its isolated location and small-scale has little or no potential to generate and/or encourage further land development.

6. Uses and/or activities which because of public safety consideration should be located away from populous areas.

7. Rehabilitation or restoration of existing structures and facilities.

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

In certain areas where development is encouraged by these policies, the condition of existing public water and sewage infrastructure and other services may necessitate improvements. Those state and federal agencies charged with allocating funds for investments in public services and water and sewer facilities should give high priority to the needs of such areas so that full advantage may be taken of the rich array of their other infrastructure components in promoting waterfront revitalization.

Water, sewer and power are adequate for most foreseeable development in the Ogdensburg coastal area (see Inventory and Analysis, pp. 27-28). Vehicular and pedestrian access and parking facilities for future development, in particular for those areas cited in Policies 1, 2, and 3 will be assessed on a case-by-case basis in accordance with Ogdensburg site development plan specifications (Article IV, Section 30.44). Future Port of Ogdensburg development will consider constraints of increased traffic flow on port transportation routes.

Policy 6 **Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.**

Explanation of Policy

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

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

FISH AND WILDLIFE POLICIES

Policy 7 **Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.**

Explanation of Policy

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

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

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

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or
- significantly impair the viability of a habitat.

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

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

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

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

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

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

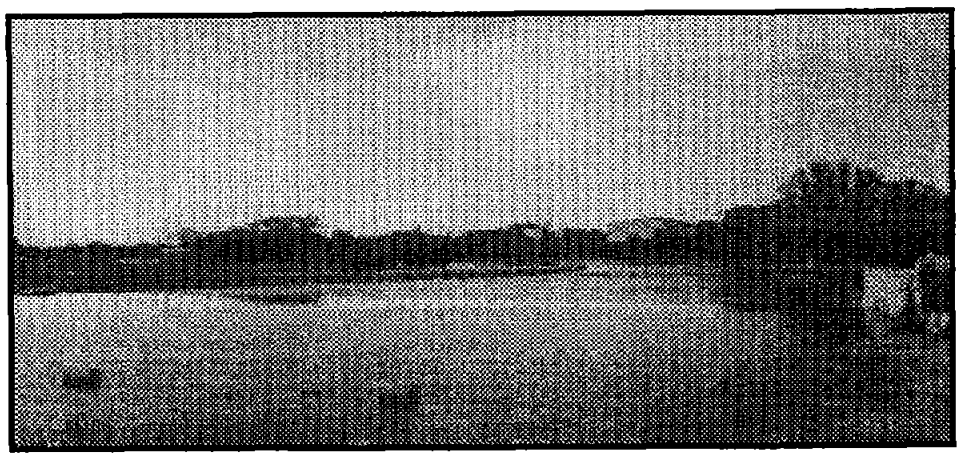
3. Chemical parameters, such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

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

Policy 7A **The Oswegatchie River shall be protected, preserved and, where practical, restored so as to maintain its viability as a habitat.**

Explanation of Policy

This habitat includes the one-half mile segment of river below the Ogdensburg Dam, and approximately 270 acres at the River's mouth, encompassing much of the Ogdensburg Harbor area.



A downstream view of the Oswegatchie River from the Ogdensburg Dam.

The River supports several warm water fish species including northern pike, walleye, muskellunge, smallmouth bass, yellow perch, bluegill, rock bass, pumpkinseed, black crappie, brown bullhead, channel catfish and white sucker. Records of lake sturgeon (T) and mooneye (SC) exist for the area but the extent of their use of the area has not been adequately documented. The River has great potential as a walleye spawning area and attracts a major run of white sucker.

Any activity that would substantially degrade water quality or reduce flows in the Oswegatchie River could affect the fish and wildlife resources of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination, oil spills, excessive turbidity or sedimentation, and waste disposal. Fluctuating water levels and diversion of flows resulting from hydroelectric power generation at Ogdensburg Dam (or other dams upstream) represent significant potential impacts on the habitat, and may already be adversely affecting warm water fish spawning in the River. A primary concern is the need to provide adequate flows in the River during fish spawning

and nursery periods. NYSDEC's future management plans for the Oswegatchie River include potential re-establishment of anadromous fish runs above the Ogdensburg Dam. Opportunities to provide fish passage should not be precluded as a result of hydropower development at this site. Installation and operation of water intakes could also have significant impacts on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Public access to this area should be maintained or enhanced to ensure that adequate opportunities for compatible human uses of the fish and wildlife resources are available. See Appendix H for the City's Harbor Management Law.

Policy 7B **The Ogdensburg-Prescott Pool contains locally important fish and bird habitats. These areas will be protected and preserved to maintain their viability and value to the City.**

Explanation of Policy

This habitat which extends between Ogdensburg and Prescott, Ontario occurs during the ice-in period. Several species of diving ducks, dabbling ducks and gulls use this pool in the winter. It is also a wintering ground for bald eagles. A few river-wide common fish species have been recorded in the area. Limited spawning occurs along the shoreline edge of the upper ground shoal area.

In order to protect these habitats, development shall not be undertaken if it may destroy or significantly impair the viability of these areas as a habitat. Particular care must be taken during the critical spawning period of March 15th - July 15th in those spawning areas cited on pages 8-11 of the Inventory and Analysis.

The range of activities most likely to affect these significant fish and wildlife habitats includes, but is not limited to, the following:

1. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).

2. Grading land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.

3. Dredging or excavation: May cause change in substrate decomposition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanism.

4. Dredge spoil disposal: May include shoaling of littoral areas, or change circulation patterns.

5. Physical alteration of shore areas through channelization or construction of shore structures: May change volume and rate of flow or increase scouring, sedimentation.

6. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate or hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

7. Introduction of new species or large quantities of any species: May change the established balance within the biota.

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

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

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

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

When a proposed action is likely to alter any of the biological, physical or chemical parameters as described in the narrative beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, would be inconsistent with this policy. See Appendix H for the City's Harbor Management Law.

Policy 7C **The Chimney Point area contains locally important fish and bird habitats. These areas will be protected and preserved to maintain their viability and value to the City.**

Explanation of Policy

This habitat includes the area between the Ogdensburg-Prescott International Bridge and Tibbits Creek Bay, including portions of the St. Lawrence Psychiatric Center property. Dabbling ducks, diving ducks, geese and hawks have been recorded in this area. A few river-wide common fish species such as smallmouth bass, rock bass, sunfish and yellow perch spawn in a narrow band approximately two to fifteen feet offshore. The area includes an artificial spawning ground for lake sturgeon.

In order to protect these habitats, development shall not be undertaken if it may destroy or significantly impair the viability of these areas as a habitat. Particular care must be taken during the critical spawning period of March 15th - July 15th in those spawning areas cited on pages 8-11 of the Inventory and Analysis.

The range of activities most likely to affect these significant fish and wildlife habitats includes, but is not limited to, the following:

1. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).

2. Grading land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.

3. Clear cutting: May cause loss of vegetative cover, increase fluctuations in amount of surface runoff, or increase streambed scouring, soil erosion, sediment deposition.

4. Dredging or excavation: May cause change in substrate decomposition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanism.

5. Dredge spoil disposal: May include shoaling of littoral areas, or change circulation patterns.

6. Physical alteration of shore areas through channelization or construction of shore structures: May change volume and rate of flow or increase scouring, sedimentation.

7. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate or hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

8. Introduction of new species or large quantities of any species: May change the established balance within the biota.

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

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

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

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

When a proposed action is likely to alter any of the biological, physical or chemical parameters as described in the narrative beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, would be inconsistent with this policy. See Appendix H for the City's Harbor Management Law.

Policy 7D **The Tibbits Creek and Tibbits Bay area contain locally important fish and wildlife habitats. These areas will be protected and preserved to maintain their viability and value to the City.**

Explanation of Policy

This habitat is a small, shallow bay containing open marshland. Tibbits Creek forms the eastern boundary of the city limits (Tibbits Creek Bay is in the Town of Lisbon). Because portions of the creek are in the coastal area, its description is included. A diversity of dabbling ducks use this area for breeding and post-breeding activities. Fair numbers of diving ducks use the mouth of the bay and nearby areas in migration. It is also a very productive spawning area and use area for a wide variety of fish species. Northern pike and muskellunge are present in the area. A wide diversity of mammals has been recorded.

In order to protect these habitats, development shall not be undertaken if it may destroy or significantly impair the viability of these areas as a habitat.

The range of activities most likely to affect these significant fish and wildlife habitats includes, but is not limited to, the following:

1. Draining wetlands, ponds: causes changes in vegetation, or changes in groundwater and surface water hydrology.

2. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).

3. Grading land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.

4. Clear cutting: May cause loss of vegetative cover, increase fluctuations in amount of surface runoff, or increase streambed scouring, soil erosion, sediment deposition.

5. Dredging or excavation: May cause change in substrate decomposition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanism.

6. Physical alteration of shore areas through channelization or construction of shore structures: May change volume and rate of flow or increase scouring, sedimentation.

7. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate or hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value a food organisms.

8. Introduction of new species or large quantities of any species: May change the established balance within the biota.

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

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

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

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

When a proposed action is likely to alter any of the biological, physical or chemical parameters as described in the narrative beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, would be inconsistent with this policy. See Appendix H for the City's Harbor Management Law.

Policy 7E **Pursue programs which control, if not eliminate, the zebra mussel, gobi populations, and any alien species which threatens the viability of non-alien species.**

Policy 8 **Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effects on those resources.**

Explanation of Policy

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

The handling (storage, transport, treatment and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment. Such controls should effectively minimize possible contamination of and bioaccumulation in the state's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other state laws and regulations. See Appendix H for the City's Harbor Management Law.

Policy 9 **Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks and developing new resources. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.**

Explanation of Policy

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wildlife photography, bird watching and nature study.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources and activities dependent upon them (fishing, charter boat operations, bird watching) which are important to the local economy. Such efforts must be made in accordance with existing state law and in keeping with sound resource management considerations. Management considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

Limited fishing access to the Oswegatchie River is currently available along the river banks between the Lake Street Bridge and the dam and at the dam site. Improvements to the east and west banks of the Oswegatchie will facilitate fishing access to the River and improve public safety at these sites. Access to the St. Lawrence River is available in the Greenbelt Park area.

The following additional guidelines should be considered by all government agencies as they determine the consistency of their proposed actions with this policy:

1. Consideration should be made by federal, state and local agencies as to whether an action will impede existing or future utilization of the recreational fish and wildlife resources in the vicinity of the City or accessible from its harbor or other access sites.

2. Efforts to increase access to recreational fish and wildlife resources should not lead to over utilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the area.

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

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

Refer to Appendix H for the City's Harbor Management Law.

Policy 10 **Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.**

Explanation of Policy

Not applicable. This policy is not applicable to the City of Ogdensburg because there are no commercial finfish, shellfish, and crustacean resources located within Ogdensburg's waterfront area.

FLOODING AND EROSION HAZARDS POLICIES

Policy 11 **Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.**

Explanation of Policy

Flooding: Areas of special flood hazard have been identified and mapped in Ogdensburg by the Federal Emergency Management Administration. Development in the City is subject to flood damage regulations through Article VIII of the City Municipal Code which contains standards to meet the requirements of the National Flood Insurance Program.

Erosion: Although upland erosion is not a significant problem in the City, coastal erosion along the St. Lawrence River is cause for concern. Areas particularly subject to erosion include the area of the OBPA port facilities, the municipal dock and shoreline areas of the Greenbelt Park system (see Figures 5a and 5b).

Coastal erosion is addressed by the State Coastal Erosion Hazard Act (CEHA) which sets up a development permit system and requires DEC to map all coastal erosion hazard areas. There are no designated Coastal Erosion Hazard Areas (CEHAs) along the City's waterfront. Erosion problems will be considered in the evaluation of actions proposed for areas of locally important erosion, however.

Also, some cause for concern is the damage caused by ice movement and wind-driven wave action in exposed coastal areas. When resistance to these forces is a factor in the design, construction and maintenance of shoreline structures, their durability will be increased and utility prolonged.

On coastal lands identified as areas of locally important erosion, buildings and similar structures should be set back from the shoreline a distance sufficient to minimize damage from erosion. The extent of the set back should take into account the rate at which land is receding due to erosion and the protection provided by existing erosion protection structures, as well as by natural protective features such as beaches, sandbars, spits, shoals and wetlands.

Policy 12 **Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.**

Explanation of Policy

Beaches, dunes, barrier islands, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are minimized. Primary dunes will be protected from all encroachments that could impair their natural protective capacity. Ogdensburg's natural protective features are in the form of small bluffs and are associated with those areas identified on Figures 5a and 5b as being subject to erosion.

Policy 13 **The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.**

Explanation of Policy

Erosion protection structures such as bulkheads and riprap are used at the OBPA marine facilities, the City's Greenbelt Park and marina, and along portions of the east and west banks of the Oswegatchie River. Sometimes, because of improper design, construction, or maintenance standards, such structures fail to give the protection which they are presumed to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

Policy 14 **Activities and development including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.**

Explanation of Policy

Though flooding and erosion occur naturally, human actions can increase the severity and adverse effects of these processes, causing property loss or damage and endangering lives. Actions which tend to increase flooding and erosion include the use of impermeable erosion protection structures such as groins or solid docks which block the littoral transport of sediment to adjacent shorelands. Such structures increase the rate of shoreline recession. Also, the failure to observe proper drainage or land restoration practices causes runoff and erosion or weakening of shorelands. Areas subject to erosion in the Ogdensburg coastal area are shown on Figures 5a and 5b. Reconstruction of existing erosion protection structures (see Policy 13) and new erosion protection structures shall not cause an increase in erosion or flooding. Erosion control practices cited in Policy 37 shall also be utilized in the implementation of this policy.

Flood control policy for development is covered under Policy 11.

Policy 15 **Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase of erosion of such land.**

Explanation of Policy

Coastal processes, including the movement of beach materials or shoreline sediment by water, and any mining, excavation or dredging in near shore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. The OBPA undertakes periodic dredging to maintain the depth of shipping channels in the St. Lawrence and docking space at the port. Such activities should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands.

Policy 16 **Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.**

Explanation of Policy

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for protection of human life and investments in existing or proposed developments which require a waterside location to be able to function. However, it also recognizes the adverse impacts of such activities and developments on the rate of erosion and on natural protective features. The policy requires careful analysis to be made of the benefits and long-term costs prior to expending public funds.

Policy 17 **Whenever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include:**

- **(i) The set back of buildings and structures;**
- **(ii) The planting of vegetation and the installation of sand fencing and draining;**
- **(iii) The reshaping of bluffs; and**
- **(iv) The flood proofing of buildings or their elevation above the base flood level**

Explanation of Policy

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

Nonstructural measures shall include, but not be limited to:

1. Within coastal erosion hazard areas identified under Section 34-104, Coastal Erosion Hazard Areas Act (Article 34, Environmental Conservation Law), and subject to the permit requirements on all regulated activities and development established under that law: (a) the use of minimum setbacks as provided for in Section 34-108; and (b) the strengthening of coastal landforms by the planting of appropriate vegetation, the reshaping of bluffs to achieve an appropriate angle of repose to reduce the potential for slumping and to permit the planting of stabilization vegetation, and, the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms; and

2. Within identified flood hazard areas, (a) the siting of buildings outside the hazard area, and (b) the flood-proofing of buildings or their elevation above the base flood level.

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

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

GENERAL POLICY

Policy 18 **To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.**

Explanation Policy

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

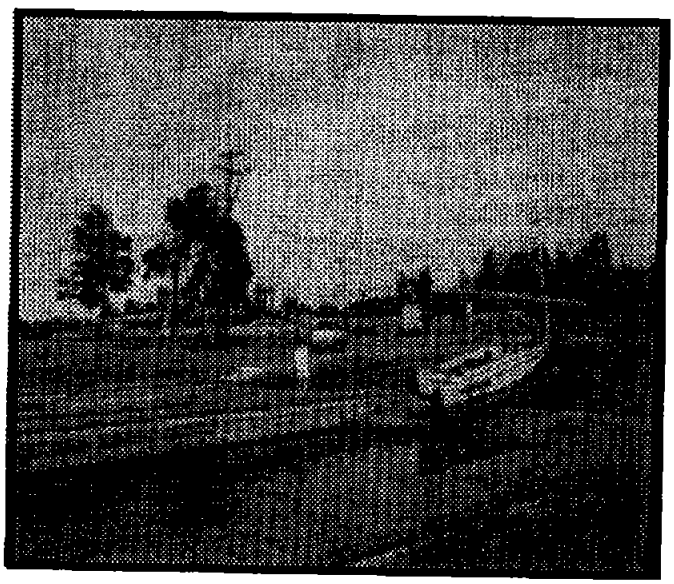
PUBLIC ACCESS POLICIES

Policy 19 **Protect, maintain and increase the levels and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized by all the public in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources.**

Policy 19A **Protect, maintain and improve pedestrian, vehicular and waterborne access to public water-related recreational facilities along the St. Lawrence and Oswegatchie Rivers.**

Explanation of Policy

These policies call for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources. Because an imbalance among these factors is often due to access-related problems, priority will be given to improving physical access to existing and potential coastal recreation. The Local Waterfront Revitalization Program will encourage mixed use areas and multiple use of facilities to improve access. This policy advocates that current levels and types of access be maintained and increased. A change of access type, as long as it maintains or increases the level of access, is deemed consistent with this policy.



Public boat launch at the foot of Paterson Street.

The particular water-related recreation resources and facilities which will receive priority for improved access in Ogdensburg are fishing areas, boating facilities, access roads and passive/active recreational park areas. To optimize the use of these resources, the City must facilitate various modes of access, including pedestrian, vehicular and waterborne with consideration given to handling short term peaks in demand for parking during major events.

In Ogdensburg, this policy will be implemented through continued maintenance of the riverfront Greenbelt Park and Library Park, continued development and maintenance of the Maple City Trail, and continued improvement and enhancement of the City boat launch and marina. Current levels of public access to the St. Lawrence Psychiatric Center will not be constrained without due cause.

Existing access to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future be eliminated unless such actions are found to be necessary by the public body having jurisdiction over the access, in an effort to meet justified and reasonable objectives.

The following is an explanation of the terms used this policy:

a) Access - the ability and right of the public to reach and use public coastal lands and waters
b) Public water-related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location
c) Public lands or facilities - lands or facilities held by state or City in fee simple or less than fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.

A reduction in the existing level of public access includes but is not limited to the following (applies both to Policies 19 and 20):

1. The number of parking spaces at a public water-related recreation resource or facility is significantly reduced except when parking is replaced with other equally beneficial form(s) of access, thereby maintaining or increasing the level of access.

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

An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following (for Policies 19 and 20):

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

2. Sale, lease, or other transfer of public lands that could provide public access to public lands, waters, or facilities.

3. Construction of private facilities which physically prevent convenient public access to public coastal lands, waters, or related recreation facilities.

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

Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors (for Policies 19 and 20):

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

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

Refer to Appendix H for the City's Harbor Management Law.

Policy 20 **Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it shall be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.**

Explanation of Policy

Ogdensburg is endowed with shoreline and near-shoreline properties under public ownership. Some of these lands are municipal property; others are state or federal lands with some constraints on public usage. Publicly owned lands referenced in this policy have been identified in Policy 19 and on pp. 17-18 of the Inventory and Analysis. To be consistent with this policy, the existing level of public access with public coastal land or waters shall not be reduced or eliminated.

Activities requiring minimal coastal facilities for their enjoyment include bicycling, bird watching, photography, nature study, beachcombing, and fishing. For these activities, there are several methods of providing access which will receive priority attention of the Ogdensburg LWRP. These include the development of a coastal trails system, the provision of access across transportation facilities to the coast, and the promotion of mixed and multi-use development.

While such publicly-owned lands referenced in the policy shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

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

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

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

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

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

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

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

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

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

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

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

2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.

a) A reduction in the existing level of public access includes, but is not limited to, the following:

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

(2) Access is reduced or blocked completely by any public developments.

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

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

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

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

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

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

Refer to Appendix H for the City's Harbor Management Law.

RECREATION POLICIES

Policy 21 **Water-dependent and water-enhanced recreation shall be encouraged and facilitated and shall be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand.**

The Kiwanis Property

Policy 21A **Water-dependent and water-enhanced recreation shall be encouraged and shall be given priority over non-water related uses at the following publicly owned sites:**

- **Former Randall property**
- **Former Diamond International site**
- **Lighthouse Point Parcel**
- **Oswegatchie shoreline from twin bridges to Ogdensburg Dam**

Explanation of Policy

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

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

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

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

Among the types of water-dependent recreation, provision of adequate boating services to meet future demand is to be encouraged by this program. The siting of boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competing with private boating development. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities.

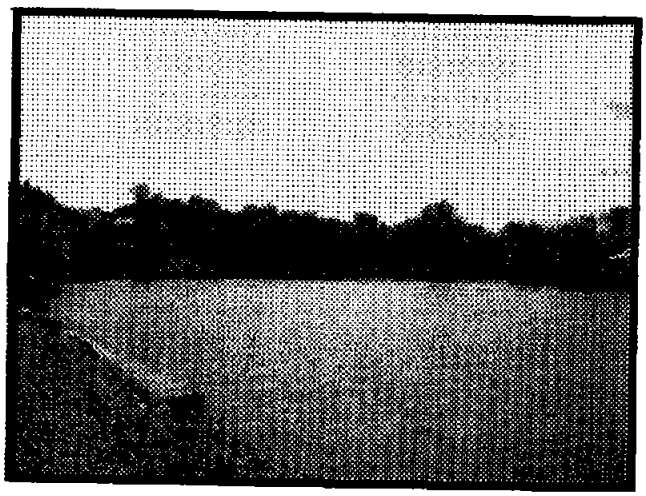
Ogdensburg has experienced increased demand for access to the river for recreational boating, fishing and general viewing of the river. Since the quantity and quality of water-based recreational facilities is an important element of its economy, the City will give priority to water-dependent and water-enhanced recreational development, provided it is consistent with other policies of this program and does not jeopardize other economic development activities important to the community. Specifically it will undertake measures to expand, develop and improve those areas mentioned in Policy 21A. Refer to Appendix H for the City's Harbor Management Law.

Policy 22 **Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.**

Policy 22A **Continued public access for recreational use of the Oswegatchie River shoreline, in particular for fishing access, shall be provided in any redevelopment of the Ogdensburg Dam.**

Explanation of Policy

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located adjacent to the shore, they should to the fullest extent permitted by existing law, provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development.



The Oswegatchie River

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

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

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

Prior to taking action relative to any development, government agencies should consult with the City of Ogdensburg to determine appropriate recreation uses. The agency(ies) should provide the City with the opportunity to participate in project planning.

Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor providing the cost does not exceed 2% of the total project costs.

HISTORIC AND SCENIC RESOURCES

Policy 23 **Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities or the nation.**

Explanation of Policy

Among the most valuable of the State's man-made resources are those structures or areas which are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites.

The policy is not to be construed as a passive mandate but must include active efforts, when appropriate, to restore or revitalize through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

Protection includes the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to structures, districts or sites that have historical, architectural, archaeological or cultural significance for the City, the state or the nation. A significant adverse change includes, but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials, entryways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows;

vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earth-works, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)

2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features described in (1), above, plus any other appurtenant fixtures associated with a building, structure or earthwork.

3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgments about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. Within historic districts this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

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

Historic, architectural and archaeological resources are an important component of Ogdensburg's heritage. Several structures and one district are listed on the National Register of Historic Places (see Inventory and Analysis, pp. 24-25). Also the site of Fort LaPresentation on Lighthouse Point will be protected from any future development which might destroy archaeological evidence of the Fort. Sites of local significance are described in the Inventory and Analysis section, pp. 25-26. Given the possibility of archaeologically significant sites in the coastal area, developers must contact the State Historic Preservation Office to determine appropriate protective measures to be incorporated into the development of these sites.

Policy 24 **Prevent impairment of scenic resources of statewide significance, as identified on the NYS Coastal Area Map. Impairment shall include: (i) the irreversible modification of geologic forms, the destruction, or removal of structures, whenever the geologic forms, vegetation or structure are significant to the scenic quality of an identified resource; and (ii) the addition of structures which because of siting or scale, form, or materials, will diminish the scenic quality of an identified resource.**

Explanation of Policy

Policy 24 is not applicable to Ogdensburg since scenic resources of state-wide significance have not been identified for the City.

Policy 25 **Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.**

Policy 25A **Protect or enhance those natural and man-made visual resources of the St. Lawrence and Oswegatchie Rivers as important features of the local economy and the area's unique identity.**

Explanation of Policy

When considering a proposed action, agencies shall ensure that the action would be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area.

Scenic impairment shall include: (i) the irreversible modification of geologic forms and/or the destruction or removal of vegetation or structures whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures which, because of siting or scale, will reduce identified views or which, because of scale, form, or materials, will diminish the scenic quality of an identified resource.

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

- siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
- clustering or orienting structures to retain views, save open space and provide visual organization to a development;
- incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- removing deteriorated and/or degrading elements;
- maintaining or restoring the original landform, except when changes screen unattractive elements and/or add appropriate interest;

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

- using appropriate materials, in addition to vegetation, to screen unattractive elements;

- using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

More emphasis may need to be placed on removal of existing elements, especially those which degrade, and on the addition of new elements or other changes which enhance.

Morissette Park.

Several developed and undeveloped scenic areas of local significance exist along the St. Lawrence and Oswegatchie Rivers. Developed areas providing scenic vistas include the Greenbelt Park (see Figures 8a and 8b), riverfront walkway, and the Maple City Trail. Areas with potential for improved scenic vistas include the east and west banks of the Oswegatchie shoreline and Lighthouse Point. The natural beauty of these areas are currently marred by underutilized land uses on both sides of the river. Consequently, this policy corresponds closely with the development policies previously discussed (Policies 1-6)

AGRICULTURAL LANDS POLICY

Policy 26 **To conserve and protect agricultural lands in the state's coastal area, an action shall not result in a loss, nor impair the productivity of important agricultural lands, as identified on the coastal area map, if that loss or impairment would adversely affect the viability of agriculture in an agricultural district or if there is no agricultural district, in the area surrounding such lands.**

Explanation of Policy

Policy 26 is not applicable to the City of Ogdensburg as there are no applicable agricultural lands present.

ENERGY AND ICE MANAGEMENT POLICIES

Policy 27 **Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.**

Explanation of Policy

The State expects to meet increasing energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels including coal in greater proportion.

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

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

Policy 28 **Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shore line erosion or flooding.**

Explanation of Policy

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

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

Policy 29 **Encourage the development of energy resources on the Outer Continental Shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.**

Explanation of Policy

This policy is not applicable. The types of energy resources addressed by this policy are not likely to be found in the St. Lawrence or Oswegatchie Rivers.

WATER AND AIR RESOURCES POLICIES

Policy 30 **Municipal, industrial, and commercial discharge of pollutants including, but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.**

Explanation of Policy

Municipal, industrial, and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

No specific water quality issues were identified as current problems in the waterfront inventory. However, sites which may present potential threats to water quality exist in the Ogdensburg coastal area (see Inventory and Analysis, p. 5). "Point" or "end-of-the-pipe" discharges exist at the City's sewer treatment outfall and 12 stormwater overflows. These sites are under permit by DEC and five of the twelve are monitored on a regular basis. Potential sources of non-point pollution include the OBPA port facilities, the former Augsbury tank farm property, and the former Mobil tank farm. Although not monitored by DEC permit, any form of pollution at these sites would come under state or federal jurisdiction. The City is aware of these sites and will work closely with state and federal agencies in monitoring these sites and mitigating any future problems. Guidelines for implementing this policy are listed under Policy 37.

Refer to Appendix H for the City's Harbor Management Law.

Policy 31 **State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.**

Explanation of Policy

Pursuant to the Federal Clean Water Act, the state has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

The State has identified certain stream segments as being either "water quality limiting" or "effluent limiting". Waters not meeting state standards and which would not be expected to meet these standards even after applying "best practicable treatment" to effluent discharges are classified as "water quality limiting". Those segments meeting standards or those expected to meet them after application of "best practicable treatment" are classified as "effluent limiting", and all new waste discharges must receive "best practicable treatment". However, along stream segments classified as "water quality limiting", waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development. Refer to Appendix H for the City's Harbor Management Law.

Policy 32 **Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.**

Explanation of Policy

This policy is not applicable to the City of Ogdensburg as the City's municipal sewer service is provided throughout the City's waterfront area.

Policy 33 **Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.**

Explanation of Policy

Best management practices include both structural and nonstructural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, nonstructural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged.

Occasionally, after intense periods of rainfall, the City's sewage treatment facility does experience short-term surcharges due, in part, to a high rate of system inflow and infiltration. The City has 12 combined storm/sanitary overflow points which are under a DEC permit. The DEC monitors five of these overflows on a regular basis. The City has an ongoing program to separate storm and sanitary lines as funding allows. Best management practices on plant and material transfer/storage sites and appropriate on-site treatment (including collection, detention, diversion to the industrial pretreatment system or to the City's treatment system) shall be utilized. Guidelines for implementing this policy are listed under Policy 37.

The guidelines set forth in DEC's *Management Practices Catalogue for Non-point Source Pollution Prevention and Water Quality Protection in New York State* should be consulted for examples of appropriate management practices to assist in the control of stormwater runoff.

Policy 34 **Discharge of waste materials into coastal waters from vessels will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.**

Explanation of Policy

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the state's waters is regulated. Priority will be given to the enforcement of this law in areas such as significant fish and wildlife habitats, beaches, and public water supply intakes, which need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the NYS Department of Environmental Conservation (6 NYCRR, Part 675). All new or expanded marinas shall be equipped with sanitary pumpout and disposal facilities for boats with marine toilets.

Policy 35 **Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.**

Explanation of Policy

In Ogdensburg, dredging is essential for maintaining navigation channels at sufficient depths. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy state dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law (Articles 15, 24, 25, and 34), and are consistent with policies pertaining to the protection of coastal resources (State Coastal Management Policies 7, 15, 24, 26, and 44).

The Ogdensburg Bridge and Port Authority periodically dredges the harbor and berthing area. This action and the site selection for the disposal of the dredge spoil material undergoes an extensive environmental impact study which examines potential adverse effects. These dredging operations must meet State dredging permit standards.

Policy 36 **Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.**

Explanation of Policy

See Policy 39 for definition of hazardous materials.

Because of its location along the St. Lawrence Seaway and its designation as a major New York State port, the City of Ogdensburg is subject to the dangers surrounding the shipment of petroleum and other hazardous materials. The City encourages all public and private entities to use the maximum practicable measures to prevent or at least minimize spills and discharges of such materials into its coastal waters. Refer to Appendix H for the City's Harbor Management Law.

Policy 37 **Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.**

Explanation of Policy

Best management practices used to reduce these sources of pollution include, but are not limited to, encouraging organic farming and pest management principles, erosion control practices, and surface drainage control techniques. Potential problem sites for non-point discharge were identified in the inventory (see Inventory and Analysis, p. 5) and again in Policy 30 (see p. 92). The City is aware of these sites and will work closely with state and federal agencies in monitoring these sites and mitigating future problems.

Guidelines regulating development or construction to be used in implementing this policy include the following:

1. Runoff or other non-point pollutant sources from any specific development must not be greater than would be the case under natural conditions. Appropriate techniques to minimize runoff include, but are not limited to, the use of stormwater detention basins, rooftop runoff disposal, rooftop detention, parking lot storage and cistern storage.

2. The construction site, or facilities, should fit the land, particularly with regard to the land's limitations for development.

3. Natural ground contours should be followed as closely as possible and grading minimized.

4. Areas of steep slopes, where high cuts and fills may be required, should be avoided.

5. Extreme care should be exercised to locate artificial drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems.

6. Natural protective vegetation should remain undisturbed if at all possible; otherwise plantings should compensate for the disturbance.

7. The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water should be limited.

8. The velocity of the runoff water on all areas subject to erosion should be reduced below that necessary to erode the materials.

9. A groundcover should be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.

10. Runoff from a site should be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.

11. Provision should be made for permanent protection of downstream banks and channels from the erosive effects of increased velocity and volume of runoff resulting from facilities constructed.

12. The angle for graded slopes and fills should be limited to an angle no greater than that which can be retained by vegetative cover or other erosion control devices or structures.

13. The length as well as the angle of graded slopes should be minimized to reduce the erosive velocity of runoff water.

14. Rather than merely minimizing damage, take the opportunity to improve site conditions wherever practicable.

Refer to DEC's *Management Practices Catalogue for Non-point Source Pollution Prevention and Water Quality Protection in New York State* for additional examples of appropriate management practices.

Policy 38 **The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.**

Explanation of Policy

No groundwater sources are used in the coastal area. The St. Lawrence River is the principal source of water supply for the City of Ogdensburg and therefore must be protected.

Policy 39 **The transport, storage, treatment, and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural lands, and scenic resources.**

Explanation of Policy

Solid wastes include sludge from air or water pollution control facilities, demolition and construction debris, and industrial and commercial wastes. Examples of solid waste management facilities include resource recovery facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

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

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law Section 27-0901.3 as: "waste or combination of wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed, transported, or otherwise managed." A list of hazardous wastes (NYCRR, Part 366) has been adopted by the New York State Department of Environmental Conservation. Refer to Appendix H for the City's Harbor Management Law.

Policy 40 **Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.**

Explanation of Policy

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

There are no steam electric generating facilities in the Ogdensburg coastal area.

Refer to Appendix H for the City's Harbor Management Law.

Policy 41 **Land use or development in the coastal area will not cause national or state air quality standards to be violated.**

Explanation of Policy

Although not identified as a significant problem in Ogdensburg, the City's industrial history and potential for future expansion of an industrial nature makes this an issue of interest for the community. The Coastal Management Program incorporates the air quality policies and programs developed for the state by DEC pursuant to the Clean Air Act and state laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

Policy 42 **Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal Clean Air Act.**

Explanation of Policy

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

Policy 43 **Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.**

Explanation of Policy

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

Policy 44 **Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.**

Explanation of Policy

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation, and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act. There are portions of two state-designated wetlands in the coastal area.

One exists on Chimney Point adjacent to the St. Lawrence Psychiatric Center. The second is in the vicinity of Tibbits Creek south of NY Route 37 near the state hospital cemetery. Small marshes and swamplands also exist in the low lying areas along Tibbits Creek, and east and west of NY Route 37 on the eastern end of the City (see Figures 6a and 6b). When reviewing any proposed development affecting these areas, the City will ensure that consideration be given to the sensitivity of these areas (Ogdensburg Zoning Ordinance, Article IV, Section 30.44.c.1.d.)

Refer to Appendix H for the City's Harbor Management Law.

SECTION IV: PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS

A key component of Ogdensburg's Waterfront Revitalization Program consists of the proposed land and water uses and development projects/revitalization programs. The Inventory and Analysis of waterfront conditions (Section Two) and the applicable state and local policies (Section Three) provide the basis for this component. Methods or techniques to implement these proposals, including amendments to the City's Zoning Ordinance, are detailed in Section Five. The proposed uses are based upon discussions with the City's Planning and Development Director, the City Planning Board, the City Council, and input from the general public.

The implementation of the LWRP and HMP represents a concrete step in the City's efforts to revitalize its waterfront and local economy. It is important to emphasize that it is both the type and quality of future development in the coastal area that will, to a large degree, determine the level and term of the effort's success. The keys to long-term success include:

- a balance of land use types, at least some of which generate revenues for the City and revenues for private sector developers/owners
- a well-planned and well-designed pedestrian circulation network
- development scaled to the pedestrian
- various amenities (public restrooms, benches, bicycle racks, trash receptacles, lighting, trails)

The first part of this section identifies proposed land and water uses for the coastal area. The second part of this section addresses proposed land- and water-based projects. The third section speaks to various development-related considerations/standards that will be considered for inclusion in the City's zoning regulations.

PROPOSED LAND AND WATER USES

A. Land Uses

Figures 15a and 15b, "Proposed Land and Water Uses", illustrate the proposed land and water uses for the Coastal Area.

Each parcel is designated one of seven land use classifications. These are:

- industrial
- medium-high density residential
- low density residential
- cultural/recreational/educational
- commercial (excluding recreation commercial)
- mixed use
- public/semi-public

This land use mix is intended to meet the needs and wishes of both residents and visitors.

Industrial parcels represent those parcels that are currently in industrial use and those parcels that possess useful industrial facilities. The OBPA constitutes the vast majority of this land.

Parcels designated for medium-high residential development are primarily those that are already developed as such. The minimum lot area for a two-family dwelling is 5,500 square feet. The minimum lot area for three (3) or more family units is 4,000 per unit. The minimal usable open space for moderate density multi-family residential is the lesser of 500 square feet per unit or 10% of the lot area. The maximum lot coverage is sixty percent (60%).

Likewise, parcels designated for low-density residential are also primarily those that are already developed as such. The minimum lot area for a single-family residential dwelling is 6,000 square feet. The maximum lot coverage is forty percent (40%). Parcels north and south of Proctor Avenue that are currently vacant but part of a subdivision are also classified single-family residential.

Several parcels of genuine import to the City are classified Cultural/Recreational/Educational. These include that portion of Lighthouse Point believed to be historically significant, the former Diamond International site, the various parks, and recreation areas.

Commercial-designated parcels occur along the west bank of the Oswegatchie, in the Ogdensburg Business District area, and in that area encompassed by the railroad, NY Route 37, and Ford Street Extension. These are areas already developed for commercial use. The purpose of the Business District is to provide for areas primarily used or appropriate for retail, service, auto-related, institutional, wholesale and storage and pubic uses.

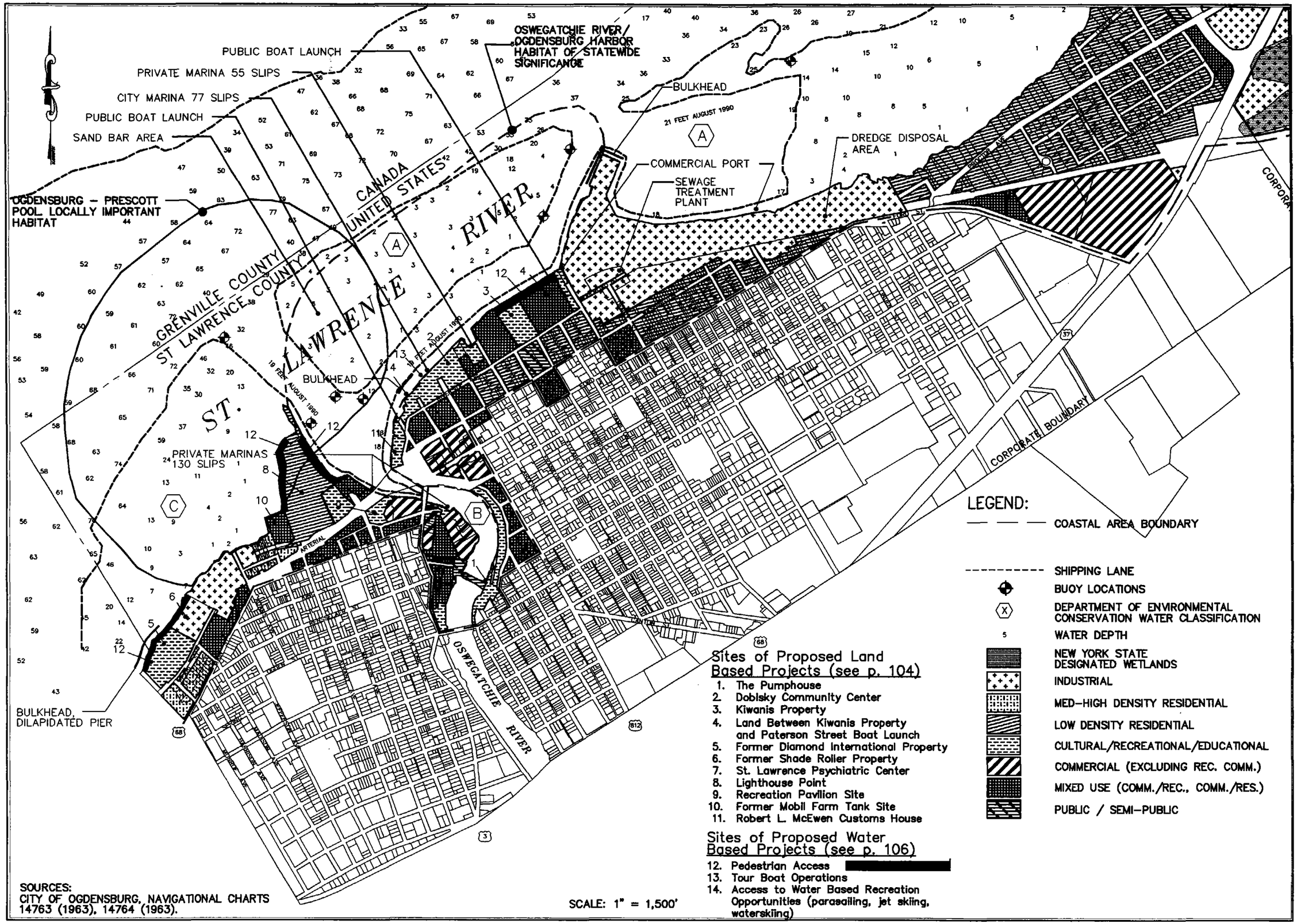
Many parcels are classified Mixed Use. The purpose of this district is to delineate those areas of the city appropriate for mixed residential in combination with selected public, service and retail uses compatible within predominately residential areas and provide for water-dependent uses. Mixed use parcels occur west of the Oswegatchie along the waterfront, along Main Street, and along Lake Street. East of the Oswegatchie, they exist at various locations north and south of Riverside Avenue, off Ford Street Extension, and at the site of the St. Lawrence Psychiatric Center. Several of these parcels are discussed in detail in the Proposed Project subsection, below.

Parcels devoted strictly to Public/Semi-Public uses are few in number. They include those parcels currently developed for such use. Specifically, they include the Diocese of Ogdensburg and Trafalgar Power, Inc. The Remington Museum and the Ogdensburg Library are also important uses.

B. Water Uses

There are relatively few formal water-dependent uses in the coastal area. Principal water-dependent uses include:

- Ogdensburg Bridge and Port Authority (OBPA) Terminal
- Trafalgar Power, Inc. hydropower generation
- four marinas - three private, one public
- two boat launches
- walleye spawning effort



Sites of Proposed Land Based Projects (see p. 104)

1. The Pumphouse
2. Dobisky Community Center
3. Kiwanis Property
4. Land Between Kiwanis Property and Paterson Street Boat Launch
5. Former Diamond International Property
6. Former Shade Roller Property
7. St. Lawrence Psychiatric Center
8. Lighthouse Point
9. Recreation Pavilion Site
10. Former Mobil Farm Tank Site
11. Robert L. McEwen Customs House

Sites of Proposed Water Based Projects (see p. 106)

12. Pedestrian Access [redacted]
13. Tour Boat Operations
14. Access to Water Based Recreation Opportunities (parasailing, jet skiing, waterskiing)

SOURCES:
CITY OF OGDENSBURG, NAVIGATIONAL CHARTS 14763 (1963), 14764 (1963).

SCALE: 1" = 1,500'

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Design
Drawn
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City of Ogdensburg
Local Waterfront Revitalization & Harbor Management Plan
CITY OF OGDENSBURG, ST. LAWRENCE COUNTY, NEW YORK
Title: PROPOSED LAND AND WATER USES MAP

Revisions
6/24/96
1/25/99
10/8/03

Project 96169
Date 7/5/97
CAD # 6169PLND

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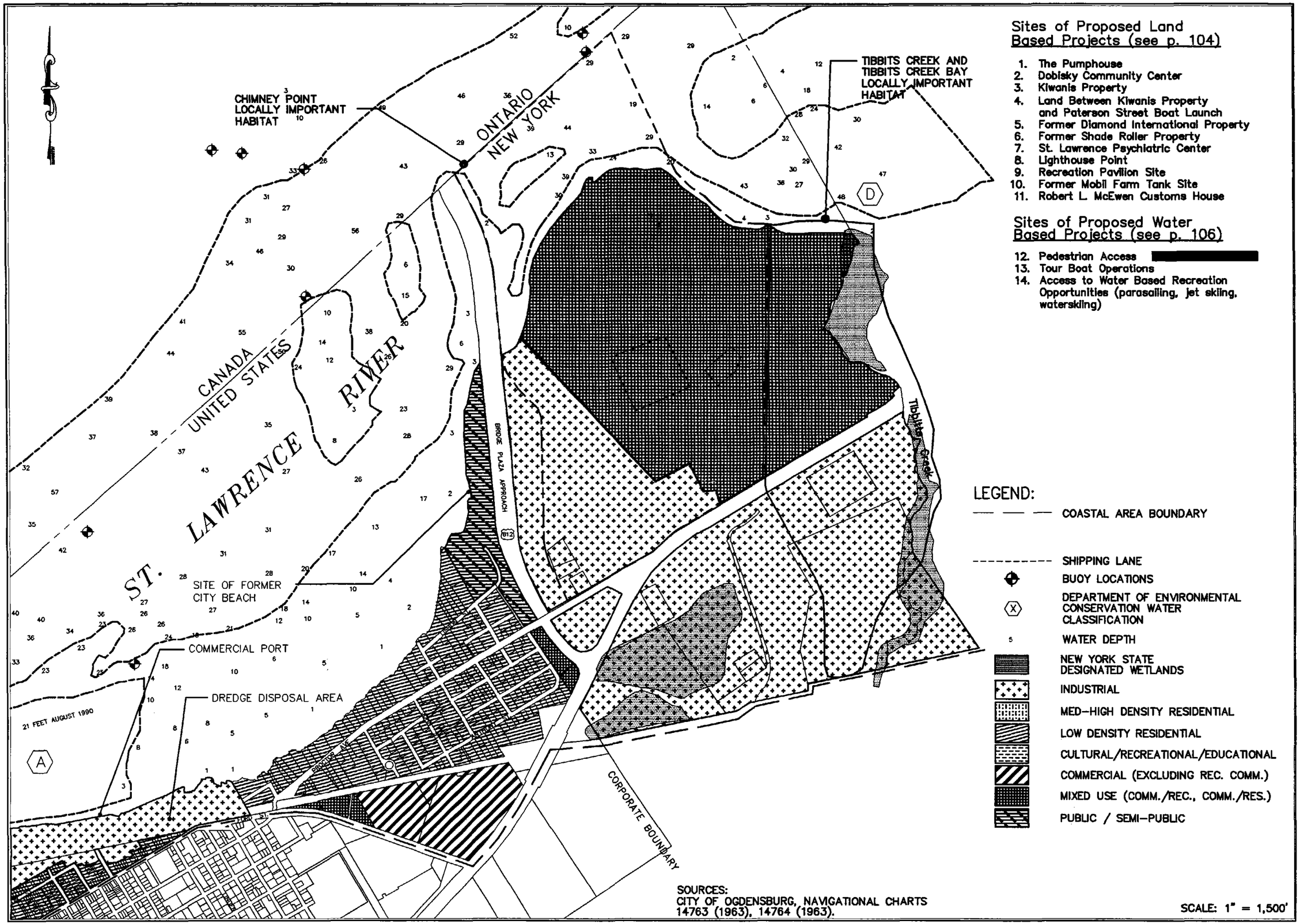
15a



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Sites of Proposed Water Based Projects (see p. 106)

12. Pedestrian Access
13. Tour Boat Operations
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LEGEND:

- COASTAL AREA BOUNDARY
- SHIPPING LANE
- BUOY LOCATIONS
- DEPARTMENT OF ENVIRONMENTAL CONSERVATION WATER CLASSIFICATION
- WATER DEPTH
- NEW YORK STATE DESIGNATED WETLANDS
- INDUSTRIAL
- MED-HIGH DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL
- CULTURAL/RECREATIONAL/EDUCATIONAL
- COMMERCIAL (EXCLUDING REC. COMM.)
- MIXED USE (COMM./REC., COMM./RES.)
- PUBLIC / SEMI-PUBLIC

SOURCES:
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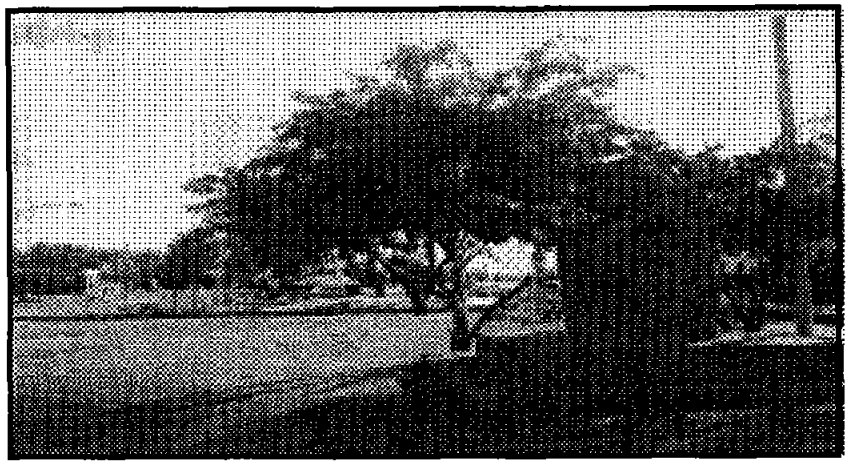
- St. Lawrence Boat Works
- Ogdensburg Boat Works



Part of the Greenbelt Park.

The coastal area supports several informal water-dependent uses including fishing, swimming, recreational boating and other water-related recreational activities.

Water enhanced uses in the coastal area are numerous and primarily include the City's Greenbelt Park areas, the Maple City Trail and several dining establishments with views of either the St. Lawrence or Oswegatchie.

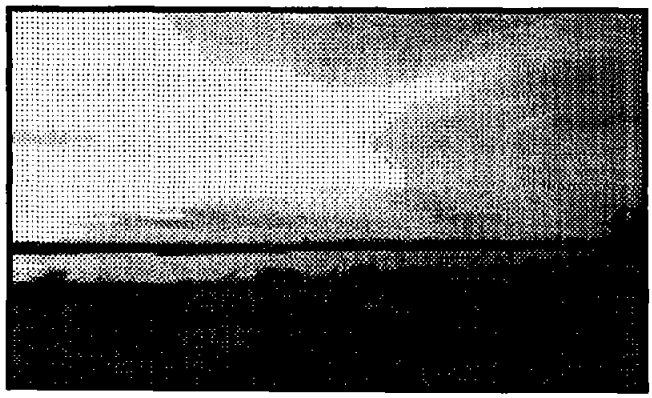
Identified water-based uses emphasize the population's relationship with the water. Visual and physical access to the water are of paramount importance. The provision and maintenance of public access along the St. Lawrence and Oswegatchie Rivers greatly enhances the appeal of the area and its quality of life. Current access is enjoyed throughout the year by people of all ages. The public and private marinas enable people to get out on the water to fish, explore, travel, etc. The City's water-dependent industries have been integral to the community's history, its character, and its economy.

As discussed in greater detail in the Water-Based Projects subsection, below, the City encourages the development of additional water-based recreational opportunities.

PROPOSED PROJECTS

Without exception, the proposed projects recognize the St. Lawrence and Oswegatchie Rivers' waterfronts as valuable assets integral to the City's revitalization efforts. A waterfront which is accessible to the public and provides an enjoyable mix of open space, recreational, educational/cultural and commercial uses will encourage those who come to Ogdensburg to extend their stay, stroll along the waterfront, dine in a restaurant overlooking the water, and visit shops and other attractions. Pedestrian walkways and amenities should be consistent and designed to logically lead visitors from one place to another. In general, the proposed projects recognize and incorporate one or more assets of the waterfront. The recognition and incorporation of these assets into the revitalization process will underscore Ogdensburg's uniqueness.

Industrial uses, once prominent along the St. Lawrence waterfront, are now steered to one of the City's two industrial parks. The future development of these now vacant or abandoned once-industrial parcels hinges on whether or not each site is environmentally contaminated and, if so, the effort and expense required to render the parcel developable for a desirable use. The New York State Brownfields Program is a potential source of funding to assist publicly owned parcels in needed clean-up efforts. This issue is addressed in great detail in Section Five.



Available once-industrial land.

The City of Ogdensburg is dedicated to the revitalization of its waterfront area and does not want to preclude creative and innovative projects that advance this effort. The City has identified numerous sites, designated on Figures 15a and 15b, for development in accordance with established parameters.

A. Land-Based Projects

- The Pump House: This National Register structure is currently vacant. While a new roof was built in the mid 1990's, the building itself requires structural work. The City proposes one or more of the following uses for this building: (1) an outfitter's enterprise which rents canoes and bicycles for use on or along the Oswegatchie River, the Maple City Trail and the Greenbelt Park; (2) an equipment storage facility for the City's Recreation Commission; (3) a visitor/ interpretive center; or (4) some other appropriate municipal use. The City may lease this space and thereby generate revenues. For example, the City may lease the space to a variety of uses including an outfitter and a cafe operator. The balance of the space could be used as a visitor/ interpretive center focusing on the history of hydropower in Ogdensburg; the area's fishery resources, including efforts concerning the walleye; and the role of the Oswegatchie and St. Lawrence Rivers in the City's history.

- The Dobisky Community Center: This building is ideally located for several uses including, but not limited to, commercial, recreational, and cultural uses, a Customs check-in, and marina support services. It is highly visible, has a riverfront location and plenty of available parking. Its location along the riverfront in the Greenbelt Park will draw people and is one of several potential starting points for further exploration. It can provide restroom facilities and bathhouse facilities for area boaters.

- The Kiwanis Property: This parcel of land was once part of the Augsbury Tank Farm. Tests conducted on a corner of the site uncovered petroleum and petroleum-related substances in the soils. The area immediately along the riverfront should be reserved for public access and use. The balance of the former Tank Farm is discussed next. At present, its intended use is recreation.

- Parcel of Land Between Kiwanis Property and Paterson Street Boat Launch: This privately owned parcel of land, once part of the Augsbury Tank Farm, is currently vacant. No site tests have been conducted on this property. The City welcomes a number of uses including commercial and residential. Regardless of the type of use, the City wants the land immediately along the riverfront to be accessible to the public and to link the recreation uses on either side.

- Former Diamond International Property: Both the site and the primary structure present a number of environmental and structural problems. The United Stated Environmental Protection Agency (EPA) pumped out a storage tank filled with a lead-based liquid and removed drums filled with waste. Asbestos remains on the site and needs to be removed. The EPA also tested river sediment just off the site, fish, and nearby soils. The EPA prepared a report detailing and interpreting test results. This report has not yet been released. If the varied environmental and structural problems are resolved, water dependent development of this site is a priority as the river depths at this point are conducive to recreational boat traffic. The City proposed, and is in favor of, several uses including multi-family residential, commercial, recreational, and mixed-use development. Industrial development, while not desired, is not to be precluded. Residential development would require complete remediation of the site and, therefore, be money- and time-intensive. The lack of a construction and demolition disposal site in St. Lawrence County is another obstacle to the site's development. Regardless of the ultimate type of development proposed, public access along the length of the waterfront is a top priority. The City recently received Brownfields money for this site.

- Former Shade Roller Property: This site remains suitable for a narrow range of industrial uses. The City would like the property to be purchased and used for a compatible industrial use. The site may also be an appropriate location for a Planned Development District.

- St. Lawrence Psychiatric Center: A State announcement has put this property's future in flux. New York State plans to auction off the unused facilities and land to pay off some of the State's indebtedness. In 1995 and 1996/1997, the New York State Office of Mental Health sponsored the preparation of both a Highest and Best Use Analysis, and, a Campus Plan of the facility, respectively. The Highest and Best Use Analysis concluded that, in its current state and in the current economy, the site is not conducive to any of the conventional forms of development. The buildings' physical condition and their lack of compliance with the State Uniform Fire Prevention and Building Code present financial and physical constraints. To the extent practicable, however, these buildings should be maintained and adapted for reuse. The City proposes that the future use of this site take advantage of the location and its scenic resources. Desired future uses include, but are not limited to, residential and/or commercial uses, a convention center and an executive golf course.

- Lighthouse Point: This prominent land area has great potential to spur or continue the City's economic revitalization. A small portion of the site, along the western shore, is reportedly contaminated. Residential development of this area would require complete site remediation and involve large quantities of time and money. Commercial and recreational development trigger less cumbersome clean-up standards. The ruins of Fort LaPresentation present an opportunity for a historic tourist attraction which can support a variety of revenue-generating commercial uses. Any development should recognize and respect the original archaeological site. The restoration or development of the Fort as an attraction may initiate spin-off development in the form of commercial and other cultural/educational development. Again, public access along the length of the waterfront is a priority. Other potential uses of the site include a nautical museum, beach area, and boat building enterprises.

- Recreation Pavilion Site: A former Department of Transportation rail yard, this parcel is now City-owned and the site of a proposed multi-use recreation pavilion. Site tests uncovered some contamination in the soils which may require some remediation.

- Former Mobil Tank Farm Site: The City is open to a variety of uses at this now vacant site. At the base of Lighthouse Point, the site has the potential to support any development that may occur around Fort LaPresentation. The City would like to encourage commercial, residential and/or water dependent uses. Any development of the site must ensure that public access is provided along the riverfront.

- Robert C. McEwen Customs House: There is a possibility that this site may become available or other uses. In that event, the City encourages water-dependent or water enhanced uses. Cultural and educational uses are also appropriate.

B. Water-Based Projects

Again, there are tremendous opportunities to increase the number and variety of water-dependent uses. Examples of water-dependent uses the City encourages in this document are:

- Diving
- Tour boat operations
- Boating
- Ferry operations
- Jet skiing
- Charter fishing operations
- Water skiing
- Parasailing

The City is also in favor of planning and promoting special events or activities like its annual Ogdensburg International Seaway Festival. This week-long event attracts thousands of visitors annually.

It is important that new water-dependent uses do not conflict with existing land- or water-based, water-dependent uses and operations. While the OBPA sees little potential for such conflict, the City, in its review of proposed water-dependent uses, should work with developers to avoid the potential for conflict.

Refer to the City's Harbor Management Plan in Appendix H.

C. Development Considerations/Standards

As stated earlier in this section, long-term success of the City's waterfront depends, in part, on sensitively designed development — projects and programs that adhere to the overall vision for the waterfront area. For all types of development, this means:

- establishing and maintaining connections to the waterfront,
- emphasizing and enhancing existing recreation, commercial, and tourism sites, and,
- making clear pedestrian and alternative transportation links between the waterfront, tourism sites, and other development sites.

For each land use type in the waterfront area, the City may want to establish a set of design considerations. These design considerations will show City officials and future developers how projects may be designed to meet the overall vision. Design considerations may include graphic images of how development can occur as well as suggested zoning measures that will ensure the considerations' implementation. The City will deliberate transforming these design considerations into design standards for inclusion in the appropriate sections of the City's zoning regulations. The following descriptions provide a basis for developing such considerations or standards.

Residential Land Uses

Residential development within the LWRP should adhere to existing zoning regulations for setbacks, square footages, densities, etc. When designing larger residential structures, such as multi-family dwellings, developers should consider the following:

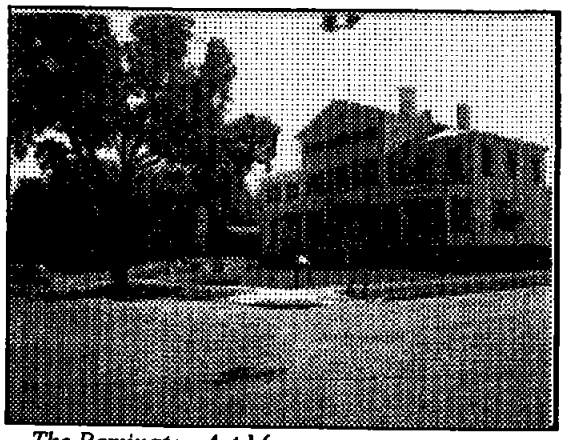
- limiting the height of the structure to one in keeping with the existing scale of the street (two or three stories),
- breaking up the mass of the building, so that it blends with other residential structures (this can be accomplished by varying the line of the facade, providing a regular pattern of windows, and/or constructing townhouses, rather than a single rectangular structure),
- including landscaping that blends with and enhances existing street plantings, including shade trees, and
- including sidewalk connections to the street and/or to the riverfront.

For waterfront residential landowners, consideration might be given to providing easements for a continuous multiple-use trail. Such an easement will require a swath of land approximately 20 feet in width to be granted to the City to accommodate the trail.

Commercial Land Uses

Viable commercial operations are critical to the success of the LWRP. Making these operations accessible to a variety of users -- from boaters along the St. Lawrence to pedestrians along City streets -- will help spur their success. The physical design of these operations should aim to draw this spectrum of users. Developers might consider the following:

- locating the buildings as close to the street as zoning allows, allowing foot traffic easy access to the establishment,
- reserving space along the street for outdoor commercial activities, such as sidewalk cafes and sidewalk sale stalls,
- scaling height of the buildings so that they blend with the existing structures in the LWRP area (when possible, consider two or three story structures, rather than one-story),
- designing the buildings so that they blend with other commercial and residential structures (this can be accomplished by varying the line of the facade and/or providing a regular pattern of windows),


The Remington Art Museum.

- including landscaping that blends with and enhances existing street plantings, including shade trees, and
- paying close attention to the design of signs and lighting of building facades, so that they engage the pedestrian.

In addition, special attention should be paid to circulation, parking, and parking lot design, as follows:

- when possible, locating parking to the rear of commercial structures to maintain the line of the street and allow for easier pedestrian access to establishments (when establishments front both a river and a street, parking should be on the street side or to the side of the structure(s) with particular attention given to the following considerations),
- when possible, arranging for shared driveways and parking areas to minimize curb cuts and keep traffic flowing more smoothly,
- planning for interconnections between parking areas to keep drivers from re-entering the street when they simply want to move to another parking area,
- breaking up expanses of parking areas with planted islands and canopy trees, and
- encouraging establishments to construct inviting "back doors" that welcome people in from the parking lots.

For waterfront commercial landowners, consideration might be given to providing easements for a continuous multiple-use trail. Such an easement will require a swath of land approximately 20 feet in width to be granted to the City to accommodate the trail.

Industrial Land Uses

Industrial uses typically require larger masses of land and more expansive facilities than commercial uses. While it may not be economically feasible to construct industrial buildings in a scale similar to commercial buildings, some measures may be taken to aesthetically blend and physically connect industrial complexes with the LWRP area:

- when constructing new industrial facilities, considering breaking up the mass of the building with vertical plantings, such as tall evergreen and canopy trees,
- breaking up expanses of parking areas into several small lots with planted islands and shade trees (this will also allow workers to find their vehicles more easily),
- if located near the core of the LWRP, building sidewalks leading to existing street side walks,
- if located along the waterfront, creating walking links to riverfront trails, and building overlooks for staff to use on lunch hours and breaks.

For waterfront industrial landowners, consideration might be given to providing easements for a continuous multiple-use trail. Such an easement will require a swath of land approximately 20 feet in width to be granted to the City to accommodate the trail.

Recreational Land Uses

Recreational lands currently exist along both riverfronts. The City may be able to expand its recreational offerings by constructing a multiple-use trail network, building on the existing pedestrian pathways and City sidewalk networks. Additionally, existing historic and interpretive sites provide opportunities for tourism "nodes," or stopping points along the multiple-use trail.

To enhance existing recreational lands, the City might consider the following:

- continuing the design scheme begun at the Greenbelt Park — extending the asphalt pathway throughout recreational lands, introducing more interpretive signs, providing grassy areas for picnics and games, building more restroom facilities,
- providing greater and safer access to the St. Lawrence River by constructing a boardwalk (with safety railing) and series of overlook areas,
- installing lighting along the asphalt pathway for night use of the trail, and
- connecting the existing pathway to the City sidewalk system, and connecting docking areas to the same system.

Expansion of recreational lands might include the following:

- designing the pathway as a continuous thread, with common surfaces, signage, lighting, seating areas, and plantings. Along steep bank areas, plantings should be incorporated to provide stabilization, as well as colorful enhancement.
- peripheral to the existing pathway, extending the route eastward and westward along the river edge. The success of this will depend on willingness of residential, commercial, and industrial landowners to grant easements across their riverfronts (as discussed above).
- also peripheral to the existing pathway, providing a clear walking route between the existing tourism nodes. These include, from west to east: Fort LaPresentation, the Robert C. McEwen Customs House and related buildings, the City marina, the Remington Art Museum, and the Port. To the south, along the Oswegatchie, this includes the Ogdensburg Dam.
- enhancing the existing pedestrian bridge by varying its surface, providing lighting, and perhaps narrowing the paved area, and providing planted buffers along each bridge edge.

Commercial/Residential Land Uses

In areas that reflect a mix of residential and commercial properties, commercial design should complement residential design, and vice versa, maintaining a similar scale, street setback, and planting scheme. Refer to the above descriptions of commercial and residential land uses for specific considerations.

Public Service Land Uses

Public service sites include the Ogdensburg Dam, the Robert C. McEwen Customs House, the Port, and St. Lawrence Psychiatric Center. Development projects and programs at each of these facilities might consider the following:

- preserving, at a minimum, the historic footprints, historic landscape features (such as historic trees), and ideally, the historic shells of the buildings. A large part of their history lies in their spatial layout and architectural fabric.
- utilizing these sites as features on walking and interpretive tours, and incorporating the same style of signage used at the interpretive points along the multiple-use trail.
- connecting these facilities, through the multiple-use pathway described above. In the case of the Psychiatric Center, connections might be made via an on-road bicycle trail linking the facility to downtown.

SECTION V: DESCRIPTION OF LOCAL PROGRAM IMPLEMENTATION

Section V outlines and describes the measures to be used by the City of Ogdensburg to implement its Local Waterfront Revitalization Program and Harbor Management Plan. It is organized under six general headings: existing local laws and regulations; proposed local laws and regulations; other actions required of both public and private sectors; local management structure and procedures for reviewing proposed projects (public and private); financial resources necessary to implement the LWRP; and, abandoned and contaminated properties - general information and principles.

EXISTING LOCAL LAWS AND REGULATIONS

A. Ogdensburg Community Development Plan (1990)

The City's existing Community Development Plan (CDP) is found at the front of the 1990 Zoning Ordinance and included in this LWRP as Appendix B. It establishes planning and development policies and priorities for the City which are entirely consistent with those in this updated LWRP. As such, no amendments to the CDP are necessary in order to implement the LWRP.

New York State General City Law requires that any amendments to the Zoning Ordinance, made as part of the City's implementation of the LWRP, must be in accord with a "well considered plan" for the City, and have a "reasonable relationship between the end sought to be achieved" and the "means used to achieve that end" (*Section 20[25]; Asian Americans for Equality v. Koch, 72 NY2d 121 [1988]*). The clear relationship between the CDP and the LWRP provides ample evidence of the City's comprehensive planning and consideration of community needs, sufficient to support the validity of any necessary amendments to the Zoning Ordinance.

The CDP contains the following provisions, relevant to waterfront redevelopment and restoration, which are consistent with the LWRP policies discussed in Section Three.

1. Recognition of the importance of the LWRP as a guide to redevelopment and restoration of the City's Coastal Area:

   Community Goal 5: Enhance and encourage public access to the waterfront and provide for water-dependent and water-enhanced uses to locate along the riverfronts of the community.

   Policy A: Develop waterfront areas consistent with LWRP policies and encourage the implementation of proposed projects.

   Policy E: Rezone vacant industrial waterfronts towards residential and recreational uses consistent with the LWRP.

2. Importance of the waterfront of the St. Lawrence and Oswegatchie Rivers; the City's "deep draft port" (recognized as one of the State's five major ports); promoting "water dependent" uses in this area, and promoting public access to the waterfront.

Community Goal 1: Take advantage of improving economic conditions in the City and encourage continued growth while developing the unique character of the community and preserving its most valued aspects.

> *Policy A: Guide growth in a planned and coordinated manner compatible with neighboring land values.*

Community Goal 5: Enhance and encourage public access to the waterfront and provide for water-dependent and water-enhanced uses to locate along the riverfronts of the community.

> *Policy B: Seek opportunities for enhanced public access and visual access to the river in the review of subdivisions, site plan reviews and Planned Development Districts.*
>
> *Policy C: Develop zoning districts that provide for water-dependent and water-enhanced uses to locate in certain coastal areas.*

In addition, the CDP's discussion of "Land Use Categories" (p.10) notes that the Residential/Business Mixed Use zone is "especially designed for use along the waterfront and in the historical City center areas", is "intended to be consistent" with the LWRP, and, is intended to "address the goal of enhancing public access to the waterfront."

3. In recognition of changing land use patterns along the two riverfronts, the CDP provides for zoning districts which promote water dependent and residential/recreational uses over industrial uses.

Community Goal 1: Take advantage of improving economic conditions in the City and encourage continued growth while developing the unique character of the community and preserving its most valued aspects.

> *Policy B: Recognize the changing land use pattern along the riverfronts from heavy industrial uses towards residential, recreational and other water-dependent land uses.*
>
> *Policy G: Encourage industry to locate in planned industrial parks.*

Community Goal 5: Enhance and encourage public access to the waterfront and provide for water-dependent and water-enhanced uses to locate along the riverfronts of the community.

> *Policy C: Develop zoning districts that provide for water-dependent and water-enhanced uses to locate in certain coastal areas.*
>
> *Policy E: Rezone vacant industrial waterfronts towards residential and recreational uses consistent with the LWRP.*

The CDP recognizes that industrial uses along the waterfront have declined or disappeared in recent years, and recommends that future industrial projects be encouraged to locate in "planned industrial parks."

Community Goal 1: Take advantage of improving economic conditions in the City and encourage continued growth while developing the unique character of the community and preserving its most valued aspects.

Policy G: Encourage industry to locate in planned industrial parks.

4. Recognition of the importance of the City's visual and historic resources.

Community Goal 1: Take advantage of improving economic conditions in the City and encourage continued growth while developing the unique character of the community and preserving its most valued aspects.

Policy F: Encourage the aesthetic improvements and maintenance of historic resources and scenic views to preserve the identity and character of the community.

Community Goal 2: Maintain and improve the quality of residential neighborhoods and the housing stock.

Policy E: Require landscaping and visual screening in buffer areas where non-residential uses abut residential uses.

Community Goal 4: Preserve and enhance the visual appearance of the City as a place to live, visit and operate a business.

Policy A: Make the most of the "old French" character of the City rather than try to change it into something artificial.

Policy E: Formally recognize the contribution to the positive visual appearance of the City by the Ogdensburg Garden Club, new developments, rehabilitated structures, and especially attractive grounds and gardens that enhance the City's image and character.

Policy F: Beautify and maintain City-owned outdoor areas, particularly the site between the Ogdensburg Mall [Business District] and adjacent businesses located across the walkway.

Policy G: Regularly review public lands for their impact on the visual appearance of the City. Recommend upgrading and maintenance where necessary.

B. City of Ogdensburg Zoning Ordinance (1990)

The City's 1990 Zoning Ordinance reflects the significant planning effort which produced the original LWRP in 1986. Those provisions of the Ordinance essential to full City implementation of the LWRP, as well as those which would govern the review and approval of the desired redevelopment/restoration projects, are discussed below. Attached as Appendix C are those sections of the Ordinance establishing the various zoning districts and their permitted uses.

1. A "Water Dependent" use is defined in Executive Law, Article 42 (Section 911[11]) as:

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

Section 30.13 of the City's Zoning Ordinance (which establishes the Residential/Business Mixed District) adds considerable detail and specificity to this term, as follows:

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

a. Uses which depend on the utilization of resources found in coastal waters (for example: fishing);

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

c. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short- and long-term storage facilities);

d. Structures needed for navigational purposes (for example: dams and lighthouses);

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

f. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);

g. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants);

h. Scientific/educational activities which, by their nature, require access to coastal waters (for example: natural resource nature centers); and

i. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent uses, they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.

Under the Zoning Ordinance, "water dependent uses" are specifically allowed in the Residential/ Business Mixed Use and Business districts.

The City has indicated that it does not wish to preclude all "industrial" uses of its waterfront coastal area. However, there would appear to be little, if any, congruity between the listed "water dependent" uses and those designated as "Industrial" in Section 30.15 of the Ordinance (e.g., light industry, heavy industry, research, port facility, truck/rail terminal, energy recovery facility, publishing/printing, contracting or supply). See also "Incompatibility of Industrial Uses", page 118.

2. The City's Waterfront Overlay District (Ordinance, Section 30.18, p. 30.32) is defined as follows:

Purpose: The purpose of the Waterfront Overlay District is to delineate an area coterminous with the Ogdensburg Local Waterfront Revitalization Program (LWRP) Coastal Area whereby new development and redevelopment will be reviewed for compatibility with the policies and purposes of the LWRP.

As an overlay district, the Waterfront Overlay District does not replace the existing land use districts and their provisions, but rather, represents an additional level of review, superimposed on the provisions of the existing or underlying districts, that specifically relates to the policies and purposes of the LWRP.

Permitted Uses:

All permitted uses as specified for the underlying land use districts, subject to all of the requirements of the underlying land use districts, including the requirements and procedures of Article V, Section 30.31 - Site Plan Review, if applicable.

3. Consistent with the policies of the CDP (see, Section VI.A[3], above) "industrial" uses are prohibited in those areas of the waterfront zoned Residential/Business Mixed Use (R/B) (Section 30.13, p.30.25), Single Family Residential (SFR) (Section 30.11, p. 30.22) and Moderate-Density Residential (MDR) (Section 30.12, p. 30.22).

4. Site Plans, Special Use Permits and Subdivisions are reviewed by the City Planning Board (Ordinance, Sections 30.31-30.35). It is recommended that amendments be made to these sections to conform to changes in the state enabling legislation and better reflect the policies of the LWRP. See, "Conforming Other Parts of the Zoning Ordinance to the State Enabling Legislation", p. 118.

5. Requests for Area and Use Variances (for example, possible future "industrial" uses in the R/B, SFR and MDR districts) are reviewed by the City Zoning Board of Appeals. Again, amendments conforming to the State enabling legislation are recommended, See "Conforming Other Parts of the Zoning Ordinance to the State Enabling Legislation", p. 118.

6. None of the parcels targeted for redevelopment or restoration is currently in use. Thus, any zoning district amendments would not create "prior non-conforming uses" (Ordinance, Section 30.29). The City should avoid any rezoning which would create such uses which are, by definition, inconsistent with and destructive of a community's development plan, and frequently difficult to eliminate, having long been recognized as enjoying a constitutionally protected status. *People v. Miller, 304 NY 105 (1952).*

C. Harbor Management Law (1999)

This law regulates activities within the Harbor area. Specifically, it addresses the following areas: land uses, vessel operation, sanitation, removal of abandoned or derelict vessels and structures; living aboard vessels; and, berthing, mooring and anchoring of vessels.

This law is administered and enforced by the City's Director of Planning and Development. This law is provided in its entirety in Appendix H.

D. Floodplain Regulation (1980)

A local ordinance to prevent flood damage in the flood zones of the City of Ogdensburg was adopted in 1980. The general purpose of this local ordinance is to minimize public and private losses due to flood conditions in specific areas by provisions designated:

1. to protect human life and health;
2. to minimize expenditure of public money for costly flood control projects;
3. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. to minimize prolonged business interruptions;
5. to minimize the damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas;
7. to ensure that potential buyers are notified the property is in an area of special flood hazard; and
8. to ensure that those who occupy the areas of special flood hazard assume responsibility for their activities.

The local ordinance incorporated the flood maps promulgated by the Federal Insurance Administration and satisfied all of the basic floodplain management guidelines established by the Federal Emergency Management Agency (FEMA). In particular, these regulations provided for the administration of Development Permits (by the Director of Buildings and Assessment) for development in all special flood hazard areas, established general and specific construction standards for such development, and included provisions for hearing and deciding upon appeals and variances.

This local ordinance enforces the Local Waterfront Revitalization Program by establishing development controls to operate in the flood hazard areas noted in Section Two - Inventory and Analysis. Such controls implement floodplain management aspects of Policies 11, 14 and 17 (see Section Three). Erosion provisions of these Policies are not covered by these floodplain regulations.

E. LWRP Consistency Review Law (1987)

A local law establishing consistency requirements and review procedures for City actions involving the local waterfront area was adopted in 1987 to ensure implementation of the Local Waterfront Revitalization Program. This local law requires of each board, department, officer or other body of the City, that its actions to directly undertake or to permit, fund or otherwise approve any project, use or activity within the waterfront be consistent to the maximum extent practicable with the applicable state and local policies established in the City's LWRP.

To this end, the local law establishes provisions for:

1. initial review of proposed actions in a manner compatible with SEQRA requirements;
2. providing advice and assistance to applicants (if involved) and/or the boards, departments, officers or other bodies of the City involved, regarding forms, procedures, etc., and;

3. LWRP compliance and SEQRA review through the City Planning Board and the local lead agency, respectively.

To facilitate the consistency review, a Waterfront Program Consistency Assessment Form has been adopted as part of the consistency law. See Appendix D, Waterfront Program Consistency Assessment Form.

PROPOSED LOCAL LAWS AND REGULATIONS

In order to fulfill the LWRP's potential, it is recommended that the City enact the following laws and regulations:

A. Implementation Standards in Waterfront Overlay District

Department of State (DOS) regulations (19 NYCRR Section 601.5) require the adoption of a "local law or ordinance to implement" a "harbor management plan", a required component of the LWRP (Executive Law, Section 915[5][I]). Apparently, DOS does not require such laws or ordinances for the LWRP, and no such action was taken with respect to the City's original LWRP, enacted in 1986. Nonetheless, for reasons discussed below, it is recommended that the City either enact such an ordinance for its amended LWRP, or amend its zoning ordinance to provide more specificity on procedures to be followed for review of projects in the Waterfront Overlay District. For example, a new waterfront zoning district could be implemented in Ogdensburg as an amendment to the Zoning Ordinance, replacing the waterfront Overlay District.

As noted, the section on the Waterfront Overlay District in the City's Zoning Ordinance (Section 30.18) is very terse on the mechanics of LWRP implementation. It specifies only that "new development and redevelopment" in the LWRP Coastal Area "will be reviewed for compatibility with the policies and purposes of the LWRP." The Ordinance does not indicate which City agency is to conduct such review, nor does it provide any procedural or substantive standards to guide said agency's review.

These deficiencies should be corrected by a local law or zoning amendment so that decisions on permit applications made pursuant to the LWRP will not be vulnerable to legal challenge on the ground that the "standards" of the Waterfront Overlay district are unconstitutionally vague. (See, *Matter of Cooper v. Village of Cooperstown, 220 AD2d 964 (3d Dept., 1995)*). Unless the LWRP or its implementing law reserves to the City's legislative body (presumably, the City Council) the power to grant permits in the Waterfront Overlay District, then "general terms capable of reasonable interpretation" which guide the discretion of the permitting authority are mandated by law (*Cummings v. Town Board of New Castle, 62 NY2d 833 (1984); Town of Islip v. Zalak, 165 AD2d 83 (2d Dept., 1990); Matter of Cooper, supra.*). The existing standards for the Overlay District in Section 30.18, even with reference to the LWRP, might not meet this standard.

As noted, the existing Waterfront District is an "overlay" district which "does not replace the existing [zoning] districts and their provisions." If the City elects to enact a local implementation law rather than a new waterfront district, the law should specify that the requirements of the overlay district shall take precedence over any contrary provisions otherwise applicable. This can be supported by a legislative finding in the new implementation law on the importance of the LWRP to the City's redevelopment/revitalization.

Additionally, the local implementation law or zoning amendment should require, "to the maximum extent practicable", that private projects approved in the coastal area must provide for public waterfront access at those properties east and west of the St. Lawrence-Oswegatchie confluence where such access is presently lacking. Public access to the waterfront is a well-defined community planning goal in the CDP and LWRP. There is legal authority suggesting that a "public access" provision in an overlay district or law could withstand a challenge of unconstitutional "taking" of property.

Additional suggestions follow:

- the City should continue the Planning Board's authorization to review projects for LWRP consistency;
- the procedures for LWRP "consistency review", which would be coordinated with existing regulatory/project review requirements of the State Environmental Quality Act (SEQRA), should be reviewed and, if necessary, revised;
- the City could devise a list of the many factors potentially applicable when reviewing actions or projects in its Waterfront District, and the corresponding LWRP policies which will guide the reviewing agency's discretion in making a "consistency" determination;
- the City could consider development "incentives" to encourage the desired waterfront uses (tax rebates, expedited review, modified setback requirements); and other desirable features of a restored waterfront (e.g., special building design standards or landscaping).

B. LWRP Consistency Review Law

While the City's law is adequate, it should be updated to reflect improvements that have emerged in past years. The Department of State has models available for review and use.

C. Lighthouse Point Zoning

As noted, Lighthouse Point, a large and historically significant waterfront area is presently zoned for Moderate-Density Residential uses. Assuming that the site of Fort LaPresentation could be restored and redeveloped, a "museum" use would be permitted.

D. Incompatibility of Industrial Uses

As noted above, industrial uses, light or heavy, do not appear to be easily accommodated in a redevelopment plan which promotes "water dependent" uses. The City may wish to reconsider the feasibility or likelihood of new or restored industrial uses along its waterfront, and steer such uses to its existing industrial parks. The only "industrial" district on the waterfront is at the Port.

E. Conforming Other Parts of the Zoning Ordinance to the State Enabling Legislation

Along with the other recommended changes, the City should consider amending its Zoning Ordinance to conform with current state enabling legislation found in the General City Law (GCL). In 1992 and 1993, the Legislature amended those sections of the GCL pertaining to the organization and authority of planning boards and zoning boards of appeal, as well as the procedures required for special use permits, site plan review, and subdivision regulations. These amendments have, in some instances,

rendered invalid existing provisions of the City's Zoning Ordinance. For example, under the former GCL and the current Ordinance, zoning boards of appeal could grant use or area variances where an applicant established that strict application of the zoning ordinance would cause "practical difficulties or unnecessary hardship." (See, *former GCL Section 81(4); City of Ogdensburg Zoning Ordinance Section 30.34(E)(2) at p. 30.89.*) Under the amended GCL, the "practical difficulties" standard is repealed. A zoning board of appeals may now grant a use variance only for "unnecessary hardship" with four criteria listed to guide the board's discretion (*GCL Section 81-b(3)(b)(i)-(iv)*). Similarly, for area variances, the enabling statute now provides for a "balancing" test instead of a "practical difficulties" test with five criteria for the board's consideration (*GCL Section 81-b(4)(b)(i)-(v)*).

Other recent amendments to the GCL addressed: the composition of planning boards (Section 27); site plan review (Section 27-a); special use permits (Section 27-b); a City comprehensive plan (Section 28-a); and subdivision review (Sections 32-37). It is strongly recommended that the City amend its Ordinance to ensure it is in full compliance with the current enabling legislation and to minimize the potential for litigation in cases where it sought to apply outdated provisions of its Ordinance.

OTHER ACTIONS REQUIRED OF BOTH PUBLIC AND PRIVATE SECTORS

In addition to the regulatory measures described in the preceding section, several other public and private actions will be necessary to assure implementation of the LWRP.

A. Local Government Actions

City officials and staff will need to undertake the following actions and activities in order to implement various elements of the LWRP.

1. Coordination. A significant level of coordination with various federal, state and local government agencies, community organizations and the private sector will be required to carry out the LWRP in an effective manner. Such coordination involves the following:

    a. consulting with agency representatives regarding grants, technical assistance, regulatory and permit considerations and general policies;

    b. soliciting the cooperation and involvement of service-oriented community groups in promotional activities for waterfront revitalization;

    c. generating active participation of waterfront business owners to optimize the alignment of public and private revitalization, development and tourism interests.

    The LWRP's emphasis on consultation (described in Section Seven) and public/private cooperation illustrates the need for effective coordination. By stressing coordination as a public implementation action, its importance is recognized as essential to the implementation process.

2. Grant Applications. To enact the LWRP, several state and federal grant applications will have to be prepared by the City or its consultant. The Financial Resources section, below, describes some of the available funding programs.

3. Education. It is important for City Council, Planning Board and Zoning Board of Appeals members and the Director of Buildings and Assessment to remain abreast of planning/zoning basics, innovations, and planning-related amendments to General City Law. Given the periodic turnover of these boards, regularly scheduled educational opportunities should be made available. Membership in organizations like the New York Planning Federation and attendance at regional planning workshops and conferences enable individuals to perform their duties with the requisite knowledge.

B. Expedited Permit Procedures

Section Three, Policy 6 of the LWRP calls for "expedite[d] permit procedures" among all involved governmental agencies "in order to facilitate the siting of development activities at suitable locations in the coastal area." This policy is taken directly from the Executive Law (Section 916). DOS regulations specify how state agencies are to implement this policy for actions proposed in the various "coastal areas" covered by LWRPs (19 NYCRR Section 600.4). It is not clear how effectively these provisions work in practice, and the difficulties of coordinating the permit review actions of multiple levels of government, each with their own areas of jurisdiction, should not be underestimated. If it has not done so already, the City should explore opportunities for intergovernmental cooperation at the local or county level, and seek the assistance of DOS for State agency coordination problems.

C. Project Implementation Activities - Sites Known or Suspected of Being Contaminated

At each of these locations the City should proceed with caution, evaluating the legal and technical obligations associated with contaminant condition response. The City should proceed in a step by step fashion with decision-making based upon the results of each preceding step. A variety of approaches are available based upon specific site conditions, PRP responses, available funding, and NYSDEC priorities and interests. In general, it is recommended that the City retain an environmental consultant to assist in the review and evaluation of existing site conditions at the Brownfield sites. Such expertise will assist the City in pursuing negotiated solutions with the NYSDEC and PRPs and will also provide the necessary technical support in the event that litigation is needed to compel a PRP to remediate a site. The City should use "in-house" expertise, including Professional Engineering staff, to the maximum extent practicable, to reduce consultant costs.

1. Former Diamond International Site

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Water-dependent uses; commercial use(s) and/or commercial/ recreation use(s) with consideration of public recreational access as a multiple use; industrial development, while not desirable, is not precluded*
Ownership:	*Public*

This abandoned factory has been a source of hazardous substance and petroleum contamination and asbestos releases. The City was successful in obtaining NYS DEC support to arrange for a federally funded removal action conducted by the US EPA. During 1996-1997, the US EPA incurred expenses of approximately $400,000 removing contamination from the site. The US EPA will seek to recover its expenses from past owners and operators of the site. As the City has recently taken title to the property, it may want to consider intervening in any litigation brought by the EPA against the PRP in order to recover any costs incurred by the City in responding to contaminant conditions.

The US EPA also conducted on-site sampling and analysis of contamination. The sampling and analysis report has not been released to the public. The sampling and analysis report is likely to provide a basis for evaluation of further contaminant clean-up actions, if any, that should be conducted at the site. If the report indicates that the EPA removal action has sufficiently addressed contamination concerns, the reuse opportunities for the property will be greatly enhanced. Lending institutions and private entities will be more interested in reusing the site if it does not have long term environmental concerns. If further remediation is required, the City should evaluate funding opportunities, including a Municipal Restoration grant (Clean Water/Clean Air Bond), to implement necessary work, or litigation/negotiation to compel the PRPs to conduct necessary remediation. The City should seek assistance from the state in any such enforcement action. Given the mix of contaminants that have existed at the site, litigation would include claims under CERCLA, RCRA, and state law claims.

Demolition of the building will be required if the City wishes to develop or provide public access to the site. Funding sources for this project should be pursued. Coordination with the NYS DEC, with regard to disposal of the construction and demolition debris, a solid waste under state law, will be required. Particular attention will need to be given to asbestos concerns. The US EPA is proceeding to remove asbestos from the site but the specifics and full extent of the EPA program will need to be determined. The Clean Air Act (CAA)[1] regulates the release of asbestos into the environment from buildings and other facilities caused by renovation or demolition. The asbestos emission regulation covers any person who owns, leases, operates, controls, or supervises the facility being demolished or controls or supervises the demolition operation. Prior to demolition, an asbestos survey may be required[2]. US EPA may need to be notified before demolition work proceeds. Consideration will also need to be given to the Occupational Safety and Health Act (OSHA)[3] which establishes specific exposure levels and protective requirements for building maintenance staff and workers involved in asbestos abatement work. Asbestos is also a hazardous substance under CERCLA. New York State Labor Law[4] regulates the licensing of workers engaged in asbestos related projects. The City will need to be mindful of these broad regulatory requirements when the former Diamond International building is demolished.

No property taxes have been paid on this property for years. The City's acquisition of the property constitutes an involuntary acquisition under CERCLA and does not trigger ownership liability.

The City may want to commence discussions with the NYS DEC in the near future to discuss whether it is worth pursuing a Voluntary Clean-up Agreement or a Municipal Restoration ("Brownfield") grant. It is important to consider that the Voluntary Clean-up agreement program only requires remedial activities directed toward the intended use of the property, whereas the Municipal Restoration program requires more comprehensive remediation. It is recommended that the City first determine how it would like to reuse the property so that NYS DEC discussions could be more focused. The City should also consider retaining an environmental consultant to review contaminant data and assist in the evaluation of further remedial actions. Private developers who may be interested in developing the site should be identified, especially if the EPA report indicates that site conditions are not serious. If a private party were interested in the site, the City could coordinate discussions with the NYS DEC in order to enhance prompt and cost-effective decision making.

2. Lighthouse Point - Mobil Tank Farm Areas

Present Zoning:	*Moderate-Density Residential*
Proposed Uses:	*Residential, commercial, recreation and cultural uses; including, but not limited to, nautical museum, reconstruction of Fort LaPresentation*
Ownership:	*Private, Public*

This area includes the suspected ruins of Fort LaPresentation, an old landfill, confirmed petroleum contamination in both soils and groundwater, hazardous substances, along with several residences. Further investigation needs to be conducted to determine actions at these sites. Letters and a Freedom of Information Request should be sent to the NYS DEC to determine the status of on-site contamination. If "Spill numbers" have been assigned to the location, the City may want to consider requesting that the files remain open until the PRPs implement clean-up in accordance with the intended use of the area. The City should not authorize residential development until the nature and extent of contamination is determined.

The ruins of Fort LaPresentation present the opportunity to consider eligibility for Municipal Historic Preservation or Municipal Park projects under the Environmental Protection Fund program. Eligibility for this funding program should be evaluated. A Brownfield grant may be considered for the City-owned portion.

Finally, depending on the nature of the contamination, notice to PRPs should be sent and a meeting scheduled to discuss future use plans. The City may want to discuss entering into a Memorandum of Understanding with the NYS DEC directed toward a coordinated approach to the different contaminant areas on this property.

The current owners of Lighthouse Point properties should be an integral part of all discussions and efforts regarding future actions, land use, and development.

3. Recreation Pavilion

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Multi-purpose recreation*
Ownership:	*Public*

Petroleum contamination has been confirmed in portions of the subsurface of this property. The City should consult with the adjoining landowner, New York State Department of Transportation (NYS DOT), to discuss whether NYS DOT storage facilities may have contributed to the petroleum contamination and to seek DOT assistance in investigating/remediating the problem. Further, the City should consider evaluating whether past owners/operators of the site are responsible for contaminant conditions. If such PRPs are identified, the City should consider notifying such parties under applicable statutes and commencing discussions relative to contributing to the remediation of the site. The City should also consider meeting with the NYS DEC to discuss whether a Voluntary Cleanup Agreement should be entered into whereby the City undertakes necessary remediation directed toward the "use" of the property. A "no further action" letter should be obtained. The anticipated use of the property may limit any necessary expenditures for remediation. The City should also consider other available environmental/economic development funding programs.

4. Kiwanis Property and Property Between Kiwanis Property and Paterson Street Boat Launch (Former Augsbury Tank Farm)

Present Zoning:	*Single-Family Residential*
Proposed Uses:	*Public Recreation; Commercial, Residential with consideration of public recreational access as a multiple use*
Ownership:	*Private*

This property had been used for the bulk storage of petroleum. Limited site studies appear to indicate low levels of petroleum contamination which do not appear to present a significant threat to the environment. However, solvent odors and solid waste fill have been detected in the subsurface. The applicable laws relative to this site are the Navigation Law and RCRA.

Access to the property should be obtained in order to conduct the necessary assessment of site conditions to determine whether any petroleum products are migrating to off-site areas including the St. Lawrence River. Contact should be made with the property owner to determine whether the entity will agree to an inspection and assessment of the property by the City or whether the owner is prepared to conduct such efforts on its own. A Phase I literature review should also be conducted to obtain a more thorough understanding of past uses of the property. A FOIL request should be sent to the NYS DEC and NYS DOH seeking information about past spills at the site and whether any monitoring well or test pit sampling data were ever submitted to these agencies. Once site conditions are better understood, the City will be in a better position to determine appropriate uses for the property. If the City were to obtain title to the property, it should consider a land-use based voluntary clean-up approach. Under such circumstances, the City would need to enter into discussions with the NYS DEC.

The Zoning Ordinance states that "most" (meaning not all?) "retail and service uses" are prohibited in the Moderate-Density Residential District. Thus, a zoning amendment or enhanced City Administrative Authority to override the possibly conflicting use designations in the Waterfront Overlay District may be required.

E. Project Implementation Activities - Sites Not Suspected of Being Contaminated

With one possible exception, all the following proposed uses appear to be allowable in the respective districts; no zoning amendments would be necessary. Specifically, uses described as "outdoor municipal recreation" are permitted in the Single-Family Residential District (the property between the Kiwanis property at the base of Paterson Street and Paterson Street boat launch), and a "museum" use is permitted in the Mixed Residential/Business District (Dobisky Community Center property).

The one possible exception is the storage facility use proposed for the Pump House. Uses described as storage, distribution and warehouse are prohibited in the Mixed Residential/Business District, making a use variance necessary.[5]

1. Shade Roller Property

Present Zoning:	*Industrial/Institutional*
Proposed Uses:	*Industrial Reuse*
Ownership:	*Private*

2. Lake Street Bridge

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Pedestrian walkway; public use with attractions and events on the adjacent riverbanks*
Ownership:	*Public*

It is presumed that there is a local law which establishes a mechanism for permitting these "temporary" events (farmers' markets, art shows and flea markets).

3. Pump House

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Include, but are not limited to, recreation office, equipment storage, outfitter rental operation (canoes, bicycles), visitor/interpretive center*
Ownership:	*Public*

4. Dobisky Community Center

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Compatible mix of commercial, recreational and cultural uses*
Ownership:	*Public*

5. Paterson Street Boat Launch

Present Zoning:	*Single-Family Residential*
Proposed Uses:	*Additional parking opportunities are needed*
Ownership:	*Public*

6. Ogdensburg Bridge and Port Authority land along Proctor Avenue

Present Zoning:	*Single-Family Residential*
Proposed Uses:	*Residential, recreational*
Ownership:	*Public benefit corporation*

7. St. Lawrence Psychiatric Center

Present Zoning:	*Industrial/Institutional*
Proposed Uses:	*Include residential and commercial*
Ownership:	*Public*

8. West Bank of Oswegatchie River

Present Zoning:	*Mixed Residential/Business*
Proposed Uses:	*Utility/electric generation; commercial, recreation*
Ownership:	*Public and Private*

LOCAL MANAGEMENT STRUCTURE AND PROCEDURES FOR REVIEWING PROPOSED PROJECTS (PUBLIC AND PRIVATE)

A. Roles of Involved Parties

The Mayor and the City Council shall be the local official and the lead agency, respectively, responsible for this waterfront program. More specifically, the roles of these and other parties are as follows:

1. Mayor. Provides overall program supervision and management.

2. City Council Members. Execute program responsibilities, in coordination with the Mayor, for such items as coordination with volunteer and private organizations, and local government cooperation.

3. City Manager. As chief executive officer responsible to the City Council, provides direct supervision of all City affairs relating to program policies, uses and projects.

4. City Clerk. Handles correspondence, communications and record keeping for City government actions pertaining to the waterfront.

5. City Comptroller. Serves as chief fiscal officer in providing fiscal management for City government actions pertaining to the waterfront.

6. Director of Planning and Development. Works with City Manager, City departments and boards, and the public in providing direction in the execution of program policies, uses and projects.

7. Planning Board. Provides advice and assistance to the City Council and the public in prioritizing program projects and activities; provides input to the City Council on the compatibility of waterfront activities with program policies and objectives; reviews and approves site plans for new development within the waterfront; participates in consistency reviews in conjunction with lead agency reviews.

8. Zoning Board of Appeals. Hears and renders decisions on variances, special permits, and appeals from any requirement or determination made by the Director of Buildings and Assessment pertaining to the waterfront.

9. City Engineer. Provides technical coordination and assistance as needed on program uses and projects.

10. Director of Buildings and Assessment. Provides initial review of proposed coastal area development proposals to determine compliance with the City zoning ordinance; works with City Planning Board and lead agency in expediting all necessary reviews, issues permits, and enforces zoning ordinance.

11. Director of Public Works. Manages, maintains and operates all public works and physical properties pertaining to the waterfront.

12. Director of Parks and Recreation. Provides assistance to City Manager and City Council in planning and executing recreational programs and development of recreational facilities pertaining to the waterfront.

13. Recreation Commission. Serves in an advisory capacity to the Director of Parks and Recreation in planning and executing recreational programs and development of recreational facilities pertaining to the waterfront.

14. City Office of Rehabilitation and Development (CORD). Executes community development and housing rehabilitation programs pertaining to the waterfront.

15. Ogdensburg Housing Authority. Oversees development and program coordination for assisted housing within the waterfront.

16. Ogdensburg Chamber of Commerce. Coordinates merchant and private sector involvement in the LWRP, assists in soliciting donations for smaller waterfront projects, and promotes public and private interest and support for revitalization activities.

B. Compliance Procedures

In general, the City's procedures for assuring compliance with the coastal policies of its LWRP consist of the administration and enforcement of zoning (including site plan review and the Overlay District), the consistency law, and other local laws applicable to its waterfront, in conjunction with the environmental reviews required by the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617). The basic premise of compliance is that, legally, the City should be no less consistent with its LWRP than state and federal agencies are already required to be by their respective laws.

The Waterfront Overlay District and amendments to the zoning ordinance will provide consistency with the LWRP for local approvals of private actions. Each action by the City to fund, undertake, permit or otherwise approve a project or activity in its waterfront will be processed as follows:

1. Initial Review. Following regulations listed in 6 NYCRR Part 617.5, the Director of Buildings and Assessment will review each project or activity in consultation with the applicant and/or other involved parties. This review will identify:

    a. all City actions required (permits, funding or approvals) and the board, department, officer or other body responsible for the actions;

    b. whether the actions are Type I or Unlisted Actions and therefore subject to the provisions of SEQRA;

c. whether the actions might conflict with the LWRP; and

d. any other agencies that may be involved.

2. Advice and Assistance. The Director of Buildings and Assessment will advise the applicant and/or other involved parties regarding the initial review of required forms and further procedures to be followed. In addition, the Director of Buildings and Assessment will provide assistance in the preparation of:

   a. City application forms (if applicable);

   b. Environmental Assessment Forms (EAFs) for all Type I and Unlisted Actions; and

   c. Coastal Assessment Forms (CAFs) for actions subject to SEQRA involving permits, funding or approvals from state or federal agencies.

C. SEQRA and LWRP Compliance Review

Upon receipt of completed EAFs (and CAFs, if applicable) and, if appropriate, City application forms, the Director of Buildings and Assessment will immediately initiate procedures pertaining to lead agency designation and determination of significance in accordance with 6 NYRCRR Parts 617.6 and 617.7. In the majority of cases, where the impact of the project is primarily local, the City Council will serve as lead agency. At the same time, if any actions are determined in the initial review to involve potential conflicts with the policies and purposes of the LWRP, they will be referred to the Planning Board for compliance review as follows:

1. The Planning Board will, within thirty (30) days from the date of referral, prepare a written report to the lead agency describing specific conflicts involved, if any, and recommend approval, approval with modifications (to mitigate the conflicts) or denial (to avoid the conflicts).

2. In making such recommendations, the Planning Board will consult, as needed, with the applicant, the lead agency, and/or other involved parties.

3. If the action would be subject to site plan approval by the Planning Board, then that board shall integrate the compliance review with the site plan review procedures to the maximum extent possible, provided that the provisions of SEQRA have been satisfied before taking action on such site plans.

4. All other boards, departments, officers or other bodies shall include the Planning Board's LWRP compliance review recommendations as well as SEQRA determinations in rendering decisions, whether taking actions as lead agencies or as involved agencies.

D. Federal and State Consistency

The process for local review of state and federal actions for consistency with the LWRP will generally follow that for compliance review, except that in all cases the City Council will make the final decision in judging the consistency of such actions. Specifically, the procedures described below will be followed:

1. Initial Review. The Director of Buildings and Assessment reviews the proposed actions in comparison to the LWRP. Based on such review, the Director of Buildings and Assessment will:

    a. advise the City Council as to whether the proposed actions are consistent, inconsistent or of uncertain consistency.

    b. refer actions that are or may be inconsistent to the Planning Board for its review and comment.

2. Consistency Review. Within thirty (30) days of such referrals, the Planning Board will prepare a written report for the City Council describing specific reasons for inconsistency, if any.

3. Consistency Advisement. The City Council, with due consideration given to the Planning Board's written report, will advise the Secretary of State and the particular state or federal agency involved of any actions it deems inconsistent with the LWRP and the reasons therefore.

Specific guidelines on how consistency reviews will be coordinated for state and federal agency actions are listed in detail in Appendix E, "Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs Are in Effect," and Appendix F, "Procedural Guidelines for Coordinating NYS Department of State and Local Waterfront Revitalization Program Consistency Review of Federal Agency Actions."

FINANCIAL RESOURCES

The implementation of the LWRP requires, among other things, financial resources. Depending upon the project and the entity spearheading the project, funding can originate from the public and/or private sectors. Funding can be in the form of budget allocations, bonding efforts, member items, non-governmental organizations' efforts, and grants and/or loans.

Annual budget allocations can fund one or more segments of the LWRP. City funds delegated to specific program components consistently over time can result in significant improvements leading to increased tax revenues to the City. The City can also propose to float one or more bonds to undertake specific projects. Member items are another potential source of funding. Application to the appropriate elected representative should be made and pursued. Non-governmental organizations can also assume responsibility for facets of the LWRP's implementation. Not-for-profit organizations or local/regional entities with a stake in the coastal area can work with the City to undertake various projects. Grant/ loan programs are an important source of funding that enables the City to achieve goals that would otherwise remain unmet for an indefinite period of time.

The following list identifies and briefly describes potential public funding sources for various components of the LWRP. They are categorized by the general policy headings provided in Section Three. In some instances, funding resources apply to more than one subject area and are, therefore, listed more than once.

Much of the following information is taken directly from the applicable agency's website. The World Wide Web is a valuable source of funding-related information.

A. Development

1. Municipal Environmental Restoration Project Fund under the New York State Clean Water/Clean Air Bond Act. Administered by the NYS DEC. The State will pay up to 75 percent of the cost of investigating and cleaning up contamination at abandoned sites (brownfields) that are municipally owned. These properties may then be marketed by the municipality for redevelopment or used by the municipality for a variety of activities including industrial, commercial, or public use.

2. The Federal "Superfund" under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)[6]. This program provides funds to implement short term "removal" actions, or longer term remedial investigation and remediation of hazardous waste sites listed on the National Priorities List (NPL). The NYS DEC must request that a site be listed on the NPL.

3. Industrial Finance Program. Administered by the NYS Environmental Facilities Corporation. This program provides low interest loans to private businesses for environmental improvement capital projects, including brownfields site remediation and solid waste management.

4. State Community Development Block Grant (CDBG). Administered by the Department of Housing and Urban Development. This program provides funds to smaller communities for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities, and/or improving community facilities and services. Projects must (1) benefit low- and moderate-income families; (2) prevent or eliminate slums or blight; or (3) meet other urgent community development needs.

5. Section 108 Loan Guarantee Program. Administered by the Department of Housing and Urban Development. This program enables local governments to transform a small portion of its CDBG funds into federally guaranteed loans that can be used to pursue physical and economic revitalization projects. Eligible projects include property acquisition; housing rehabilitation; economic development activities; and, acquisition, construction, reconstruction or installation of public facilities.

6. New York State Empire State Development Corporation (EDC). This entity provides program grants and loans as incentives to attract commercial development and may be applicable to brownfields development.

7. Economic Development Initiative. Administered by the Department of Housing and Urban Development. This program provides grants to local governments that can be used to enhance both the security of loans guaranteed through the Economic Development Loan Fund and the feasibility of the large economic development and revitalization projects they finance.

B. Fish and Wildlife

1. Aquatic Habitat Restoration Program - Clean Water/Clean Air Bond Act. Administered by the NYS DEC. Funding is available for restoring aquatic habitat.

C. Flooding and Erosion Hazards

1. New York State Non Agricultural Non-point Source Abatement and Control Program – Clean Water/Clean Air Bond Act. Administered by the NYS DEC. Funding is available to reduce, abate or control pollution originating from non-agricultural activities.

D. Public Access

1. Clean Water - Clean Water/Clean Air Bond Act. Administered by the NYS DEC. Significant support is available to acquire public parklands and open space that protects water resources.

2. The New York State Environmental Protection Fund. Administered by the NYS OPRHP. This fund provides assistance for park, recreation and historic preservation projects.

E. Recreation

1. Clean Water - Clean Water/Clean Air Bond Act. Administered by the NYS DEC. Significant support is available to acquire public parklands and open space that protects water resources

2. The New York State Environmental Protection Fund. Administered by the NYS OPRHP. This fund provides assistance for park, recreation and historic preservation projects.

3. TEA-21. Administered by the U.S. and NYS Departments of Transportation. Provides 80% of the total project cost for eligible projects including but not limited to: maintenance and restoration of existing recreation trails; development and rehabilitation of trailside and trailhead facilities and trail linkages; purchase and lease of recreational trail construction and maintenance equipment; construction of new recreational trails; acquisition of easements of property for recreational trails or recreational trail corridors.

F. Historic and Scenic Resources

1. The New York State Environmental Protection Fund. Administered by the NYS OPRHP. This fund provides assistance for park, recreation and historic preservation projects.

G. Water and Air Resources

1. Clean Water State Revolving Fund. Administered by the NYS Environmental Facilities Corporation and the NYS DEC. This fund provides low interest rate loans to municipalities to construct water quality protection projects. A variety of publicly-owned water quality improvement projects are eligible for financing. Eligible projects include point source projects such as wastewater treatment facilities and non-point source projects such as landfill closures and stormwater management projects.

2. Drinking Water State Revolving Fund. Administered by the NYS Environmental Facilities Corporation and the NYS DOH. This fund provides financing for community water supply systems, both publicly and privately owned, and non-profit, non-community water supply systems. Projects eligible for financing include investments to upgrade or replace infrastructure, maintenance of compliance with federal or state health standards, and provision of safe, affordable drinking water.

3. Federal Environmental Response and Spill Compensation Fund. This fund is available to states to implement investigation and clean-up of petroleum discharges and remove underground storage tanks. The fund is also available to compensate injured parties, including municipalities, which have lost revenue as a result of the discharge of petroleum.

H. Private Sector Funding Sources

1. The Environmental Grantmakers Association, 1290 Avenue of the Americas, Suite 3450 New York, New York, 10104 compiles a listing of hundreds of potential foundations and trusts which may provide funding assistance to creative environmental/economic development initiatives.

2. The Foundation Center, 79 Fifth Avenue, New York, New York 10003 is also a significant source of grant-related information.

ABANDONED AND CONTAMINATED PROPERTIES – GENERAL INFORMATION AND PRINCIPLES

New York State has thousands of properties contaminated to various degrees by hazardous substances or petroleum. These properties include inactive hazardous waste disposal sites; oil spill sites; sites where underground petroleum or hazardous substance storage tanks have leaked; and, abandoned, dilapidated industrial properties contaminated with asbestos and other hazardous materials. In addition to raising public health and environmental concerns, the presence of hazardous substances can often complicate, if not preclude, real estate and lending transactions. The City of Ogdensburg has a number of these sites along its waterfront on the St. Lawrence and Oswegatchie Rivers. A mix of legal and funding mechanisms are available to the municipal government to respond to such contaminated properties within its jurisdiction. Local government has a broad array of enforcement authority and potential funding mechanisms with which to address these contaminated properties. The goal of the municipality should be to restore the properties to productive and desirable use.

Successful restoration, reuse and redevelopment of abandoned properties and those properties suspected of being contaminated by hazardous substances and/or petroleum will require a mix of public and private resources. Program implementation is likely to include a mix of state, federal and local funding coupled with litigation or related enforcement activities. The municipality, either as an "innocent" owner of contaminated property (where the City takes title to a parcel), or acting in its representative capacity on behalf of the public, has numerous options to pursue against the present and prior owners/operators of contaminated property to seek cleanup and damages.

The contaminated properties along the Ogdensburg waterfront include, but are not limited to, the former Diamond International site, Lighthouse Point, the former Augsbury tank farm, and the site of the proposed Recreation Pavilion. These properties are commonly referred to as "Brownfields". This term generally is used to describe properties which are abandoned industrial or commercial sites in urban areas that are, or are suspected of being, contaminated by hazardous substances, including petroleum. Such sites are generally not so contaminated as to qualify for priority listing on the state or federal hazardous waste site registries, (which would make them eligible for significant federal or state "superfund" clean-up monies), and therefore often must be addressed at the local level by municipal government or private developers, in conjunction with grants or loans from established state or federal programs.

There are a number of programs available which can assist the City in addressing such sites. However, because contaminant conditions are likely to be different at each of the locations, site specific planning will be required. An implementation plan will require establishing priorities based on:

- protection of public health and the environment;
- available funding mechanisms such as low interest loans or grants;
- contaminant conditions at the sites;
- the economic development potential for a specific site, including;
  - √ the existence of interested developers/businesses to occupy and restore the particular premises;
  - √ the existence of "responsible parties" against whom enforcement action can be taken; and,
  - √ the ability and willingness of the City to finance site assessment or remediation activities.

A. Potential Funding Sources

The City should evaluate the requirements necessary to obtain monies from a variety of existing environmental response and economic development programs. Some of the available grant programs to address contaminated properties require a percentage contribution from the City. Programs are described on pages 129-131.

B. General Principles of Liability Under Federal and State Laws

There are federal and state statutory programs designed to address the problems posed by hazardous substances, hazardous waste and petroleum contamination. The City will need to consider resort to such liability schemes to compel responsible parties to remediate contaminated properties.

1. Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and ECL Article 27, Title 13[7]

   "Responsible" or liable parties under federal and state law include site owners and operators, owners or operators at the time of disposal, waste transporters which selected the site, and those who generated or arranged for disposal or treatment of the hazardous substances and wastes ("hazardous substances").

Parties are liable for the costs of remediation if cleanup is necessitated by the release of hazardous substances. Liability is strict and joint and several. Under CERCLA, the United States Environmental Protection Agency (US EPA) is authorized to hire contractors to clean up sites that are on the NPL. Such cleanups are funded by the federal Superfund. US EPA first notifies the responsible parties and gives them the opportunity to remediate. Thereafter, US EPA can sue the person responsible for causing the release of contaminants for reimbursement of any costs that EPA incurs. This same procedure is available to the state with state Superfund monies or to the municipality if it incurs costs responding to site conditions.

Recoverable costs under these statutes include all costs of "removal" (e.g., short-term emergency measures) or "remedial action" (full investigation and clean-up) incurred by the government that are in accordance with the National Contingency Plan (NCP). The NCP constitutes the regulations that govern the investigation and clean-up of hazardous substance releases. Under certain circumstances, such as identifying and locating "responsible" parties and working with consultants to implement remedial investigation and clean-up, attorneys fees are recoverable.

The statutes apply proactively and retroactively to releases of hazardous wastes or hazardous substances which occurred before the passage of the legislation. CERCLA was enacted in 1980 and the state Superfund law was enacted in 1979.

2. Navigation Law

Navigation Law Article 12 (the "Oil Spill Law") is the primary State law mechanism to address liability for and cleanup of oil spills on land and water in New York State.

The Oil Spill Law prohibits the unpermitted discharge of petroleum. It follows the same basic pattern as the federal and state Superfund statutes, creating strict liability for "dischargers" and providing for cleanup financed by a government fund (Environmental Protection and Spill Compensation Fund).

Under the Navigation Law, any person who has illegally discharged petroleum is strictly liable, without regard to fault, for all cleanup and removal costs and all direct and indirect damages, including the loss of tax revenue.

"Discharge" is defined to include all intentional and unintentional releasing, spilling or leaking of petroleum into the waters of the state or onto lands from which it might flow or drain into such waters (Navigation Law Section 172(8)). Spills on the land that "might flow or drain" into "groundwater" are covered.

The Oil Spill Law applies to spills which occurred before and after the statute was enacted in 1977.

Under the Oil Spill Law, NYS DEC is authorized to clean up an oil spill site and hire contractors to assist it. Such cleanups are funded by the New York Environmental Protection and Spill Compensation Fund (the "Oil Spill Fund"). NYS DEC can then sue the person responsible for causing a discharge for reimbursement of its costs.

While NYS DEC can proceed through formal administrative proceedings to require cleanups and collect fines for failure to report or clean a site, generally it proceeds through negotiated settlements that are memorialized in "Consent Orders." Under a program commenced in 1994, NYS DEC has adopted a short and uniform "Stipulation Agreement" by which an alleged discharger would agree to clean up a spill but would not admit to liability. Besides the simplicity of this procedure, another advantage is that it relieves the responding party from the necessity of obtaining permits for remedial work. The Agreement, in essence, serves as the permit. Thus, the clean-up can be done more cost-effectively and promptly. (This procedure is also commonly utilized by the NYS DEC and the US EPA in the hazardous waste (Article 27, Title 13) and hazardous substance (CERCLA) setting.) The City can request the NYS DEC to evaluate a site for Spill Fund funding.

Generally, a discharger is liable for all cleanup and removal costs and all direct or indirect damages. Courts have also held that counsel fees are recoverable as an "indirect damage" under the Oil Spill Law.

Unlike CERCLA, the Oil Spill Law does not explicitly provide that the owner of the contaminated property is strictly liable. The courts have not definitively held that a landowner who does not actively operate the contamination source is strictly liable under the statute. The Oil Spill Law is particularly applicable to sites such as the former Augsbury tank farm property and the Recreation Pavilion property. The Fourth Department held that a landowner who did not own the tanks in question was not automatically liable for activities of his tenant.[8] The Fourth Department found that "[t]he statutory scheme makes clear that liability as a 'discharger' is based upon conduct, not status. In *Whitesell v. Walchli*, the Fourth Department reaffirmed that a landowner is not "responsible solely because it is a landowner." It remains somewhat unclear whether a person who purchases property on which petroleum had been discharged is automatically liable under the Oil Spill Law if the person does not actively contribute to the problem.

3. Federal Resource Conservation and Recovery Act (RCRA)

RCRA[9] was established to provide a comprehensive regulatory scheme for management of solid and hazardous waste which is generated, stored, transported, treated and disposed of (oftentimes referred to as "cradle to grave"). RCRA provides a broad array of enforcement authority to the US EPA, including administrative power to order past owners or operators, who have knowledge of site contamination, or others involved in the disposal of solid or hazardous waste, to conduct sampling, analysis, monitoring and cleanup programs at the site, or to commence litigation to compel such activities. RCRA applies to solid and hazardous waste, as well as petroleum contamination and underground storage facilities.

More importantly, RCRA provides municipalities with enforcement authority pursuant to a citizen suit provision[10] which provides, inter alia, for the commencement of litigation against any person or entity, including any past owner or operator of a facility who contributed to the handling, storage, or disposal of solid or hazardous wastes, including petroleum, which may present an imminent and substantial endangerment to health or the environment. The statute provides for strict liability against the responsible parties. Attorney's fees are recoverable under the citizen suit provision.

Prior to the commencement of a RCRA action, the municipality must provide the past owner/operator with a formal notice of its intent to commence an enforcement action. The notice must be filed at least ninety (90) days before the commencement of litigation. This 90-day period provides an opportunity for the state or federal governments to evaluate the matter and decide if enforcement should be taken over by state or federal authorities.[11]

4. Common Law

While environmental law is more often thought of in terms of statutes and regulations, contamination and other forms of pollution may also be actionable under common law.

i. Negligence - The general rule is that a landowner is held to the standards of a "reasonable person" in maintaining property in a reasonably safe condition in view of all the circumstances, including the likelihood of injury to others, the seriousness of the injury, and the burden of avoiding the risk. A negligence claim may arise out of a leaking oil tank or other discharge, especially if there has been a breach of regulatory standards.

ii. Public Nuisance - A public nuisance is an offense against the state and is subject to abatement on application to the proper governmental entity, including a municipality. A public nuisance consists of conduct or omissions which offend, interfere with or cause damage to the public in the exercise of rights common to all in a manner such as to interfere with use by the public of a public place or endanger or injure the property, health, safety or comfort of a considerable number of persons. Pollution may be actionable as a public nuisance.[12] The public nuisance doctrine provides for strict liability against the responsible parties.[13]

iii. Restitution - Owners, past and present, of properties have statutory and common law duties not to discharge contaminants into the environment and to abate the threats arising therefrom. Where this duty has not been carried out, and the City is forced to implement the work necessary to respond to contaminant conditions, the City may seek reimbursement of these costs.

C. Site Assessment Activities

A necessary initial step in implementing a redevelopment program is to characterize the contaminant conditions at the properties in order to make initial determinations as to whether the properties can be economically remediated and used for either a public purpose or marketed to private entities for commercial, industrial, residential or other purposes. Site assessment activities require funding, either from grants, loans, bonds, private entities, and monetary recovery from potentially responsible parties (PRP's). State "Brownfields" grants can be used to implement such studies if the property involved is owned by the municipality.[14] If the properties are privately owned, the City can work with past and present owners to negotiate "Consent Orders" with the NYS DEC and other involved agencies to move forward with site assessment activities. The Voluntary Clean-up Program is well-suited for such a public/private approach (see page 138).

A plan to assess site conditions needs to be established.[15] Efforts should be made to coordinate site assessment activities with state and/or federal officials, and, where possible, with interested private entities.

Initial contaminant assessment of the properties provides potential redevelopers, lending institutions and the City with an opportunity to evaluate potential clean-up obligations and costs associated with the sites. Initial site assessments also assist in planning the potential future use determinations for each parcel. More stringent clean-up obligations will be required where a property is intended for residential use as compared to light industrial or commercial use. Site assessments are intended to determine the nature of the contaminants and the horizontal and vertical extent of contamination.

Site assessments are likely to be implemented pursuant to agreements with the NYS DEC. The NYS DEC has established and administers a Voluntary Clean-up Program for this purpose (see page 138). In general, this program contemplates a phased approach to site assessments to allow "volunteers" (entities who come forward to investigate and/or remediate a contaminated parcel of property and do so by agreeing to enter into an Agreement with NYS DEC) to undertake specific activities, set forth in an Agreement, such as a site investigation, so that the volunteer may evaluate what clean-up activities may be required at a property based upon the anticipated use of the property. If the site is to be used, for example, for commercial/industrial activity, a clean-up level consistent with such use will be required. If residential use is contemplated, a more stringent clean-up level will be required. The Voluntary Clean-up Program also contemplates the use of institutional controls, including deed restrictions, on properties where the contemplated use of the property is limited. This program is applicable to both publicly and privately held properties. "Potentially responsible parties" (PRPs) are eligible to participate, but require more limited liability releases from the NYS DEC than non-PRP participants.

D. Enforcement Initiatives

Federal and state statutes establish strict, joint and several liability schemes against past and present owners of contaminated properties, as well as against generators of hazardous substances released on the properties, those that conducted operations on the properties and those that transported hazardous substances to the properties. These entities are commonly referred to as PRPs. The initial steps are to identify and notify the potentially responsible parties. Such PRPs must be identified to determine their existence and economic status. The state and federal governments have administrative authority to conduct such PRP searches and the City should seek to enlist the state and federal governments in such information gathering. The City, along with state and federal officials, has the authority to commence enforcement action to compel such responsible parties to abate and clean-up contaminant conditions. In general, the City should attempt to enlist the cooperation and assistance of the state and federal governments in commencing necessary enforcement action to compel the investigation and remediation of the contaminated properties. The City should take the initiative to meet with NYSDEC and/or EPA representatives to enlist their support.

1. Identification of Past and Present Site Owners and Operators

There are various opportunities for the City to coordinate information gathering efforts with the state and federal governments. The City should discuss these approaches with the NYS DEC, the State Attorney General and the US EPA.

a. State Assistance - ECL Article 27, Title 13 (NYSDEC) - The NYSDEC can issue "information" demands to past owners and operators to gather information about the site and the PRPs.

b. State Assistance - Navigation Law (NYS DEC) - The NYS DEC has extensive registration records and spill reports which can be used to identify PRPs. Further, the State Comptroller's office can request information from potential "dischargers" and can authorize the NYS DEC to spend Spill Fund monies to evaluate a site.

c. State Assistance - Public Nuisance (Attorney General) - The Attorney General has substantial common law authority to respond to "public nuisance" conditions, such as the release or threat of release of pollutants into the environment. The Attorney General's office has, in the past, coordinated enforcement investigations with local municipal governments.

d. Federal Assistance - CERCLA Section 9604 and Section 9606 - The US EPA has extensive information gathering capability which can be exercised by the issuance of administrative subpoenas and information demands to owners and operators, both past and present, of contaminated properties.

The City should seek the assistance of state and federal officials in carrying out these information gathering activities so that the City can pursue responsible parties to remediate the contaminated properties. Coordination with these agencies can both reduce the cost of such PRP "trackdown" efforts and convince PRPs that cooperation is the most cost-effective approach to site remediation. A contact list of state and federal officials is provided in Appendix G.

2. Notification to PRPs

Federal statutes which may be used by the City to compel PRPs, through negotiation or litigation, to clean-up the sites, or to reimburse the City for expenditures at the sites, include:

- Clean Water Act (CWA)[16] (Also referred to as the Federal Water Pollution Control Act).
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)[17]
- Resource Conservation and Recovery Act (RCRA)[18]

These statutes require that notification be provided to the PRPs prior to the initiation of litigation. Such notification must also be forwarded to the state and federal governments to provide such governments with the opportunity to take enforcement action. Notification provides an opportunity to attempt pre-litigation settlements. Thus, the City should consider sending notification letters to PRPs in order to encourage the responsible parties to come forward and take advantage of an opportunity to cooperatively develop site investigations and remedial plans for a site. Such an approach can avoid time consuming and expensive litigation.

3. Litigation

The statutes and common law doctrines discussed above provide the City with a powerful arsenal to compel PRPs to investigate the nature and extent of contamination and to remediate sites. Litigation, pursuant to the federal statutes, would be commenced in the United States District Court for the Northern District of New York. Cases would likely be filed in Syracuse

or Utica. State claims, along with common law claims, can be brought along with these federal claims under a doctrine known as supplemental jurisdiction. The federal statutes generally provide for the award of attorney's fees where the City "substantially prevails". Litigation would focus on seeking injunctive relief, that is, compelling site clean-ups, and the recovery of costs incurred by the City. Liability under the statutes and common law, as described above, is strict. Thus, a PRP is liable without regard to "fault".

Litigation is a recommended option if PRPs are unwilling to come forward, after identification and notification as described above, to negotiate necessary site remediation activity. First, the City should attempt to convince the state or federal authorities to commence necessary enforcement against the PRPs.

4. Revisions to Local Ordinances

The City may amend its Zoning Ordinance to prohibit the abandonment and disposal of hazardous wastes, hazardous substances and petroleum in the LWRP overlay area. Such an amendment must be consistent with federal and state laws. Enforcement of the zoning law could proceed at the local level in accordance with established City zoning enforcement procedures.

E. Seeking to Minimize Liability When Purchasing a Contaminated Site

The goal of the municipality should be to restore the properties to productive commercial activity, residential housing and/or public recreational and "open space" use.

1. NYS DEC's Voluntary Clean-up Program

Abandoned commercial and industrial properties, usually located in urban areas, can constitute public health, safety and environmental hazards. These "Brownfields" sites drive down property values, reduce the local tax base, provide no employment to residents, and are a visual blight to the community.

The inability to reuse these Brownfields sites leads to development pressure on previously undeveloped "greenfield" sites in rural and suburban areas, resulting in costly local infrastructure construction, higher local taxes, increased traffic and air pollution, and loss of previous open space and wildlife habitat.

Reuse of Brownfields sites is often discouraged by the potential costs of cleaning up contamination, the uncertainty surrounding selection of cleanup standards and the fear of potential liability under the federal and state Superfund laws. In addition, financing can be extremely difficult to obtain because of lenders' fear of potential liability. The NYS DEC's Voluntary Clean-up Program seeks to address these obstacles by providing a phased approach to site investigation and clean-up along with flexible land-use based clean-up standards and liability releases. The City should meet with the NYS DEC to discuss the Voluntary Clean-up Program and its applicability to both municipally and privately held sites.

The following is a brief summary of the Voluntary Clean-up Program:

a. Covered Contamination - The program covers any contaminated property located in the state for which the federal government does not have lead responsibility for remediation. The sites in Ogdensburg qualify under the program.

b. Eligible Participants - Volunteers may include site owners and operators, prospective purchasers, lenders, municipalities, and potentially responsible parties unless the site is designated Class 1 or Class 2 on NYS DEC's Hazardous Waste Site Registry, is a facility subject to corrective action or closure under RCRA, or is otherwise subject to enforcement action.

c. The Commitment Document - The volunteer enters into a legally enforceable document, usually a Consent Order. The program contemplates a phased approach that allows volunteers to commit to undertake specific activities set forth in the Agreement or Consent Order. Volunteers have the option to commit only to a site investigation (versus remediation). Under the Voluntary Clean-up Program, after the site assessment is completed, the volunteer may then enter into another agreement to address the clean-up of the property. (If the site assessment indicates that a clean-up is, for example, too expensive or the contamination is more extensive than earlier contemplated, the volunteer may choose not to go forward with the project). Thus, the Commitment Document can limit financial obligations.

d. Cleanup Standards - The cleanup required "will be to a level consistent with the safe use of the property for the purpose to which the volunteer intends the property to be used". Generally, risk-based assessments will determine cleanup levels.

e. Qualified Release - Once the cleanup level is met, NYS DEC will issue a letter declaring that the volunteer has cleaned the site to the previously-agreed upon cleanup level and that, barring an event triggering a "reopener", NYS DEC does not contemplate further action. (A reopener is a provision whereby the NYS DEC reserves the right to "reopen" the case if the site becomes a threat to public health or the environment.) The volunteer will also be released from further past contamination remediation liability. In the case of a PRP-volunteer, the qualified release attaches only to the area the PRP-volunteer addresses under the Agreement and does not apply to off-site areas unless the PRP addresses such impacts. In contrast, non-PRP volunteers obtain a qualified release that applies to on-site and off-site remedial responsibilities. The liability release is passed along to the volunteers' successors or as signs, thus enhancing the marketability of the property.

f. Reopeners - The State can reopen the release previously given if it is subsequently determined that the response action is no longer sufficiently protective to allow the contemplated use of the site to proceed safety from a human health perspective. The Voluntary Clean-up Program is evolutionary in nature. There is no "typical negotiation" because NYS DEC tailors its negotiation schedule to the degree of readiness and ability to negotiate on the part of the volunteer. NYSDEC gives priority attention to voluntary cleanup negotiations. The City can assist present landowners in reaching such agreements with the NYS DEC by participating in negotiations and supporting reuse initiatives and, where the City takes title to property, it can enter into such agreements directly with NYS DEC.

g. EPA's Involvement In Voluntary Clean-ups - Often, "volunteers" will be concerned that agreements with the state will not be respected by the federal government and that liability concerns still make ownership of a site a liability risk. As such, US EPA released a "Policy on the Issuance of Comfort/Status Letters" (11/8/96). The Policy contains four sample letters designed to address the most common situations. The Policy indicates that EPA will issue "comfort letters" where it may facilitate the negotiation process directed toward the clean up and redevelopment of Brownfields, and where there is no other mechanism available to "adequately address the party's concern". The City can work with private party volunteers to obtain such comfort letters. The City, in conjunction with the private party volunteer, can seek necessary EPA assurances if such assurances will help in the clean-up and reuse of the property.

2. Clean Water/Clean Air Bond Act of 1996

This law adds a new Article 56 to the Environmental Conservation Law which authorizes the state to issue $1.75 billion in general obligation bonds, $200 million of which is being made available for municipal environmental restoration projects, i.e. Brownfields.

An "environmental restoration project" is defined as a project to investigate or remediate hazardous substances located on real property held in title by a municipality. The State will reimburse up to seventy-five percent (75%) of the eligible costs of an environmental project carried out by a municipality, subject to recalculation if payments are obtained from the federal government, responsible parties and/or other entities.

The Fund's provisions address project eligibility criteria, cleanup levels and liability protections provided by the State. Highlights include:

a. Under the Brownfields Program, a municipality is eligible for a grant if it is the owner of a property which may be or is contaminated with hazardous substances. However, the municipality is not eligible if it was responsible for the hazardous substance contamination.

b. The Brownfields Program will provide grants of seventy-five percent (75%) of the eligible costs for the investigation or cleanup of a Brownfield property. The municipality is responsible for the other twenty-five percent (25%) of the project's cost. A municipality can apply for a grant to investigate or remediate a Brownfield property. If an investigation is completed, the municipality may then apply for another grant to clean up the property. A municipality may apply for as many grants as it has Brownfield properties. However, each grant must be applied for individually.

c. Field work for a project must be initiated within twelve (12) months of the Department's approval of that project's application.

d. Complete applications for investigations will be approved on a first-come, first-served basis.

e. Projects will be prioritized based on the benefit to the environment, the economic benefit to the State, the opportunity for the property to be used for public or recreational purposes, and the opportunity for other funding sources to remediate such property.

f. The remediation objective is to meet the same standard of protection that applies to the remedial actions taken under the state's Inactive Hazardous Waste Disposal Site Remediation program.

g. If a municipality is applying for a grant to undertake an investigation, then the provisions of SEQR do not apply. Data collection and research of properties are Type II actions and, as such, are not subject to the procedural requirements under SEQR.

h. In order for a municipality to undertake and/or fund a remedial action, it must comply with the provisions of SEQR.

i. A municipality's costs to acquire a property are not eligible costs under the Bond Act. Only costs related to the investigation and remediation of a property are eligible for reimbursement from the State. However, it is possible that a municipality could recover its acquisition costs, for example, upon recovery of money from federal payments, responsible or private party payments, or the sale or lease of the property if the total recoveries exceed the environmental restoration project cost.

j. Eligible costs include the costs of appraisal, surveying, testing and analysis, engineering and architectural services, plans and specifications, clean-up, consultants, and legal services which are necessary for conducting the approved project, and which are reasonable and properly documented, as determined by the State.

k. The cost of redeveloping a property for reuse would not be eligible for State assistance under the program.

3. Municipal Protection

In the event that the City were to take title to a contaminated property(s) by tax foreclosure, there are statutory protections and policies which fully protect or, at a minimum, greatly restrict and limit the liability of the Municipality. CERCLA exempts a local government from liability when the municipality acquires ownership or control of a facility involuntarily through its function as a sovereign. This includes, but is not limited to, involuntary acquisition through tax delinquency and abandonment.

The City also has statutory defenses under CERCLA. CERCLA provides that "no state or local government shall be liable for costs or damages as a result of actions taken in response to an emergency created by the release or threatened release of a hazardous substance generated by or from a facility owned by another person".

The City, which recently took title to the former Diamond International Site, is entitled to what is known as the third party or "due care" defense, since it played no role in the events that led to the hazardous substance problem, and will take measures to address contamination on the property.

The US EPA has published a policy entitled "Involuntary Acquisitions of Contaminated property by Government Entities" which further clarifies these protections. These protections are not applicable, however, in the event that the City were to cause or contribute to the release of hazardous substances at the site.

The NYS DEC has also established a policy that it will not commence or maintain administrative or judicial proceedings against a municipality that takes action in response to an emergency created by the release of hazardous waste by another person or against a municipality that merely owns a contaminated property by reason of tax foreclosure.[19]

The Clean Water/Clean Air Bond Act also provides extensive liability protections to a municipality which completes a municipal restoration project in accordance with the Bond Act assistance contract. Under the Voluntary Clean-up program, the municipality may also negotiate liability protections.

F. Conclusion

There are a variety of implementation strategies available to Ogdensburg in addressing riverfront revitalization. The approaches can be coordinated and can include a mix of private and public resources. It is recommended that the City take the initiative to meet with the NYS DEC and to notify and meet with involved landowners and PRPs to discuss the remediation and future uses of the properties. Retaining environmental and/or land use legal counsel and a technical consultant should be considered. Grant and loan application procedures and requirements should be evaluated and applications submitted as part of the redevelopment initiative.

SECTION V: FOOTNOTES

1 42 U.S.C. Section 7400

2 40 C.F.R. Section 61.145

3 29 U.S.C. Section 651

4 Article 30 & 6 NYCRR Part 56

5 This raises the question of whether the City must comply with its own Zoning Ordinance in the course of its implementation of the LWRP. Formerly, the courts of New York would answer this question in individual cases by considering whether the proposed municipal use was "governmental" (in which case compliance with zoning was excused) or "proprietary" in nature (in which case compliance was required). See, the decision of the New York Court of Appeals in Matter of County of Monroe, 72 NY2d 338 (1988). In County of Monroe, New York's highest court established a new formula for answering this question, called the "balancing of public interests" test. Among the factors to be considered in the application of this test are: the nature and scope of the municipal entity seeking immunity from zoning, the function or land use involved, the public interest served by the proposed use, the effect of the zoning ordinance on the proposed use, the municipality's grant of authority to act, alternative locations for the proposed use and alternative means of providing the planned improvement. The weight to be given these factors will vary with the facts of each individual case; no one factor is controlling. Id., 72 NY2d at 343.

6 42 U.S.C. Section 9600

7 The most well-known federal law, known as the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), is codified at 42 U.S.C. Section 9601, et seq. New York's equivalent statute is Environmental Conservation Law, Section 27-1301, et seq. The implementing regulations are found at 40 C.F.R. Part 300 et seq. (the National Contingency Plan) ("NCP") and 6 NYCRR Part 375 respectively. These laws also established "Superfunds" to provide monies for the investigation and clean-up of such properties.

8 Drouin v. Ridge Lumber, Inc., 209 A.D.2d 957 (4th Dep't 1994)

9 42 U.S.C. 6900

10 42 U.S.C. Section 6973

11 Two other federal statutes apply to releases of petroleum. The Clean Water Act {33 U.S.C. Section 1321} and the Oil Pollution Act of 1990 {33 U.S.C. 2701}. These statutes provide either the US EPA or the Coast Guard with the ability to respond and compel the clean-up of oil or other pollutants which are discharged, without a permit, into navigable waterways such as the St. Lawrence River. The Clean Water Act also has a citizen suit provision which is available to the municipality to compel the abatement of discharges from on-shore facilities into the River.

[12] New York v. Shore Realty Corp., 759 F.2d 1032 (2d Cir. 1985)

[13] Many local ordinances, along with the Second Class Cities Law and General Municipal Law, provide for the protection of the public's health, safety and welfare. These local enforcement tools compliment the above listed authority. Further, the City may consider amending the Zoning Law to provide for the remediation of contaminated properties in the LWRP area provided that such amendment is not inconsistent with Federal Law. Enforcement of the amendment would proceed in local court. Article 15 Section 503 of the General Municipal Law grants authority, as part of an urban renewal project, to demolish and clear property, improve property and issue bonds or other obligations for the acquisition of property.

[14] Because liability issues arise relative to the ownership of contaminated properties, the City must make certain that any actions taken to obtain title to the properties are implemented in such a manner as to minimize any liability concerns. Statutory protections, case law and the brownfields program do provide such liability protection.

[15] An environmental consultant may need to be retained to conduct "due diligence" reviews of the sites. These reviews are commonly referred to as Phase I and Phase II studies and include thorough document review about prior uses of the site, a site survey and on-site sampling.

[16] 33 USC Section 1251 et. seq.

[17] 42 USC Section 9600 et. seq.

[18] 42 USC Section 6900 et. seq.

[19] It is worth noting that lending institutions now have protection against being deemed owners or operators under CERCLA where the lending institution did not participate in the management of the facility. (Pub.L. No. 104-208 The Asset Conservation Lender Liability and Deposit Insurance Protection Act of 1996). Lending institutions, therefore, may be more willing to become involved in the redevelopment of the "Brownfield" sites. Lenders are also protected from liability under RCRA for underground storage tank contamination. Lenders, however, will still insist on environmental assessment of the property to evaluate the risks associated with making loans secured by contaminated property.

SECTION VI: STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

State and Federal actions will affect and be affected by implementation of the LWRP. Under State law and the Federal Coastal Zone Management Act, certain state and federal actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposed of the LWRP. This makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions. While consistency requirements primarily help prevent detrimental actions from occurring and help ensure that future options are not foreclosed needlessly, active participation on the part of state and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

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

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

STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP

1. State Agencies

Office for the Aging

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

2.00 Rural development programs.

3.00 Farm worker services programs.

4.00 Permit and approval programs:

- 4.01 Custom Slaughters/Processor Permit
- 4.02 Processing Plant License
- 4.03 Refrigerated Warehouse and/or Locker Plant License

Albany Port District Commission (regional agency)

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

2.00 Facilities construction, rehabilitation, expansion, or demolition.

Division Of Alcoholic Beverage Control/State Liquor Authority

1.00 Permit and approval programs

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

Division of Alcoholism and Alcohol Abuse

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

2.00 Permit and approval programs:

- 2.01 Letter Approval for Certificate of Need
- 2.02 Operating Certificate (Alcoholism Facility)
- 2.03 Operating Certificate - Community Residence
- 2.04 Operating Certificate (Outpatient Facility)
- 2.05 Operating Certificate (Sobering-Up Station)

Council on the Arts

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

2.00 Architecture and environmental arts program.

Department of Banking

1.00 Permit and approval programs:

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

New York State Bridge Authority (regional agency)

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

2.00 Facilities construction, rehabilitation, expansion, or demolition

Buffalo and Fort Erie Public Bridge Authority (regional agency)

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

2.00 Facilities construction, rehabilitation, expansion, or demolition.

Capital District Transportation Authority (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
2.00 Facilities construction, rehabilitation, expansion, or demolition.
3.00 Increases in special fares for transportation services to public water-related recreation resources.

Central New York Regional Transportation Authority (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
2.00 Facilities construction, rehabilitation, expansion, or demolition.
3.00 Increases in special fares for transportation services to public water-related recreation resources.

Department of Commerce

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

Department of Correctional Services

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

Dormitory Authority of the State of New York

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

Education Department

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

Energy Planning Board and Energy Office

1.00 Preparation and revision of the State Energy Master Plan.

New York State Energy Research and Development Authority

1.00 Issuance or revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.

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

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

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

6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
- (a) Water Quality Improvement Projects
- (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.

7.00 Marine Finfish and Shellfish Programs.

8.00 New York Harbor Drift Removal Project.

9.00 Permit and approvals programs:
- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System
- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities
- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.22 Floating Object Permit
- 9.23 Marine Regatta Permit
- 9.24 Mining Permit
- 9.25 Navigation Aid Permit

9.26 Permit to Plug and Abandon (a non-commercial oil, gas or solution mining well)
9.27 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
9.28 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
9.29 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish
9.30 Underground Storage Permit (Gas)
9.31 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)
9.32 Digger's Permit (Shellfish)
9.33 License of Menhaden Fishing Vessel
9.34 License for Non-Resident Food Fishing Vessel
9.35 Non-Resident Food Fishing Vessel
9.36 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
9.37 Permits to Take Blue-Claw Crabs
9.38 Permit to Use Pond or Trap Net
9.39 Resident Commercial Lobster Permit
9.40 Shellfish Bed Permit
9.41 Shellfish Shipper's Permits
9.42 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
9.43 Approval - Drainage Improvement District
9.44 Approval - Water (Diversions for) Power
9.45 Approval of Well System and Permit to Operate
9.46 Permit - Article 15, (Protection of Water) - Dam
9.47 Permit - Article 15, (Protection of Water) - Dock, Pier or Wharf
9.48 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
9.49 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
9.50 Permit - Article 15, Title 15 (Water Supply)
9.51 Permit - Article 24, (Freshwater Wetlands)
9.52 Permit - Article 25, (Tidal Wetlands)
9.53 River Improvement District approvals
9.54 River Regulatory District approvals
9.55 Well Drilling Certificate of Registration
9.56 Permit to Construct and/or Operate a Solid Waste Management Facility
9.57 Septic Tank Cleaner and Industrial Waste Collector Permit
9.58 Approval of Plans for Wastewater Disposal Systems
9.59 Certificate of Approval of Realty Subdivision Plans
9.60 Certificate of Compliance (Industrial Wastewater Treatment Facility)
9.61 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
9.62 Permit - Article 36, (Construction in Flood Hazard Areas)
9.63 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
9.64 Permit Granted (for Use of State Maintained Flood Control Land)
9.65 State Pollutant Discharge Elimination System (SPDES) Permit
9.66 401 Water Quality Certification

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

Environmental Facilities Corporation

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

Facilities Development Corporation

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

Office of General Services

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

Department of Health

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

Division of Housing and Community Renewal and its subsidiaries and affiliates

1.00 Facilities construction, rehabilitation, expansion, or demolition.

2.00 Financial assistance/grant programs:

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

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

Housing Finance Agency

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

Interstate Sanitation Commission (regional agency)

1.00 Adoption and enforcement of air and water pollution standards within the Interstate Sanitation District.

Job Development Authority

1.00 Financing assistance programs for commercial and industrial facilities.

Medical Care Facilities Financing Agency

1.00 Financing of medical care facilities.

Office of Mental Health

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

2.00 Permit and approval programs:

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

Office of Mental Retardation and Development Disabilities

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

2.00 Permit and approval programs:

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

Metropolitan Transportation Authority (regional agency)

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

2.00 Increases in special fares for transportation services to public water-related recreation resources or facilities.

Niagara Falls Bridge Commission (regional agency)

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

2.00 Facilities construction, rehabilitation, expansion, or demolition.

Niagara Frontier Transportation Authority (regional agency)

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

2.00 Facilities construction, rehabilitation, expansion, or demolition.

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

Ogdensburg Bridge and Port Authority (regional agency)

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

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

Office of Parks, Recreation and Historic Preservation (including Regional State Park Commissions)

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

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

3.00 Funding program for recreational boating, safety and enforcement.

4.00 Funding program for State and local historic preservation projects.

5.00 Land and Water Conservation Fund programs.

6.00 Nomination of properties to the Federal and/or State Register of Historic Places.

7.00 Permit and approval programs:

- 7.01 Floating Objects Permit
- 7.02 Marine Regatta Permit
- 7.03 Navigation Aide Permit
- 7.04 Posting of Signs Outside State Parks

8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.

9.00 Recreation services programs.

10.00 Urban Cultural Parks Program.

Port Authority of New York and New Jersey (regional agency)

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

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

3.00 Waterfront development project activities.

Port of Oswego Authority (regional agency)

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

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

Power Authority of the State of New York

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

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

Rochester-Genesee Regional Transportation Authority (regional agency)

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

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

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

New York State Science and Technology Foundation

1.00 Corporation for Innovation Development Program.

2.00 Center for Advanced Technology Program.

Department of Social Services

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

2.00 Homeless Housing and Assistance Program.

3.00 Permit and approval programs:

- 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
- 3.02 Operating Certificate (Children's Services)
- 3.03 Operating Certificate (Enriched Housing Program)
- 3.04 Operating Certificate (Home for Adults)
- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

Department of State

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

State University Construction Fund

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

State University of New York

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

Division of Substance Abuse Services

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
2.00 Permit and approval programs:
  2.01 Certificate of Approval (Substances Abuse Services Program)

Thousand Islands Bridge Authority (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
2.00 Facilities construction, rehabilitation, expansion, or demolition.
3.00 Permit and approval programs:
  3.01 Advertising Device Permit
  3.02 Approval to Transport Radioactive Waste
  3.03 Occupancy Permit

Department of Transportation

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
2.00 Construction, rehabilitation, expansion, or demolition of facilities including, but not limited to:
  (a) Highways and parkways
  (b) Bridges on the State highways system
  (c) Highway and parkway maintenance facilities
  (d) Barge Canal
  (e) Rail facilities
3.00 Financial assistance/grant programs:

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

4.00 Permits and approval programs:
4.01 Approval of applications for airport improvements (construction projects)
4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
4.04 Approval of municipalities or regional transportation authority applications for funds for design and construction of rapid transit facilities
4.05 Certificate of Convenience and Necessity to Operate a Railroad
4.06 Highway Work Permits
4.07 License to Operate Major Petroleum Facilities
4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
4.09 Permits for Use and Occupancy of N.Y. State Canal Lands [except Regional Permits (Snow Dumping)]
4.10 Real Property Division Permit for Use of State-Owned Property

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

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

Urban Development Corporation and its subsidiaries and affiliates

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

2.00 Construction, rehabilitation, expansion, or demolition of residential, commercial, industrial, and civic facilities and the funding of such activities including, but not limited to, actions under the following programs:
(a) Tax-Exempt Financing Program
(b) Lease Collateral Program
(c) Lease Financial Program
(d) Targeted Investment Program
(e) Industrial Buildings Recycling Program

Division of Youth

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

2. Federal Agencies

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

Department of Commerce

National Marine Fisheries Services

1.00 Fisheries Management Plans

Department of Defense

Army Corps of Engineers

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

2.00 Land acquisition for spoil disposal or other purposes.

3.00 Selection of open water disposal sites.

Army, Navy and Air Force

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

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

6.00 Establishment of impact, compatibility or restricted use zones.

Department of Energy

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

2.00 Disposition of Federal surplus lands and structures.

Department of Interior

Fish and Wildlife Service

1.00 Management of National Wildlife refuges and proposed acquisitions.

National Park Service

2.00 National Park and Seashore management and proposed acquisitions.

Department of Transportation

Amtrak, Conrail

1.00 Expansions, curtailments, new construction, upgrades or abandonment of railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

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

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

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

Federal Aviation Administration

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

Federal Highway Administration

6.00 Highway construction.

St. Lawrence Seaway Development Corporation

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

Federal Licenses and Permits

Department of Defense

Army Corps of Engineers

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

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

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

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

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

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

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

Department of Energy

Economic Regulatory Commission

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

2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

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

4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824 a (b)).

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

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

Environmental Protection Agency

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

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

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

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

Department of Interior

Fish and Wildlife Services

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

Mineral Management Service

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

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

Interstate Commerce Commission

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

Nuclear Regulatory Commission

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

Department of Transportation

Coast Guard

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

2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Federal Aviation Administration

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

FEDERAL ASSISTANCE*

Department of Agriculture

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

Department of Commerce

11.300	Economic Development - Grants and Loans for Public Works and Development Facilities
11.301	Economic Development - Business Development Assistance
11.302	Economic Development - Support for Planning Organizations
11.304	Economic Development - State and Local Economic Development Planning
11.305	Economic Development - State and Local Economic Development Planning
11.307	Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
11.308	Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
11.405	Anadromous and Great Lakes Fisheries Conservation
11.407	Commercial Fisheries Research and Development

11.417	Sea Grant Support
11.427	Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
11.501	Development and Promotion of Ports and Intermodal Transportation
11.509	Development and Promotion of Domestic Waterborne Transport Systems

Department of Housing and Urban Development

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

Department of Interior

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

Department of Transportation

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

General Services Administration

39.002	Disposal of Federal Surplus Real Property

Community Services Administration

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

Small Business Administration

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

Environmental Protection Agency

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

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

STATE AND FEDERAL ACTION S AND PROGRAMS WHICH ARE NECESSARY TO FURTHER THE LWRP

STATE ACTIONS AND PROGRAMS

Department of Commerce

1. Provision of funding and assistance for development and promotion of local tourism, including Seaway Trail and Adirondack North Country Association (ANCA) programs and activities in the Ogdensburg coastal area.

Department of Correctional Services

1. Continued coordination with the city and St. Lawrence Psychiatric Center in future development and activities of the Ogdensburg Correctional Facility.

Department of Environmental Conservation

1. Planning, development, construction, major renovation or expansion of facilities.
2. Administration of permits and approvals.
3. Implementation of the Environmental Quality Bond Act of 1972.
4. Provision of operating aid to municipal wastewater treatment facilities.
5. Administration of funding for resource recovery and management capital projects.
6. Environmental Protection Fund

Division of Housing and Community Renewal

1. Continued funding under the Rural Area Preservation Program as administered by the Association for Neighborhood Rehabilitation (ANR).

Department of Mental Hygiene, Office of Mental Health

1. Continued coordination with city, county and Ogdensburg Correctional Facility on future development projects and activities concerning the St. Lawrence Psychiatric Center including the solid waste disposal facility and controlled public access to the Center grounds.

Department of State

1. Provision of funding and assistance for implementation of an approved LWRP.
2. Environmental Protection Fund.

Department of Transportation

1. Continued funding and assistance for Ogdensburg Bridge and Port Authority programs and projects.
2. Provision of funding and assistance for general design and construction as needed including renovation of the Spring Street Bridge.

Job Development Authority

1. Provision of assistance and low-interest mortgage loans to finance commercial and industrial facilities at Commerce Park and other locations as identified.

Ogdensburg Bridge and Port Authority

1. Continued work on OBPA projects including development of port and rail facilities.
2. Continued work along with the city on the use of Foreign Trade Zone incentives and expansion of Commerce Park.

Office of Parks, Recreation and Historic Preservation

1. Provision of funds form the Land and Water Conservation Fund.
2. Provision of planning and funding, and development of recreation services programs.
3. Nomination of properties to the State and National Registers of Historic Plans.
4. Provision of funding for State and local historic preservation activities.
5. Project review of State and federal agency projects affecting National Register properties including the proposed relocation of the State Street Post Office facility.
6. Environmental Protection Fund

SUNY College at Potsdam

1. Provision of technical assistance, funds and/or in-kind services for waterfront projects including the St. Lawrence aquarium feasibility study, archaeological studies and other tourist-related development.

FEDERAL ACTIONS AND PROGRAMS

Department of Agriculture, Farmers Home Administration

1. Negotiations with St. Lawrence County Industrial Development Agency concerning indebtedness on loan for Lighthouse Point property.

Department of Defense, US Army Corps of Engineers

1. Permit decisions and assistance with funding regarding dredging or development along the St. Lawrence and Oswegatchie River shoreline and at the Ogdensburg Bridge and Port Authority marine facilities.

Department of Housing and Urban Development

1. Continued funding and assistance as requested through the Community Development Block Grant/Small Cities program and the Urban Development Action Grant program.

Department of the Interior

1. Provision for funding under the Historic Preservation Grants-in-Aid program, when available.

Department of the Treasury, Internal Revenue Service

1. Provision of investment tax credits for qualified building rehabilitation.

SECTION VII: CONSULTATION WITH OTHER AGENCIES

Several government agencies and local organizations have been consulted during the preparation of the 1986 waterfront program and 1997 waterfront and harbor management program. Consultation during the preparation of both LWRPs involved correspondence, telephone contacts and/or meetings with representatives of those agencies and organizations most likely to affect or be affected by the local program. The agencies and groups listed below provided essential background information, advice, and details about potential funding sources, programs, or regulations which they administer.

Federal Agencies

Department of Commerce
- Office of Coastal Zone Management

Department of Defense
- U.S. Army Corps of Engineers

Department of Housing and Urban Development

Department of Transportation
- U.S. Coast Guard

Seaway Development Corporation

State Agencies

Department of Correctional Services, Ogdensburg Correctional Facility
Department of Environmental Conservation
Department of Health
Department of State
Department of Transportation
Division of Housing and Community Renewal
Office of Mental Health, St. Lawrence Psychiatric Center
Office of Parks, Recreation and Historic Preservation
Ogdensburg Bridge and Port Authority
St. Lawrence-Eastern Ontario Commission
SUNY College of Environmental Science and Forestry, Syracuse
SUNY College at Potsdam

Local Agencies of Groups

City of Ogdensburg
- City Manager
- Director of Planning and Development
- City Engineer
- Director of Buildings and Assessment
- Director of Public Works
- Director of Parks and Recreation
- Office of Rehabilitation and Development
- Planning Board
- Local Waterfront Revitalization Advisory Committee

Ogdensburg Chamber of Commerce
Remington Art Museum
St. Lawrence County Environmental Management Council

St. Lawrence County Industrial Development Agency
St. Lawrence County Planning Department
Town of Oswegatchie
Town of Lisbon
St. Lawrence Seaway Development Authority

The completed draft 1997 LWRP/HMP (and Draft Environmental Impact Statement) was adopted by the City Council and forwarded to the Secretary of State for review. At that time, the local program was available for review and comment by all affected government agencies and other interested parties. Since the NYS Department of State coordinated the federal and state reviews, only those affected regional and local government agencies and other local organizations were consulted directly by the City.

Review comments on the draft LWRP and DEIS received at public hearings and/or in writing were analyzed by the City Council, Local Waterfront Revitalization Advisory Committee and program staff. Upon receiving all comments, the City, as lead agency, prepared a Final Environmental Impact Statement (FEIS) which provided responses to all comments. Based on the FEIS, the final LWRP was prepared.

SECTION VIII: LOCAL COMMITMENT

To ensure that the needs and desires of the community were reflected in this update to the 1986 Local Waterfront Revitalization Plan and the newly developed Harbor Management Plan, the Mayor of Ogdensburg established a Steering Committee consisting of all City Council and City Planning Board members. During the course of the Plan's development, the Steering Committee held many meetings at which public comment was always accepted. One public presentation/workshop specifically geared to soliciting public input was also held. Additionally, as noted in Section VII, representatives of public agencies and private entities were consulted throughout the process.

The document was prepared over a period of approximately two and one-half years. The Steering Committee discussed and reviewed sections of the Plan as they were drafted. The Steering Committee contributed time, interest and expertise to the LWRP/HMP's preparation. Public input clarified various issues and assisted in the identification of resolutions. Local media representatives attended many of the meetings and provided coverage to inform residents of the effort.

Appendix A

Natural Resources Information

TABLE 1

FISH AND WILDLIFE RESOURCES OF THE OGDENSBURG COASTAL AREA

Common Name	Scientific Name	USFWS	Dunning et al. (1978)
Bowfin	Amia calva		X
Alewife	Alosa pseudoharencus	X	
Gizzard shad	Dorosoma cepecianum	X	X
Rainbow smelt	Osmerus mordax		X
Northern pike	Esox lucius	X	X
Muskellunge	Esox mascuinoncy		X
Common carp	Cyprinus carpio	X	X
Golden shiner	Notemicenus carysoleucas	X	X
Spottail shiner	Notropis hudsonius	X	X
Bluntnose minnow	Pinephales notatus		X
Fallfish	Semotilus corporalis		X
White sucker	Catostomus commersoni	X	X
Silver redhorse	Moxostoma anisurum	X	X
Shorthead redhorse	Moxostoma macrolepidotum	X	
Greater redhorse	Moxostoma valenciennesi		X
Brown bullhead	Ictalurus nebulosus	X	X
Channel catfish	Ictalurus punctatus		X
Banded killifish	Fundulus diapnanus		X
Brook stickleback	Culaea inconstans		X
Threespine stickleback	Gasterosteus aculeatus		X
White perch	Morone americana	X	X
Rock bass	Amoloplites rupestris	X	X
Pumpkinseed	Lepomis gibbosus	X	X
Bluegill	Lepomis macrocnirus		X
Smallmouth bass	Micropterus golomieui	X	X
Largemouth bass	Micropterus salmoides		X
Black crappie	Pomoxis nigromaculatus	X	X
Fantail darter	Etheostoma flabellare	X	
Johnny darter	Etheostoma nigrum		X
Tessellated darter	Etheostoma olmstedi	X	
Yellow perch	Perca flavescens	X	X
Walleye	Stizostedion vitreum vitreum		X
Mottled sculpin	Cottus bairdi		X
Slimy sculpin	Cottus coqnatus	X	

TABLE 2 (CONT'D.)
BIRDS OBSERVED IN THE AREA OF THE OGDENSBURG HARBOR PROJECT SITE

COMMON NAME	SCIENTIFIC NAME	FALL '76	WINTER '76/'77	SPRING '77	SUMMER '77	WINTER '78
Wood thrush	Hylocichla mustelina			X	X	
Cedar waxwing	Bombycilla cedrorum			X	X	
Northern shrike	Lanius excubitor					X
Starling	Sturnus vulgaris			X	X	X
Yellow warbler	Dendroica petechia			X	X	
Common yellowthroat	Geothlypis trichas			X	X	
Amercian redstart	Setophaga ruticilla			X	X	
House sparrow	Passer domesticus			X	X	X
Red-winged blackbird	Agelaius phoeniceus			X	X	
Northern oriole	Icterus galbula					X
Evening grosbeak	Hesperiphona vespertina					X
Pine grosbeak	Pinicola enucleator					X
Common redpoll	Carduelis flammea					
American goldfinch	Carduelis tristis			X	X	
Northern junco	Junco hyemalis					X
Northern goshawk	Accipiter gentilis					X
Red-tailed hawk	Buteo jamaicensis			X	X	X
Rough-legged hawk	Buteo lagopus					X
Bald eagle	Haliaeetus leucocephalus					X
American kestrel	Falco sparverius			X	X	X
Ruffed grouse	Bonasa umbellus					X
American coot	Fulica americana	X		X		
Semipalmated plover	Charadrius semipalmatus	X		X		
Killdeer	Charadrius vociferus	X		X	X	
Black-bellied plover	Pluvialis squatarola	X		X		
Ruddy turnstone	Arenaria interpres	X		X		
American woodcock	Philohela minor	X		X	X	
Common snipe	Capella gallinago	X		X	X	
Spotted sandpiper	Actitis macularia	X		X	X	
Solitary sandpiper	Tringa solitaria	X		X		
Greater yellowlegs	Tringa melanoleuca	X		X		
Lesser yellowlegs	Tringa flavipes	X		X		
Pectoral sandpiper	Calidris melanotos	X		X		
Least sandpiper	Calidris minutilla	X		X		
Semipalmated sandpiper	Calidris pusilla	X		X		
Sanderling	Calidris alba	X		X		
Glaucous gull	Larus hyperboreus	X		X		x
Iceland gull	Larus glaucoides	X		X		X
Great black-backed gull	Larus marinus	X		X	X	X
Herring gull	Larus argentatus	X		X	X	X
Ring-billed gull	Larus delawarensis	X		X	X	
Bonapartes gull	Larus philadelphia	X		X		
Common tern	Sterna hirundo	X		X	X	
Caspian tern	Sterna caspia	X		X		
Black tern	Chlidonias niger	X		X	X	
Rock dove	Columba livia			X	X	X
Great horned owl	Bubo virginianus					X
Belted kingfisher	Megaceryle alcyon			X	X	
Common flicker	Colaptes auratus			X	X	
American tree sparrow	Spizella arborea					X
Song sparrow	Melospiza melodia			X	X	
Snow bunting	Pletrophenax vivalis					X

TABLE 2 (CONT'D.)
BIRDS OBSERVED IN THE AREA OF THE OGDENSBURG HARBOR PROJECT SITE

1. birds observed from August 1, 1976 to December 10, 1976 (USFWS, 1977)
2. birds observed in open water only from December 11, 1976 to March 15, 1977 (USFWS, 1977)
3. birds observed from March 16, 1977 to May 31, 1977 (USFWS, 1977)
4. birds observed during June and July, 1977 (USFWS, 1977)
5. birds observed during January through March, 1978 (Maxwell and Smith, 1978)

Maxwell, G.R. and G.A. Smith. 1978. Bird studies during the winter of 1978. Technical Report F, Vol. 1. In Environmental assessment of the FY 1979 winter navigation demonstration on the St. Lawrence River. NYS Department of Environmental Conservation, Albany.

U.S. Fish and Wildlife Service. 1977. General biological survey and impact assessment for the Ogdensburg Harbor Project, New York. Cortland Field Station, NY. 59pp.

TABLE 3
WINTER AND SPRING OCCURRENCE AND RELATIVE ABUNDANCE OF MAMMALS IN SHORELINE HABITATS ALONG THE DEMONSTRATION CORRIDOR

Abundant

Shorttail shrew	Blarina brevidauda
Eastern cottontail	Sylvilagus floridanus
Eastern chipmunk	Tamias striatus
Woodchuck	Marmota monax
Eastern gray squirrel	Sciurus carolinensis
Red squirrel	Tamiasciurus hudsonicus
Deer mouse	Peromyscus maniculatus
White-footed mouse	Peromyscus leucopus
Meadow vole	Microtus pennsylvanicus
Red fox	Vulpes fulva
Raccoon	Procyon lotor
Striped skunk	Mephitis mephitis

Common

Masked shrew	Sorex cirereus
Bats	
- Little brown myotis	Myotis lucifungus
- Eastern pipistrel	Pipistrellus subflavus
- Red bat	Lasiurus borealis
- Hoary bat	Lasiurus cinereus
Snowshoe hare	Lepus americanus
Muskrat	Ondatra zibethica
Beaver	Castor canadensis
Norway rat	Rattus norvegicus
Meadow jumping mouse	Zepus hudsonicus
Porcupine	Erethizon dorsatum
Mink	Mustella vison
Coyote	Canis latrans
Whitetail deer	Odocoileus virginanus

TABLE 3 (CONT'D.)
WINTER AND SPRING OCCURRENCE AND RELATIVE ABUNDANCE OF MAMMALS IN SHORELINE HABITATS ALONG THE DEMONSTRATION CORRIDOR[1]

Rare

Pigmy shrew	Microsorex hoyi
Smoky shrew	Sorex fumeus
Starnose mole	Condylura cristata
Redback vole	Clethrionomys gapperi
Southern flying squirrel	Glaucomys volans
Northern flying squirrel	Glaucomys sabrinus
Woodland jumping mouse	Napaeozapus insignis
Gray fox	Urocyon cinereoarcenteus
Fisher	Martes pennanti
Longtail weasel	Mustela frenata
Shorttail weasel	Mustela erminea
River otter	Lutra canadensis
Bobcat	Lynx rufus

[1] from VanDruff and Lomolino, 1978

VanDruff, L.W. and M.V. Lomolino. 1978. Mammal and furbearer studies during the winter of 1978. Technical Report M, Vol. 11. In Environmental assessment of the FY 1979 winter navigation demonstration on the St. Lawrence River. NYS Department of Environmental Conservation, Albany.

TABLE 4
DETAILED SOILS CHART

	NAME	TEXTURE	DEPTH	DRAINAGE	PERM	SEPTIC TANK ABSORBTION FIELD	DWELLINGS WITH BASE-MENT	DWELLINGS WITHOUT BASEMENT	EROSION HAZARD
3A	Nenasne	loam	20 - 40	mod. well	slow	severe depth to bedrock	severe depth to bedrock	mod. depth to bedrock	slight
18CD 28C	Grenville	fine sandy loam	60	well drain	mod.	severe percs slowly	slight to moderate	slight to moderate	slight
5AB 6AB	Mogansburg	fine sandy loam	60	mod. well	mod.	severe wetness percs slowly	severe wet-ness	mod. wet-ness	slight
60B 82B	Heuvelton	silty clay loam & silt loam	60	very slow to slow	very slow	severe wetness percs slowly	severe wet-ness	severe wet-ness	slight
78AB	Depeyster	silt loam	60	mod. well drained	mod.	severe wetness percs slowly	severe wet-ness	severe wet-ness	slight
80A	Hailesboro	silt loam	60	somewhat poor	mod. slow	severe wetness percs slowly	severe wet-ness	severe wet-ness	slight
83A 266A	Hatoon	silt loam	60	somewhat poorly drained	slow	severe wetness percs slowly	severe wet-ness	severe wet-ness	slight
116AB 117AB 121AB	Crogan	loamy fine sand, sand	60	mod. well drained	rapid	severe wetness poor filter	severe wet-ness	mod. wetness	slight
119	Deford	loamy fine sand	60	somewhat poorly drained	mod. rapid	severe ponding poor filter	severe ponding	severe pond-ing	slight

TABLE 4 (CONT'D.)
DETAILED SOILS CHART

	NAME	TEXTURE	DEPTH	DRAINAGE	PERM	SEPTIC TANK ABSORBTION FIELD	DWELLINGS WITH BASE-MENT	DWELLINGS WITHOUT BASEMENT	EROSION HAZARD
128AB	Flackville	loamy fine sand	60	mod. well drained	rapid to slow	severe wetness percs slowly	severe wetness	mod. wetness	slight
129B	Elmwood	fine sandy loam	60	mod. well drained	rapid to very slow	severe wetness percs slowly	severe wetness	severe wetness shrink - swell	slight
130	Swanton	fine sandy loam	60	somewhat poor to poorly drained	rapid to slow	severe wetness percs slowly	severe wetness	severe wetness	slight
131	Munuscong	fine sandy loam	60	somewhat poor to poorly drained	moderate	severe ponding percs slowly	severe ponding	severe ponding	slight
134	Stockholm	loamy fine sand	60	somewhat poorly drained	mod. - rapid	severe wetness poor filter	severe wetness	severe wetness	slight
173	Borsoprists Fluvaqents		60	somewhat to very poorly drained	moderate	severe wetness	severe wetness	severe wetness	slight
190B	Raquette	variant sandy loam	60	excessively drained	mod. to very rapid	poor filter	slight	slight	slight
201	Udorthents	clayey		poorly to mod. well drained	slow or very slow				

TABLE 4 (CONT'D.)
DETAILED SOILS CHART

	NAME	TEXTURE	DEPTH	DRAINAGE	PERM	SEPTIC TANK ABSORBTION FIELD	DWELLINGS WITH BASE-MENT	DWELLINGS WITHOUT BASEMENT	EROSION HAZARD
202	Udorthents	loamy		well to poor-ly drained	very rapid to moderate				
203	Udorthents	sandy			very rapid to moderate				
205	Insula	fine sandy loam	10 - 20"		moderate	severe depth to bedrock	severe depth to bedrock	severe depth to bedrock	slight

Appendix B

City of Ogdensburg
Community Development Plan

12/89
revised 1/90
revised 4/90

1990 CITY OF OGDENSBURG COMMUNITY DEVELOPMENT PLAN

INTRODUCTION

Why do we have a Community Development Plan? Community planning is an important, but often misunderstood factor in creating communities which fulfill their potential and develop along lines which the citizens themselves choose. Planning is the method through which a community makes decisions which affect many citizens for the widest possible benefit. It is one way in which citizens join together to command greater control over their own future and that of their city. City planning is different in focus and time but not in its basic concept from a family that sits down together to decide how to spend the family vacation. Planning is important to a community for the same reason that most people don't build their homes so that the front door opens into the master bedroom.

At its best, planning allows the most flexibility to individual landowners without permitting them to infringe upon the rights of their neighbors and without devaluing the property around them. Communities which have been active and effective in the planning process have shown over and over again that they are better off for having worked together for the common good than if no guidance of development or restrictions on individual landowners is provided because, in the long run, jobs are not attracted, community property values are less and the cost for public services increases.

In developing this Plan, the members of the City Planning Board have taken as our first premise that a balance between the interests of individuals and the community is necessary. We have used as our second premise that there is no real freedom to do what you want with your property or your life unless you have a degree of economic independence; that means jobs and economic health. The role of the City in maintaining roads, water and sewer systems and providing for public safety seems obvious to most citizens. What is less obvious, but also vitally important, is the role the City can play in economic development through thoughtful and creative planning.

No Community Development Plan is worth any more than the support is receives from the community it is meant to serve. It is our hope that citizens will support the final Plan, both as it is first prepared and as it is updated in the future, and that the community supports the idea of planning to join together to create a better community for everyone.

The major purpose of the Community Development Plan (CDP) is to provide a general policy framework for land use and development decisions in the City. The CDP guides planned revisions and proposed amendments to the land use regulations, such as rezoning requests. It will chart out desired types of development that will compliment the City's assets and point out development that will detract from the character and quality of life in Ogdensburg. An underlying premise of the CDP is to direct future development in a manner that will stabilize and strengthen existing residential, business and industrial areas while revitalizing the waterfront and the historical downtown district.

The organization of the Community Development Plan is divided into two parts. Part One identifies and discusses a series of community goals to focus on important issues in City development and growth. It further establishes several policies that support the goal statements as they relate to land uses and City government. Part Two sets out land use categories to be used as the basis for zoning revisions to implement the community goals in the land use regulations and discusses desirable uses within each category.

PART ONE - COMMUNITY GOALS

1. GOAL - Take advantage of improving economic conditions in the City and encourage continued growth while developing the unique character of the community and preserving its most valued aspects.

Discussion:

Ogdensburg is a historic river community that retains a compact grid pattern of development, numerous historically and architecturally significant structures and some of the most scenic waterfront views in the County. Some of its most valued aspects are its beautiful parks, cohesive residential neighborhoods and well-managed industrial parks. Ease of transportation to and throughout the City is also advantageous for community development and to the quality of life.

The community has for many years depended on a small group of small to medium sized industries and on the State Psychiatric Center for its main employment base. Recently, the community has been successful in attracting small firms from Canada to locate in the Ogdensburg Bridge and Port Authority's industrial parks and has also recruited two State-operated correctional facilities to expand job opportunities.

In a national and State economy which is moving more and more towards services and away from heavy industrial, Ogdensburg is in a uniquely good position because of its diversified economic base between manufacturing and service sectors. Furthermore, Ogdensburg is endowed with many important support facilities for future growth, such as a hospital, airport, bridge to Canada and a deep draft port. Ogdensburg's location bordering Canada also provides opportunities to capitalize on the recently signed Canada-United States Free Trade Agreement. Finally, the existence of the Seaway Trail -- a nationally designated recreation trail -- through Ogdensburg positions the City well for tourism-based employment opportunities.

Policies:

A. Guide growth in a planned and coordinated manner compatible with neighboring land uses.

B. Recognize the changing land use pattern along the riverfronts from heavy industrial uses towards residential, recreational and other water-dependent land uses.

C. Encourage greater use of vacant and underutilized waterfront areas.

D. Provide properly zoned land areas which can be efficiently and economically served by existing and planned streets and public utilities for the expected expansion of residential, business, recreational and industrial sectors.

E. Protect the integrity of residential neighborhoods from land use conflicts.

F. Encourage aesthetic improvements and maintenance of historic resources and scenic views to preserve the identity and character of the community.

G. Encourage industry to locate in planned industrial parks.

H. Support a cooperative approach between the Ogdensburg Bridge and Port Authority and the City for compatible OBPA development and to increase the number of firms in the industrial park.

2. GOAL - Maintain and improve the quality of residential neighborhoods and the housing stock.

Discussion:

Ogdensburg's housing stock is aged and deteriorating. Almost 75 percent of the housing units are at least fifty years old, according to the 1980 Census. Beyond several federally supported housing rehabilitation programs, little investment in the housing stock has occurred in the past because rents could seldom recoup the necessary investments. Now, however, because of increased employment opportunities, there is an increased demand for housing and some private rehabilitation is occurring.

In many cases the current demand for housing does not well match the existing supply of housing. State-wide trends show that average household sizes are shrinking, with robust growth in one- and two-person households. There is a need for a wider variety of housing types and price ranges than currently exists. There are few upscale rental units or condominiums that take advantage of riverfront views or other amenities. Similarly, there appears to be a need for increased housing for low- and moderate-income households, particularly for families.

In order to providing housing attractive to young professionals without children and "empty nesters" the community will need to encourage development of housing catering to these markets. Conversion of the large homes in the City's core to multi-family housing is desirable when done at a compatible scale with the neighborhood. Unfortunately, little is being done to replace these formerly upscale homes with modern single-family housing, except in the Proctor Avenue area. This has resulted in many families and individuals who work in Ogdensburg living outside its borders, thereby reducing tax revenues and the community participation rate.

Policies:

A. Designate an adequate amount of land within the City for high-quality, single-family residential uses with relatively large lot sizes, which make as much use as possible of scenic views and existing public facilities.

B. Recognize the need for adaptive reuse of large older homes in the City's core to respond to changing housing demands for lower energy costs, less maintenance, and a fewer number of rooms.

C. Prevent the encroachment of incompatible commercial uses in residential areas to protect the integrity of residential neighborhoods and maintain an adequate incentive for housing upkeep and reinvestment.

D. Support rehabilitation of substandard and deteriorating residential dwellings and neighborhoods.

E. Require landscaping and visual screening in buffer areas where non-residential uses abut residential uses.

3. **GOAL** - <u>Continue to plan and develop the public facilities and services of the City to permit orderly growth and to distribute the costs of capital improvements equitably and efficiently.</u>

Discussion:

Public facilities and services are essential to a high quality of life and the future development of Ogdensburg. They include roads, sidewalks, water, sanitary and storm sewers, lighting, parks, police and fire protection, emergency services and health care. Many of these services are necessary prerequisites for future development.

Currently the water supply is adequate but the distribution network is incomplete. Storm drainage will continue to be a problem for the City as development occurs. The City is under a Department of Environmental Conservation consent decree order to separate sanitary and storm sewers to balance out any increases in demands on the water treatment facility by new development. Road maintenance is also an ongoing concern which is being addressed and needs to be remembered as one of the most obvious of the City's services to its residents.

The City has in place a five-year capital improvement planning process that provides a rational framework to best decide which projects should be funded in each annual capital improvement budget.

Policies:

A. Continue the development of capital improvement plans to determine public investments in public facilities.

B. Continue to work to expand the road, water, storm drain and sanitary sewer systems to accommodate desired growth.

C. Discourage the selling of "paper streets" where to do so will result in poor access to or landlocked parcels, or foreclose opportunities for waterfront access.

D. Encourage development to locate where underutilized public facilities already exist.

E. Upgrade existing recreational facilities and encourage the expansion of recreational opportunities.

F. Encourage the development of safe truck routes through the City that avoid residential neighborhoods.

G. Continue to work consistently on curbing and sidewalks so that the public portions of the residential areas are maintained in good condition and pedestrian travel is safe. Sidewalks should be included in new developments where pedestrian traffic is likely.

H. Develop land use regulations and public policies that are easy to understand and enforce them consistently throughout the City.

4. GOAL - Preserve and enhance the visual appearance of the City as a place to live, visit and operate a business.

Discussion:

Because the City of Ogdensburg was founded in 1749 and incorporated as a City in 1868, the City has developed differently from other communities in the County. There was a much greater focus on the waterfronts and a pedestrian orientation to the settlement pattern that resulted in high densities with commercial and industrial establishments interspersed among residential uses. The original settlers here had a very different vision of cities than is currently in vogue. After many years of a stagnant economy several areas of the City now look not only old, but decrepit to visitors and newcomers. Narrow lots and houses close to the street, which are reminiscent of city centers in highly urbanized areas, often startle and dismay newcomers who are more attuned to the look of rural villages and city suburbs. Furthermore, although the City is endowed with beautiful parks, the primary access roads into the community present the intermixture of incompatible commercial and residential uses that has often led to deteriorating conditions. Poor maintenance of some highly visible locations in the City has also created a sense of grimness for the community. Not only is this situation less than positive for the quality of life for Ogdensburg residents, but it has on several occasions been the cause of potential businesses locating elsewhere.

Policies:

A. Make the most of the "old French" character of the City rather than try to change it into something artificial.

B. Reduce general business zoning along major approach roads to the City core in developed areas where businesses do not currently exist to protect residential neighborhoods.

C. Establish and enforce site plan review standards that encourage adequate landscaping with screening of service areas, outdoor storage lots, dumpsters and large parking areas from highways, recreation trails and adjacent residential uses or districts.

D. Develop sign regulations that provide for businesses to communicate with the general public in a manner that protects the health, safety, general welfare and visual appearance of the City from oversized, garish and distracting signage.

E. Formally recognize the contribution to the positive visual appearance of the City by the Ogdensburg Garden Club, new developments, rehabilitated structures, and especially attractive grounds and gardens that enhance the City's image and character.

F. Beautify and maintain City-owned outdoor areas, particularly the site between the Ogdensburg Mall and adjacent businesses located across the walkway.

G. Regularly review public lands for their impact on the visual appearance of the City. Recommend upgrading and maintenance where necessary.

5. **GOAL** - Enhance and encourage public access to the waterfront, and provide for water-dependent and water-enhanced uses to locate along the riverfronts of the community.

Discussion:

The St. Lawrence and Oswegatchie Rivers are outstanding assets and provide many positive opportunities for the City. For many years, however, much of the waterfront was inaccessible. Now, because of changes in the fortunes of local industries and oil companies, the City has a significant amount of vacant land along the St. Lawrence River. Furthermore, much underutilized waterfront property has recently changed ownership. This situation offers, for the first time in many years, important waterfront development opportunities. The City is fortunate in having an adopted Local Waterfront Revitalization Program (LWRP) in place to guide development in the coastal area.

Policies:

A. Develop waterfront areas consistent with Local Waterfront Revitalization Program policies and encourage the implementation of proposed projects.

B. Seek opportunities for enhanced public access and visual access to the river in the review of subdivisions, site plan reviews and Planned Development Districts.

C. Develop zoning districts that provide for water-dependent and water-enhanced uses to locate in certain coastal areas.

D. Encourage development that provides access to the waterfront by citizens and visitors to the community.

E. Rezone vacant industrial waterfronts towards residential and recreational uses consistent with the LWRP.

PART TWO - LAND USE CATEGORIES

To adequately respond to new development patterns, changing land uses and the above community goals, a major revision in the definition and choices of land use zones within the City will be required. Generally, the 1970 Zoning Regulations have served the City well in guiding the orderly and compatible growth of the City, but it is now outdated in many respects and can be improved to better achieve the desired vision for Ogdensburg. One indicator that major revisions are needed is the numerous requests for rezoning and use variances. Also, the 1970 regulations are unnecessarily complex and difficult for the average citizen to understand. Poor organization and complexity of the regulations has led to applicants not knowing what standards they are expected to satisfy and makes enforcement of the law more difficult.

Following is a list of the 1990 Community Development Plan land use categories with a discussion of the purpose and examples of desirable land uses within each category.

SINGLE-FAMILY RESIDENTIAL

The purpose of this category is to provide for high-quality, single-family residential neighborhoods which are protected from conflicting uses. This category is intended exclusively for detached single-family dwellings and outdoor municipal recreation. No new business, school, private utility or office is permitted.

This land use category should be applied to areas of the City where almost exclusively single-family residences exist. It should also be used where there are limited undeveloped areas to create the option of neighborhoods devoted solely to higher-density residential use. This category should be used to protect investments in homes from inappropriate and depreciating uses arising from development on adjacent properties. It is also appropriate in largely intact older residential neighborhoods where conversions to multi-family residences could degrade the neighborhood.

MODERATE-DENSITY RESIDENTIAL

The purpose of this category is to provide for cohesive residential neighborhoods composed of single-family residences, two-family homes, and moderate-density multi-family dwellings in combination with selected public and institutional uses compatible with, and in support of, residential areas. A minimum lot area of 4,000 square feet per unit shall be maintained for multi-family dwellings to prevent overcrowding. Furthermore, this category is designed to address the large old homes which may be better used for multi-family than single-family uses in the future.

This category shall be applied in core areas of the City where there are many large older homes and as buffer areas between single-family residential areas and other uses. It is also an appropriate category in residential neighborhoods with some non-residential uses or mobile homes.

RESIDENTIAL/BUSINESS MIXED USE

In planning for this category, the Planning Board was particularly concerned with the renewed sense of interest in urban life. Even in a small community such as Ogdensburg there is a newly perceived value attached to the excitement of intense and pedestrian oriented land use. It seemed prudent, therefore, to plan for areas of the City which contrasted with the lifestyle afforded in the single-family residential category with this mixed use category.

This category attempts to foster street level activity and provide a center for the community. It is not just an area for retail sales, but to purchase professional, business and personal services, enjoy cultural or recreational amenities, interact with government, use financial services or just stroll. Opportunities for housing and compatible employment complete the balance for this revised "old French city" approach to certain areas of the community.

The purpose of this category is to set aside areas of the City appropriate for a mix of residential, compatible business and service, and leisure uses. It is especially designed for use along the waterfront and in the historical City center areas. It supports the concept of a business use at street level and residential or office uses in upper stories.

This category is also intended to be consistent with the Local Waterfront Revitalization Program policies and address the goal of enhancing public access to the waterfront. Public access is envisioned as not strictly public areas such as parks, but development which would permit the most people the most use and enjoyment of the waterfront. Finally, this category also reflects the reality of land use along the Ford Street and State Street corridors. It does limit certain kinds of development in those areas with the overall tendency of reducing nighttime noise and vehicle traffic congestion compatible with nearby residential uses and a pedestrian orientation.

BUSINESS

The purpose of this category is to provide for areas primarily used or appropriate for retail, auto-related, wholesale and storage and public uses. The category does not provide for residential uses in an effort to concentrate business development. Only in the case of a Planned Development District (see below) could there be a mixture of uses created in these business areas. Similarly, industrial uses are prohibited. Most new areas of business development should provide some buffer from residential uses. The purpose of this separation is to prevent land use conflicts, such as those arising from noise, glaring lights, service deliveries, increased traffic through residential neighborhoods, unsightliness which creates disincentives for reinvestment and planned development of adjacent areas.

Because business areas permit some nuisance-prone and high traffic generating uses, they should be situated in areas with good vehicle access and separated from single-family residential areas.

INDUSTRIAL AND INSTITUTIONAL

The purpose of this category is to provide adequate and appropriate areas of the City for light and heavy industry, warehousing, institutional, public facility and nuisance-prone uses.

The name of the category well defines the intent of this category. Areas of the City that should be designated for this category are primarily located in the industrial parks and port of the Ogdensburg Bridge and Port Authority, which has successfully generated these types of development and still has land for further growth. Apart from the obvious value in clustering industrial and manufacturing land uses together -- which potentially reduces vandalism of industrial sites and segregates traffic, noise and other nuisances from industrial uses -- is the involvement of the OBPA in controlling and directing development that has proven highly valuable to the City. Other areas of the City where ongoing industrial activities occur and are foreseen to continue should also be located within this category.

PLANNED DEVELOPMENT DISTRICT

The purpose of this category is to provide a means of developing or redeveloping significant land areas considered appropriate for residential, recreational, commercial or industrial use, or a combination of these uses in a unified site design that allows economies of scale and creative planning and design concepts to be used. A Planned Development category allows for the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. This flexibility is intended to permit innovative planning and design concepts, such as clustering of structures, rather than merely as a means to increase the density or bulk of a project without corresponding public benefits.

This category is particularly important to the orderly and beneficial development of the diminishing undeveloped areas of the City. It is a "floating" category that can be applied for anywhere in the City if the minimum standards are satisfied. Because it is difficult in some cases to foresee the direction development will take, the Planning Board has been very concerned about developing a useful but protective Planned Development category. There may be some uses that do not fall within any of the previously discussed categories. The Planned Development category would permit this type of development without designating an undeveloped area now for a use which may never occur.

The revised category increases the size of the parcel that can be considered for a Planned Development and clarifies the procedure for establishing a Planned Development District while providing specific protective limits on the uses within the District. It is expected that the revised Planned Development category will make its use clearer and easier for those willing to meet the proposed requirements, but will prevent the marginal applications.

MOBILE HOMES

This category is identical to Single-Family Residential as defined above, but also permits mobile homes to be established within this district.

Appendix C

Relevant Excerpts from City of Ogdensburg Zoning Ordinance

ARTICLE III

ZONING DISTRICT REGULATIONS

§ 30.11 - District: Single Family Residential (SFR)

Purpose: To provide for high-quality single-family residential neighborhoods which are protected from conflicting uses. This district is intended exclusively for detached single-family dwellings and outdoor municipal recreation.

Permitted Uses:

1. one-family dwelling
2. outdoor municipal recreation
3. accessory structures
4. home occupations, as defined in this ordinance

Use Permitted by Special Permit: *

1. bed and breakfast

Prohibited Uses: *

1. mobile home
2. multiple-family dwelling
3. retail or service use
4. office
5. industry
6. school
7. private utility

§ 30.12 - District: Moderate-Density Residential (MDR)

Purpose: To provide for residential neighborhoods composed of single-family homes, two family homes, and multiple-family dwellings in combination with selected public, institutional, service, and retail uses compatible within predominantly residential areas. Furthermore, this district is designed to address the large old homes which may be better used for multiple-family than single-family uses in the future.

Permitted Uses:

1. one-family dwelling
2. two-family dwelling
3. moderate-density multiple-family residential development
4. accessory structures
5. accessory use
6. home occupation
7. place of worship
8. parish house
9. community residence
10. bed & breakfast/inn
11. day care center/nursery school
12. school
13. museum
14. library
15. health care facility
16. outdoor recreation
17. funeral home
18. non-profit service or fraternal organization
19 florist/greenhouse
20. art studio
21. professional offices

Prohibited Uses:

1. rooming houses
2. motels
3. mobile home
4. high-density residential use
5. auto services
6. convenience store
7. most retail or service uses
8. industrial uses

§ 30.13 - District: Residential/Business Mixed Use (R/B)

Purpose: To delineate those areas of the City appropriate for mixed residential and compatible business uses that will generate street level activity and provide for water-dependent uses. This district is especially designed to accommodate mixed use development projects which feature business or services at the street level and residential uses on upper stories. Two-family and multiple-family residential development is permitted while new single-family dwellings are prohibited.

Permitted Uses:

1. Mixed Uses
   a. mixed use development of permitted uses with street-level retail or service use

2. Residential Uses
   a. multiple-family residential development
   b. community residence
   c. home occupation

3. Public and Institutional Uses
   a. public facility
   b. museum
   c. library
   d. convention center
   e. non-profit service or fraternal organization religious institution
   f. non-commercial indoor or outdoor recreation

4. Service Uses
   a. office
   b. personal services (hair, tanning, laundry, travel, etc...) office business
   c. services/sales
   d. professional services (legal, medical, accounting, etc...) day care
   e. funeral home
   f. bank

5. Commercial/Retail Uses
   a. bed & breakfast, inn
   b. hotel/motel/resort
   c. restaurant/cafe
   d. bakery
   e. butcher shop
   f. gift or craft shop
   g. art gallery/studio
   h. sporting goods sales
   i. photography
   j. publishing and printing
   k. convenience store
   l. furniture sales
   m. liquor store
   n. book, magazine, newspaper sales
   o. sporting goods
   p. theater
   q. amusement facilities
   r. video- or audio-related sales
   s. florist/greenhouse
   t. memorials
   u. indoor commercial recreation
   v. gasoline filling station

6. Other Uses
   a. water dependent uses*
   b. accessory use
   c. accessory structure
   d. home occupation
   e. parking facility
   f. other uses determined by the Planning Board to further the purpose of this District

Prohibited Uses:

1. single-family dwelling
2. motor vehicle repair
3. billboard
4. mobile home
5. storage, distribution & warehouse facility
6. kennel
7. commercial antenna
8. industrial use
9. tavern or club
10. auto sales and service other than gasoline filling station

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

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

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

3. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short- and long-term storage facilities);

4. Structures needed for navigational purposes (for example: dams and lighthouses);

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

6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);

7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants);

8. Scientific/educational activities which, by their nature, require access to coastal waters (for example: natural resource nature centers); and

9. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent uses, they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.

§ 30.14 - District: Business (B)

Purpose: To provide for areas primarily used or appropriate for retail, service, auto-related, institutional, wholesale and storage, and public uses.

Permitted Uses:

1. mix of permitted uses
2. retail sales
3. business or personal service
4. motor vehicle service
5. gas station
6. repair service
7. nuisance-free light industry or assembly
8. research laboratory
9. office
10. plumbing, building, or
11. electrical contracting or supplies
12. distribution facility
13. indoor or outdoor recreation
14. gambling facility
15. restaurant
16. tavern/club
17. radio/television studio and station
18. water dependent uses*
19. hotel/motel/boarding house
20. bed & breakfast/inn/resort
21. community residence
22. health services or facility
23. non-profit service or fraternal organization
24. utility
25. publishing and printing
26. public facility
27. religious institution and parish house
28. funeral home
29. daycare center/nursery school
30. educational facility
31. health facility
32. parking facilities on an individual lot
33. accessory structures
34. accessory use

Prohibited Uses:

1. heavy industrial use
2. riding stable
3. commercial excavation
4. motor vehicle racing facility
5. residential uses
6. kennel/keeping of non-domestic animals
7. junk yard/salvage use
8. auto dismantling

§ 30.15 - District: Industrial and Institutional (I/I)

Purpose: To provide adequate and appropriate areas of the City for light and heavy industry, warehousing, institutional, public facilities and nuisance-prone uses.

Permitted Uses:

1. light industry
2. heavy industry
3. assembly
4. research laboratory
5. port facility
6. truck/rail terminal
7. warehousing/storage
8. correctional facility
9. psychiatric facility
10. energy recovery facility
11. parking facility
12. distribution facility
13. public facility
14. non-profit institution
15. publishing and printing
16. electrical, plumbing, or building contracting or supply
17. kennel
18. public or private utility
19. recycling facility
20. repair services

Uses Permitted by Special Permit:

1. storage of crude oil or highly flammable liquids
2. any use involving the storage or handling of toxic or hazardous materials

Prohibited Uses:

1. hazardous use
2. unlicensed handling or storage of hazardous or toxic materials

§ 30.16 - District: Mobile Homes (MH)

Purpose: To provide for high-quality single-family residential neighborhoods which are protected from conflicting uses. This district is intended exclusively for detached single-family dwellings, mobile homes and outdoor municipal recreation.

Permitted Uses:

1. one-family dwelling
2. mobile homes
3. outdoor municipal recreation
4. accessory structures
5. home occupations, as defined in this ordinance

Prohibited Uses:

1. multiple-family dwelling
2. retail or service use
3. office
4. industry
5. school
6. private utility
7. all permanent signs
8. all signs regarding home occupations

§ 30.17 - District: Planned Development District (PDD)

A. Purpose - The purpose of the Planned Development District shall be as follows:

1. To provide a means of developing or redeveloping significant land areas considered appropriate for residential, recreational, commercial, or industrial use; or a combination of these uses in a unified site design that allows economies of scale, creative planning and design concepts to be used. The PDD allows for the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. This flexibility is intended to permit innovative planning and design concepts and not merely a means to increase the density or bulk of a project without corresponding public benefits.

2. To uphold the spirit and intent of the zoning ordinance to promote orderly growth and sound development of the City and ensure that the health, safety, and general welfare of prospective residents in the PDD and adjacent residents will be protected.

B. Minimum Standards - A PDD shall meet the following minimum standard:

	Undeveloped Land	Redeveloped Land
1. District Area Minimum:	two (2) acres	40,000 sq. ft.

C. Procedure - Development within a PDD requires: 1) City Council approval to amend the zoning map to establish the PDD, based on the preliminary development plan; and 2) Planning Board site plan approval of proposed development within the established PDD. Where the City Council establishes a PDD District the previous use and dimensional specifications are replaced by the PDD standards, modifications required by the City Council in approving the establishment of the PDD, and modifications required by the Planning Board in approving development within the PDD. The approved final site plan controls future land use and development in the District.

1. Pre-submission Conference - A pre-submission conference between the applicant and the Planning Board staff shall be held to discuss the proposal, outline the review procedure and required submissions, and inform the applicant of minimum standards and potential City concerns of the conceptual project. This step is beneficial because the applicant will learn his or her responsibilities before expending significant resources on the project.

2. Application for Establishment of a PDD - Application for establishment of a PDD shall be made to the City Council to approve the preliminary site plan and amend the City zoning map. Application may be made by any party with legitimate interest in the parcel(s) of land in question. Ownership or holding a bona fide accepted purchase contract with the owner's consent shall be considered a legitimate interest.

3. Referral(s) - The City Council shall refer the application to the City Planning Board within ten (10) days after receipt of the preliminary plans, and make any required referrals and notifications necessary to comply with New York State Law, including the State Environmental Quality Review and Sections 239-m and 239-n of General Municipal Law.

4. Required Submissions - The City Planning Board shall compare the applicant's submission with the list of required submissions available from the Department of Planning and Development and determine whether a complete application has been submitted. Incomplete applications may be returned to the applicant for completion. Alternatively, the Planning Board may waive submission requirements for a preliminary plan if, in it's judgement, the listed requirement is not necessary to fully assess the proposed development.

5. Optional Public Hearing - The Planning Board shall have the authority to hold a public hearing on the proposal, and may hold such a meeting in conjunction with the City Council. The Planning Board shall fix a public hearing date within thirty (30) days of receipt of a complete application for any such hearing. Notice of the hearing shall be served by the City, at least five (5) days before the date of such hearing, to the public and to each owner of real estate lying within a distance of three hundred (300) feet from the exterior boundaries of the proposed Planned Development District. The costs of notification, including but not limited to publishing, posting, and mailing costs, shall be paid by the applicant prior to the issuance of any building permit.

6. Planning Board Review - The Planning Board shall review any application for establishment of a PDD and shall recommend approval, disapproval, or approval with modifications. Such decision shall be reached within forty-five (45) days of referral by the City Council or completion of the SEQR review process.

   In evaluating the proposal and in reaching it's recommendation to the City Council, the Planning Board shall consider the minimum standards for establishing a PDD and the following considerations:

   a. conformance with the stated purposes of the PDD;
   b. consistency with the Comprehensive Development Plan;
   c. protection of established or permitted uses in the vicinity;
   d. provision for usable open space and recreational areas as appropriate to the proposed use(s) and the surrounding neighborhood;

e. design and location so as to be safely and adequately served by roads, water supply, sewage disposal, storm water drainage, snow removal, fire protection and school buses;

f. provision for advantages of flexible planned development over conventional lot-by-lot development such as the following:

(1) increased recreational areas and usable open space;
(2) preservation of natural features of the site;
(3) increased affordable housing opportunities;
(4) a compatible mix of housing types and/or uses;
(5) decreased street and utility costs resulting from efficient design of the entire site and clustered development;
(6) provision of public waterfront access or other public amenity.

7. Notification of Planning Board Recommendation - The Planning Board shall forward it's recommendation to the City Council along with it's findings and reasons for the recommendation within five (5) days of it's action.

8. City Council Review - Prior to amending the zoning map to establish a PDD, the City Council shall hold a public hearing in accordance with the procedure to amend the zoning ordinance (see § 30.36) and consider the report and recommendation of the City Planning Board and all other relevant comments, reviews and statements.

The City Council shall act to approve, disapprove, or approve with modifications, the application for establishing a PDD and preliminary development plan, and shall report it's decision to the City Planning Board. Should the City Council wish to act contrary to any recommendation for disapproval or approval with modifications made by the City Planning Board, or the County Planning Board under authority of Section 239-m of General Municipal Law, it may do so only with a majority plus one vote of it's full membership.

9. Application for Development Approval Within an Established PDD - Upon the establishment of a PDD a final development plan, consistent with any required modifications, shall be submitted to the Planning Board for site plan review prior to issuance of a building permit. Procedures under § 30.31 - Site Plan Review - shall be followed for the review of proposed development within the PDD, although referral to the County Planning Board in accordance with Section 239-m of General Municipal Law is not required.

10. Final "as built" Site Plan - A building permit may be issued by the Code Enforcement Officer only after final "as built" site plans have been found complete and approved by the Planning Board.

D. Expiration of Permit - All permits shall become null and void, and the zoning map amendment revoked and restored to the zoning designation to which the District had been prior to the PDD application, if:

a. ground has not been broken within two (2) years of the date of final site plan approval or,
b. the development has not been completed in accordance with the approved site plan within four (4) years of the date of final site plan approval.

§ 30.18 - District: Waterfront Overlay District (W)

Purpose: The purpose of the Waterfront Overlay District is to delineate an area coterminous with the Ogdensburg Local Waterfront Revitalization Program (LWRP) Coastal Area whereby new development and redevelopment will be reviewed for compatibility with the policies and purposes of the LWRP.

As an overlay district, the Waterfront Overlay District does not replace the existing land use districts and their provisions, but rather, represents an additional level of review, superimposed on the provisions of the existing or underlying districts, that specifically relates to the policies and purposes of the LWRP.

Permitted Uses:

All permitted uses as specified for the underlying land use districts, subject to all of the requirements of the underlying land use districts, including the requirements and procedures of Article V, § 30.31 - Site Plan Review, if applicable.

Appendix D

Waterfront Program
Consistency Assessment Form

WATERFRONT PROGRAM CONSISTENCY ASSESSMENT FORM

This form is to be completed whenever a public action is proposed to permit, fund, approve, or directly undertake an action or activity which will impact the Coastal Area of the City of Ogdensburg as defined in the zoning ordinance. The proposed public action described herein shall be reviewed by the Director of Buildings and Assessments who shall (1) advise the City Council that the proposed action(s) is (are) either consistent, inconsistent, or of uncertain consistency with the policies and purposes of the Ogdensburg Local Waterfront Revitalization Program and (2) refer proposed actions which are or may be inconsistent with said policies and purposes to the City Planning Board for their review and comment to the City Council.

Public Action: _____ Related Activity: _____

Form completed by: _____ Date: _____

		No	Yes	Maybe
1.	Does the action or related activity involve development or redevelopment in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 1, 1A, 1B, 2, 3, 5, and 6?	☐	☐	☐
2.	Does the action or the related activity involve fish or wildlife resources in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 7A, 8, and 9?	☐	☐	☐
3.	Does the action or the related activity involve flooding or erosion hazards?	☐	☐	☐
	Is the action consistent with coastal policies 11, 13, 14, 16, and 17?	☐	☐	☐
4.	Does the action or the related activity involve public access in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 19, 19A, and 20?	☐	☐	☐

		No	Yes	Maybe
5.	Does the action or the related activity involve recreation in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 21, 21A, 22 and 22A?	☐	☐	☐
6.	Does the action or the related activity involve the historic, architectural, archeological or cultural resources of the coastal area?	☐	☐	☐
	Is the action consistent with coastal policy 23?	☐	☐	☐
7.	Does the action or the related activity involve scenic resources in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 25 and 25A?	☐	☐	☐
8.	Does the action or the related activity involve energy resources or ice management in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 27A and 28?	☐	☐	☐
9.	Does the action or the related activity involve water or air resources in the coastal area?	☐	☐	☐
	Is the action consistent with coastal policies 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 44?	☐	☐	☐
10.	Does the action or the related activity take full consideration of the coastal area's valuable resources which contribute to the social, environmental, and economic interests?	☐	☐	☐

	No	Yes	Maybe
Is the action consistent with coastal policy 18?	☐	☐	☐

Appendix E

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs Are in Effect

GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS WHERE LOCAL WATERFRONT REVITALIZATION PROGRAMS ARE IN EFFECT

I. PURPOSES OF GUIDELINES

A. The Waterfront Revitalization and Coastal Resources Act (Article 42 of the Executive Law) and the NYS Department of State's regulations (19NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Water front Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.

B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.

C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

A. Action means:

1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQR);

2. Occurring within the boundaries of an approved LWRP; and

3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

B. <u>Consistent to the maximum extent practicable</u> means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any

substantial hindrance;

2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and

3. That will result in an overriding regional or statewide public benefit.

C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.

B. Notification of a proposed action by a state agency:

1. Shall fully describe the nature and location of the action;

2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and local government;

3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action).

C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.

B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accor dance with 19 NYCRR Part 600.

C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.

D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP.

1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflict, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and

the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.

5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.

6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

Appendix F

Procedural Guidelines for Coordination NYSDOS and LWRP Consistency Review of Federal Actions

PROCEDURAL GUIDELINES FOR COORDINATING NYS DOS AND LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.

2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.

3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.

4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agencies consistency determination on the proposed direct action.

5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At this time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.

2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.

3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.

4. Within thirty (30) days of receiving the requested additional information or discussing

possible problems of a proposed action with the principal review for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.

5. After that notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant will be forwarded to the program coordinator.

7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review procedures. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.

2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgment to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.

3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgment or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.

4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty (20) days (or other time agreed to by DOS and the program coordinator) from the start of the review period received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

Appendix G

Contact List of State and Federal Officials

CONTACT LIST

Frank V. Bifera, Esq.
Special Counsel
NYS Dept. of Environmental Conservation
50 Wolf Road
Albany, New York 12233

Charles Sullivan
Director of Environmental Enforcement
NYS Dept. of Environmental Conservation
50 Wolf Road
Albany, New York 12233

Judith Drabicki
Regional Attorney
NYS Dept. of Environmental Conservation, Region 6
State Office Building
Watertown, New York 13601

William Helmer
Bureau Chief
Environmental Protection Bureau
NYS Attorney General's Office
Justice Building
The Capitol
Albany, New York 12224

Kenneth Oliver
Oil Spill Fund Administrator
Office of State Comptroller
Gov. A.E. Smith Office Building
Albany, New York 12236

Walter Mugden
General Counsel
US Environmental Protection Agency
Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866

Appendix H

City of Ogdensburg
Harbor Management Law

City of Ogdensburg New York

Local Law No. 1 of the year 1999

A local law known as "Chapter 115 - Harbor Management Law"

Be it enacted by the Ogdensburg City Council of the City of Ogdensburg, New York as follows:

ARTICLE I: AUTHORITY, INTENT AND PURPOSE

1. This local law is enacted under the authority of Section 10 of the Municipal Home Rule Law of New York State, the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, and applicable sections of the New York State Navigation Law.

2. The intent of this law is to regulate the speed, use, operation, anchoring, and mooring of vessels, and the use of waters within the jurisdiction of the City of Ogdensburg in a manner to protect and promote the public health, safety, and general welfare.

ARTICLE II: APPLICABILITY

1. This local law shall apply to all waters within the jurisdiction of the City of Ogdensburg, including Tibbitts Creek and the Oswegatchie River from the confluence with the St. Lawrence River upstream to the Corporate boundary, and the waters of the St. Lawrence River that are within the City of Ogdensburg's municipal limits. These waters shall be known as the City of Ogdensburg Harbor Management Area.

ARTICLE III: DEFINITIONS

Abandoned Vessel: Any vessel not moored, anchored or made fast to the shore and left unattended for a period greater than 24 hours, or left upon private property adjacent to the Harbor Management Area without consent of the property owner, for a period greater than 24 hours.

Aids to Navigation: All markers on land or in the water placed for the purpose of enabling navigators in thc Harbor Management Area to avoid navigation hazards, regulatory markers, and/or fix their position.

Anchorage: Any water area designated for anchoring or mooring.

Anchoring: To secure a vessel temporarily to the bottom of a body of water by dropping an anchor or anchors from the vessel.

Boathouse: Any building or similar superstructure used primarily for the storage and sheltering of watercraft, including such subordinate uses customarily incident to such primary use.

Ogdensburg Harbor: All waters within the jurisdiction of the City of Ogdensburg, including Tibbitts Creek and the Oswegatchie River from the confluence with the St. Lawrence River upstream to the Corporate boundary, and the waters of the St. Lawrence River that are within the City of Ogdensburg's municipal limits.

Channel: Federal, State, or locally designated water areas specifically reserved for unobstructed movement of vessels which are marked in-water by aids to navigation permitted by the U.S. Coast Guard and/or the State of New York, including the Federal Navigation Channel in Ogdensburg Harbor.

Dock: Any dock, wharf, structure, or fixed platform extending out over the water built on floats, columns, open timber, piles, or similar open-work structures.

Emergency: A state of imminent or proximate danger to life or property.

Fairway: Any designated and/or maintained water area reserved for unobstructed movement of vessels, including an area at least 25 feet in width adjacent to both sides of the Federal Navigation Channel.

Federal Navigation Channel: The designated navigation channel in the St. Lawrence River, authorized by an Act of Congress.

Floating Home: Any structure constructed on a raft, barge, hull, or other platform, and moored or docked in the Harbor Management Area and used primarily for single or multiple-family habitation as the domicile of any individual(s).

Harbor Management Area: The area encompassing all navigable waters within the municipal limits of the City of Ogdensburg, including Tibbits Creek and the Oswegatchie River from the confluence with the St. Lawrence River upstream to the City boundary, and the waters of the St. Lawrence River that are within the City's municipal limits to a distance one thousand five hundred (1,500) feet from shore.

Harbor Management Law: This local law of the City of Ogdensburg establishing rules and regulations for the use and enjoyment of the waters of the Ogdensburg Harbor Management Area and the lands immediately adjacent to the Harbor Management Area.

Litter: Any bottles, glass, cans, scrap metal, junk, paper, garbage, rubbish, trash or similar refuse or human generated or deposited debris.

Marine Facility: Any facility, either publicly or privately-owned, intended primarily to be used by or for the service of more than five (5) vessels (including, but not limited to docks, floats, piers, ramps, hoists, parking areas, concessions, and service facilities) located in and adjacent to the Harbor Management Area.

Mooring: The attachment of or to attach a vessel to a pier or dock or other structure or the attachment of or to attach a vessel to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator. The term "mooring" shall also include the placing of a boat at anchor for more than twelve (12) hours consecutively.

Personal Watercraft: A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than the conventional manner of sitting or standing inside the vessel.

Persons: Individuals, corporations, societies, associations, and partnerships, using the facilities and areas within the Harbor Management Area.

Pump-out Facility: A facility for pumping sewage from vessel holding tanks and other devices and containing those wastes before proper disposal into the City sewage system.

Shall and May: "Shall" is mandatory; "May" is permissive.

Speed: The speed of a vessel as measured in slack water in statute miles.

State: The State of New York.

Transient Boaters: Persons traveling into the Harbor Management Area by boat and staying for a temporary period of time.

Underwater: The condition of a vessel not at anchor and not made fast to the shore or ground.

Vessel: Every floating device used or capable of being used as a means of transportation on water.

Vessel Owner: Includes the person under whose name the vessel was last registered in accordance with the provision of 46 U.S.C., Chapters 121-125, or the Motor Vehicle and Traffic Law and in any case the last known owner or the person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

ARTICLE IV: GENERAL PROVISIONS

1. Invalidity of Provisions: Should any provision of this law be held invalid or inoperative, the remainder shall continue in full force and effect.

2. Conflict of Laws: In any case where a provision of this law is found to be in conflict with any other local provision, the article setting the higher standard in promoting the general public welfare shall be used.

3. Enforcement: Authorized public servants of the City of Ogdensburg as designated by the Ogdensburg City Council, the Ogdensburg Police Department, the State Police, the St. Lawrence County Sheriff's Department, and any other police or peace officer as defined in the New York State Criminal Procedures Law shall have authority to enforce the provisions of this law.

4. Violations and Penalties: A person who violates any of the provisions of, or fails to comply with any conditions imposed by this Law shall have committed a violation, punishable by a fine not exceeding three hundred fifty dollars ($350) for a conviction of a first offense and punishable by a fine of seven hundred dollars ($700) for a conviction of a second or subsequent offense occurring within a period of five (5) years. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

   The Ogdensburg City attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

5. Liability: Persons using the waters within the limits of the Harbor Management Area shall assume all risk of personal injury and loss or damage to their property. The City of Ogdensburg assumes no risk on account of accident, fire, theft, vandalism or acts of God.

ARTICLE V: PERMITS REQUIRED

1. Building Permit: Except as otherwise provided in this law, no person shall place, locate, construct, maintain, expand or use any dock, pier, boathouse, or other structure in any waters within the Harbor Management Area without a building permit issued in accordance with this law, the City of Ogdensburg Zoning Regulations, and any other applicable local laws. Docks, piers, boathouses, mooring buoys, or other structures under 150 square feet in area shall be exempt from the requirement for a building permit, but shall comply with all other provisions of this law, the City of Ogdensburg Zoning Regulations, and any other applicable local laws. Failure to comply with this Article is a violation of this law.

ARTICLE VI: OFFICE OF THE HARBOR MANAGER

1. Harbor Manager: The Director of Planning and Development shall be the City Harbor Manager.

2. Powers and Duties: It shall be the duty of the Harbor Manager to enforce the provisions of this law. The Harbor Manager shall examine all applications for all permits and issue permits only for construction and uses therein in accordance with the requirements of this law and also other laws, rules, and regulations of the City of Ogdensburg enforced at the time of application.

ARTICLE VII: PERMIT APPLICATIONS AND PROCEDURES

1. Form and Content of Application: In any instance in which a permit is required by this law, an applicant shall submit an application on a form prescribed by the Department of Planning and Development. The application shall be submitted with a $30 fee, accompanied by a plot plan drawn to scale, adequately dimensioned, showing the location of all existing docks, piers, boathouses, structures, mooring buoys, aids to navigation, abandoned vessels, anchorage areas, navigation channels or fairways. The applicant shall provide such other information as may be required, including, but not limited to, filings with or permits from federal, State, Village, or county authorities, description of the manner of construction and installation, the materials to be used, evidence of ownership or possessory right, by easement, license, right-of way or other,

regarding the abutting shoreline and grant or leases pursuant to Article 6 of the Public Lands Law of the State of New York, regarding lands under water.

2. Issuance of Permit: If the proposed activity conforms to all requirements of this law, and does not impair navigational safety or unreasonably restrict public or private access to, on and within navigable waters within the Harbor Management Area, the Director of Planning and Development or his designate agent(s) shall issue a permit for a one year period commencing upon approval of the permit.

ARTICLE VIII: VESSEL OPERATION

1. Dangerous Operation Prohibited: No person shall operate any vessel in any manner that unreasonably interferes with the free and proper use of the Harbor Management Area or any property on, in or contiguous to the Harbor Management Area, or which endangers the users of the Harbor Management Area.

2. Identification: No person shall operate or permit the operation of any vessel, which is subject to the provisions of the New York State Vehicle and Traffic Law, within the Harbor Management Area unless such vessel is registered and numbered and bears a current validation sticker in accordance with the provisions of such Law.

   Every person operating a vessel shall, upon demand of any peace officer, federal officer or other person having authority to enforce the provisions of this law, produce the certificate of registration for inspection. Failure to produce the certificate of registration shall not be an offense, but shall be presumptive evidence of operating a vessel that is not registered as required by the New York State Vehicle and Traffic Law.

3. Vessel Speed and Restricted Speed Areas:

   a. Every operator of a vessel shall at all times navigate the same in a careful and prudent manner in such a way as not to unreasonably interfere with the free and proper use of the navigable waters of the Harbor Management Area or unreasonably endanger any vessel or person. Reckless operation is prohibited.

   b. No person shall operate a vessel within the Harbor Management Area at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

   c. No person shall operate a vessel within the Harbor Management Area at such a speed as to cause a dangerous wake. The operator of a vessel shall be held responsible for any damage caused by such wake.

   d. In the vessel regulation zone, defined as the harbor shipping channel and contiguous shoreline of the St. Lawrence River between the extension of the centerline of Elizabeth Street north to a point on the St. Lawrence River shoreline on the east, and a point of land on the east shore of Lighthouse Point established as the point of intersection between the extension of the east right-of-way line for Commerce Street with said shore of Lighthouse Point, on the west, and the Oswegatchie River south from its confluence with the St. Lawrence River to Ogdensburg Dam. This zone is further delineated by the map on file and

available for inspection on the Office of the City Clerk. The speed limit is five (5) miles per hour in the vessel regulation zone.

4. Mufflers: No person shall operate a power vessel without having the exhaust from the engine run through a muffling device, so constructed and used as to muffle the noise from the exhaust in a reasonable manner.

5. Vessel Enforcement Authority:

   a. The Ogdensburg Police Department, the State Police, the St. Lawrence County Sheriff's Department, and any other police or peace officer as defined in the New York State Criminal Procedures Law, shall have the authority to enforce waterborne traffic in any part of the Harbor Management Area by use of authorized regulatory markers, signal, orders or directions at any time when deemed necessary in the interest of the safety of persons and vessels or other property.

   b. No person shall fail to or refuse to comply with any authorized marker or with any signal, orders or directions of the Ogdensburg Police Department, the State Police, the St. Lawrence County Sheriff's Department, and any other police or peace officer as defined in the New York State Criminal Procedures Law. Failure to comply with such marker, signal, order or direction shall be a violation of this law.

6. Obstruction of Facilities Prohibited:

   a. No person shall willfully prevent any other person from the lawful use of any mooring, anchorage, pier, dock, berthing facility, boat launch, or other marine facility.

   b. No person shall moor or anchor any vessel so as to interfere with the free and unobstructed use of any channel, fairway, or berthing space in the Harbor Management Area.

7. Anchoring in Federal Navigation Channel Prohibited: No person shall anchor any vessel in the Federal Navigation Channel, except in cases of emergencies.

8. Fishing: No person shall fish in the Harbor Management Area is such manners so as to impede navigation. Vessel-based fishing in a manner that provides a hazard or inconvenience to navigation is prohibited.

ARTICLE IX: SANITATION

1. Littering and Discharge of Pollutants Prohibited: No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged into the Harbor Management Area any litter or other materials, including but not limited to, any refuse or waste matter, sewage, petroleum products or by-products, paint, varnish, dead animals, fish parts or debris of any kind which renders the waters unsightly, noxious, unwholesome, or otherwise detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

2. Marine Toilets: No person shall operate a marine toilet at any time so as to cause or permit to pass or be discharged into the Harbor Management Area any untreated sewage or other waste matter or contaminant of any kind pursuant to § 33-c of the New York State Navigation Law.

3. Responsibility for Sanitation of Facilities: The owner, lessee, agent, manager or person in charge of a marine facility or water area shall at all times maintain the premises under his/her charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.

4. Marine Facility Sanitation Requirements:

   a. The owner or other person vested with the possession, management and control of a marine facility shall provide and maintain a sufficient number of trash receptacles for the deposit of litter at locations convenient to vessel users of such marine facilities. Spacing between trash receptacles on all piers and docks shall be suitable for maintaining the premises in a clean and sanitary condition. Failure to comply with this provision is a violation of this law.

   b. The owner or other person vested with the possession, management and control of a marine facility shall maintain suitable toilet facilities on shore for the accommodation of vessel users who are patrons of their marine facility. Failure to comply with this provision is a violation of this law.

   c. The owner or other person vested with the possession, management and control of a marine facility shall post a sign clearly visible to vessel owners and operators that states: "The Navigation Law of the State of New York provides strict penalties for the discharge of sewage in the waters of New York State. The local laws of the City of Ogdensburg prohibit the discharge of litter, sewage, and refuse within the Ogdensburg "Harbor Management Area. " Failure to comply with this provision is a violation of this law.

   d. Any sewage pump-out facility required as a condition of City, State or Federal approval of a marine facility in the Harbor Management Area shall be maintained in proper working order and available for use as specified in City, State or Federal permits. Failure to comply with this provision is a violation of this law.

ARTICLE X: REMOVAL OF ABANDONED OR DERELICT VESSELS AND STRUCTURES

1. Abandoned Vessels and Structures Prohibited: No person shall abandon, sink or place a vessel, mooring or other structure within the Harbor Management Area where it may constitute a danger to navigation or to the safety of persons or property, or where it may prevent optimum use of the Area.

2. Removal of Abandoned Vessels and Structures:

   a. Any vessel or other structure abandoned or sunk or so placed may be removed or relocated at the direction of the Director of Planning and Development if corrective action is not taken by the owner, if known, within seven (7) days after notification, or, if not known, after notice has been posted for that period on the vessel or object.

b. Nothing herein contained shall prevent the City Council or its designated agent(s) from taking measures with or without notice, if, in its judgment, such measures are necessary in order to provide for the safety of persons or property. The expense of such removal or relocation and any liability from injury to person or property incurred thereby shall be the responsibility of the owner.

ARTICLE XI: LIVING ABOARD VESSELS

1. Regulation of Floating Homes: In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Director of Planning and Development or his designated agent(s) may regulate the use of floating homes in the Harbor Management Area.

2. Floating Homes as Primary Use Prohibited: Any structure used primarily for single or multiple-family habitation or as the domicile of any individual(s), business office or source of any occupation or for any private or social club of whatsoever nature is prohibited within the Harbor Management Area.

2. Living Aboard Vessels Permitted on Temporary Basis: Sleeping aboard vessels on a temporary basis is allowed as a secondary use to the vessel's principal commercial or recreational uses, provided the vessel is berthed at a marine facility and where consistent with all City, State, and Federal requirements concerning anchoring, lighting, taxation and other pertinent concerns, and provided land-based support facilities and utilities, including sewage disposal facilities, are available.

   a. Sleeping aboard vessels moored or anchored within the Ogdensburg Harbor Management Area on a temporary basis, not to exceed two (2) weeks, is allowed as a secondary use to the vessel's principal commercial or recreational uses where consistent with all City, State, and Federal requirements concerning anchoring, lighting, taxation and other pertinent concerns. For purposes here, the term "moored" shall only refer to vessels that are attached to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

ARTICLE XII: BERTHING, MOORING AND ANCHORING OF VESSELS

1. Owner Responsibility for Secure Berthing, Mooring and Anchoring: The owner of any vessel berthed, moored or anchored within the Harbor Management Area shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent the vessel from breaking away.

2. Owner Responsibility for Damage: Each person anchoring or mooring a vessel in the Harbor Management Area shall be responsible for any damage to that vessel or to any other vessel or any other property caused by that vessel. The City of Ogdensburg assumes no liability for personal injury or property damage that may result from the use of unsafe or otherwise inadequate anchoring or mooring tackle and assumes no risk on account of accident, fire, theft,

vandalism or acts of God related to the anchoring or mooring of vessels in the Harbor Management Area.

3. Locations for Moorings: No person shall place a mooring or anchor such that the vessel moored or anchored, at full swing of its mooring or anchor line, will be within 75 feet of the Federal Navigation Channel of the St. Lawrence River, or within 50 feet from any dock or other marine facility within the Harbor Management Area.

4. Regulation of Moorings: In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Director of Planning and Development or his designated agent(s) may regulate the placement of all moorings in the Harbor Management Area in accordance with rules and procedures adopted by the City Council.

ARTICLE XIII: VIOLATIONS

1. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by this Local Law shall have committed a violation, which will be a Class B misdemeanor punishable by a fine not exceeding three hundred fifty dollars ($350) for a conviction of a first offense and punishable by a fine of seven hundred dollars ($700) for a conviction of a second or subsequent offense occurring within a period of five (5) years. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

2. The City attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

ARTICLE XIV: EFFECTIVE DATE

1. This law shall take effect immediately upon its adoption by the Ogdensburg City Council, approval by the New York State Secretary of State pursuant to Article 42 of the NYS Executive Law and its filing with the New York State Department of State in accordance with the provisions of the Municipal Home Rule Law.