

# Final Generic Environmental Impact Statement

NORTH TONAWANDA BROWNFIELD OPPORTUNITY AREA  
CITY OF NORTH TONAWANDA, ERIE COUNTY, NEW YORK

**Lead Agency:**

City of North Tonawanda, New York  
216 Payne Avenue  
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Appendix A – Received DGEIS Public Comments

Appendix B – Lead Agency Accepted DGEIS (Separate Package)

## List of Acronyms:

BOA	Brownfield Opportunity Area
DEC	New York State Department of Environment of Conservation
DGEIS	Draft Generic Environmental Impact Statement
DOS	New York State Department of State
EIS	Environmental Impact Statement
FGEIS	Final Generic Environmental Impact Statement
SEQRA	State Environmental Quality Review Act

## I. Introduction

### A. Purpose and Intent of this FGEIS

The City of North Tonawanda, New York, acting as Lead Agency pursuant to the State Environmental Quality Review Act (SEQRA), Article 8 of the New York State Environmental Conservation Law and its implementing regulations (6 NYCRR Part 617), presents this Final Generic Environmental Impact Statement (FGEIS) for the North Tonawanda Brownfield Opportunity Area (NT Momentum Plan) Implementation Strategy.

The City of North Tonawanda is the sponsoring municipality of the NT Momentum Plan under the New York State Brownfield Opportunity Area program (BOA), which is funded, administered, and overseen by the New York State Department of State (DOS), with technical support provided by the Department of Environmental Conservation (DEC).

According to SEQRA 6 NYCRR Part 617, a review of environmental impacts and mitigation alternatives of an action is required by any State or local governmental agency that is undertaking, funding, or approving an action.

Section II of this FGEIS categorizes, summarizes, and responds to the key substantive public and agency comments received by the Lead Agency during the open comment period from October 17, 2018 to November 16, 2018. In addition, copies of the full text of all such public comments are incorporated into this FEIS as Appendix A.

### B. Project Description

The NT Momentum Plan, which was developed through the New York State BOA Program, began with the Pre-Nomination Study. In 2012, the Nomination Study was developed and encompassed a 546-acre area within the City of North Tonawanda along the Niagara River and Erie Canal. The study area includes Tonawanda Island, the Little River, and most of the historic downtown core. The study area is bounded to the south by the Erie Canal, on the west by the Niagara River, on the north by the City boundary, and on the east by River Road, Oliver Street, Ironton Street, and North Marion Street.

Throughout the Step 2 Nomination Study and Step 3 Implementation Plan, a community planning process was undertaken to determine the redevelopment the community desired for the NT Momentum Plan. Potential development scenarios developed in the Step 2 Nomination Study were further consolidated and defined in the Step 3 Implementation Plan. As part of this Implementation Plan, a full detailed description of development alternatives, impacts and mitigation measures were presented.

## C. SEQRA Review Process

In accordance with SEQRA regulations, several steps were completed as part of this environmental review process. The Common Council of the City of North Tonawanda was established as Lead Agency for the adoption of the NT Momentum Plan. The environmental review steps and how they have been applied to the BOA planning process are described below.

- **Environmental Assessment Form and Involved Agency Coordination:**

In 2013, the City of North Tonawanda prepared a Full Environmental Assessment Form that generally described the NT Momentum Plan and the initial implementation strategies. The form was distributed to involved and interested agencies for the requisite lead agency coordination. Involved agencies included the New York State Department of State as the approving agency.

- **Determination of Significance:**

The Lead Agency executed a Determination of Significance in the form of a positive declaration indicating the need for a DGEIS.

- **Scoping:**

The City of North Tonawanda completed a scoping process, which included a Draft Scoping Document and a Final Scoping Document. The Draft Scoping Document described the analyses and methods that were used to prepare the DGEIS. This document was circulated and made available for public comment. The Final Scoping Document addressed comments and was used as a framework to prepare the DGEIS.

- **Draft Generic Environmental Impact Statement:**

The NT BOA Implementation Plan incorporates the DGEIS into one document. SEQRA regulations governing the preparation and review of the DGEIS were designed to provide opportunities for involvement by interested agencies and the general public through a 30-day comment period.

The DGEIS was prepared to be directly incorporated into the *City of North Tonawanda BOA Step 3 Implementation Strategy/GEIS* document, per the requirements set forth by DOS. The table illustrates where each component of the DGEIS is located within the document:

BOA Implementation Plan	DGEIS Content
Section 1 Description of Project and Boundary	Description of Proposed Action
Section 2 Community Participation	Description of Public Engagement Component
Section 3 Analysis of the BOA	Description of the Environmental Setting
Section 4 BOA Implementation Strategy and GEIS	Potentially Significant Adverse Impacts Description of Mitigation Measures Description of Alternatives to the Proposed Action
Section 5 Compliance with SEQRA	Consistency with NYS CMP Coastal Policies DGEIS References Conditions for Future Actions

- **Final Generic Environmental Impact Statement:**

This document, which constitutes the FGEIS, provides responses to the DGEIS received public comments from the open comment period. This document is prepared according to SEQRA regulations and DOS requirements.

## II. Summary of Comments and Responses

Below is a summary of comments on the DGEIS provided to the Lead Agency during the SEQRA public comment period. Full text of all comments is available in **Appendix A**.

**Comment #1:** Presently, 90% of the island is privately owned. The current zoning allows for significant re-development. Little has been achieved to fulfill the vision touted since the first edition of the BOA in 2012. What is the difference between the 2012 version and the updated version in 2018?

*Response: The North Tonawanda Brownfield Opportunity Area (NT BOA) Implementation Strategy and GEIS is part of the New York State Brownfield Opportunity Area program. This program is comprised of three steps. The Nomination Study, which is Step 2 of the program, for the NT BOA was completed in 2012. This study involved community visioning, an inventory and analysis of existing conditions, and established the Master Plan for the NT BOA (otherwise known as "NT Momentum"). The 2018 Implementation Strategy and GEIS refines this Master Plan and assesses environmental impacts as required by NYS State Environmental Quality Review. As part of the Implementation Strategy additional studies and analyses were undertaken to further develop proposed projects, understand opportunities and constraints, and facilitate implementation of recommended projects identified in the Master Plan.*

**Comment #2:** Who is going to administer the form-based code proposed in the 2018 BOA? Who will administer density bonuses? Code Enforcement Officers and Building Inspectors are not qualified to administer this type of zoning. The city should hire full-time professional urban planners to fulfill the vision, implement, guide development and enforce the proposed zoning of the BOA. This would be especially critical for the full build out of the plan's projections of population.

*Response: The City's existing zoning code is administered by the City's Code Enforcement Officer, who then submits received applications to the City's Planning Commission for review and approval. The City, in conjunction with the Lumber City Development Corporation, are confident in the administrative process proposed for the Downtown Form-Based Code.*

**Comment #3:** The proposed scale of development for the Tonawanda Island is too large for a mixed-use pedestrian oriented development. Very few buildings in the surrounding community are 4-stories. The scale should be revised to fit into the surrounding environment. In fact, 3-stories should suffice unless it is to be a terminating vista.

*Response: While some development on Tonawanda Island is proposed to be four stories in height, this proposal does not pertain to all portions. Feasible development will ultimately be decided based on future market demand and City approval of building structures and use. Many of the uses are limited to three stories in height as defined in the bulk and use table.*

**Comment #4:** The proposed scale is for auto-oriented development that is more appropriate to lower density suburban locations, and not urban locations such as the City of North Tonawanda. If you want to achieve higher density, remove auto oriented uses such as off-street surface parking lots (this is an

egregious violation of densified urban areas). Other auto-oriented uses that should be removed from the proposed zoning land uses include:

- Conference Convention Center
- Retail, Shopping Center
- Retail, Convenience
- Hotel/Motel
- Healthcare Facility, Outpatient

The proposed land uses on the Tonawanda Island should not compete with uses already existing in Tonawanda, Wheatfield (Niagara Falls Boulevard), or Niagara Falls especially if you want to draw tourists to a destination. They should provide alternatives to them.

*Response: The uses listed by the commenter are included in the proposed Waterfront District (WD) zoning revisions as "Special Permitted Uses". An applicant would have to submit an application for a special permit from the City Planning Commission in order to be granted a special permit for these particular uses. Additionally, the uses proposed for Tonawanda Island were determined based on community input and market demand for the area. The variety of uses also takes into consideration how uses could complement one another as part of a mixed-use redevelopment of significant scale and regional impact.*

**Comment #5:** The BOA does not include the matching funds required from the City of North Tonawanda to fulfill the provisions of the grant awards. It should do this for transparency and for consideration of future budgetary requirements of the city. Generalizations will not suffice.

*Response: The NYS BOA Program does not provide funding for projects identified in the NT Momentum Master Plan. The BOA program is a means of establishing a community vision and plan that will drive future development. The City of North Tonawanda will pursue funding and solidify budgeting on a project-by-project basis.*

**Comment #6:** The Bulk and Density schedule for the Tonawanda Island Zoning should not have setbacks which is inappropriate for high density mixed use development. Pedestrian oriented development should have zero lot lines where the building sets right on the front building lot line. There should be no side yards. Again, there should be no minimum parking requirements, no surface area lots and provision of on-street parking. If there are parking needs, this should be provided in vertical parking garages at the time parking demand requires it. What is proposed is appropriate for low-density suburban development. This will also help increase density without having to require variances.

*Response: The commenter is correct in that the reduction of setbacks and elimination of parking requirements contributes to a more walkable, dense pedestrian environment. However, while the redevelopment vision for the Waterfront District and Tonawanda Island is intended to encourage walkability and pedestrian access, minimal setbacks and side yards have been included to ensure consistency in development. For uses that support more pedestrian activity, including breweries, restaurants, retail uses, and mixed-use buildings, the setbacks and side yards range from 10-15 feet from the street, allowing for space between the building frontage and street for active public spaces and programming.*

**Comment #7:** Section (3)(a)[4] of Appendix G Waterfront District Zoning Revisions should be eliminated. Requested changes in setbacks should require a zoning variance(s) that goes through the normal process of the Zoning Board of Appeals (ZBA) since that is the body already delegated with the reviewing and approval power authorized by the city. The legislative body should not be taking on administrative review and approval power that it has already delegated to the ZBA. If you eliminate the setbacks, no variances are needed.

*Response: This section is specific to the administration of the incentive zoning. As defined, the setback changes would not be requesting a standard variance but could receive a reduced setback if they provided an incentive in return, such as additional open space or other incentive deemed equitable by the Common Council.*



**Comment #8:** Section (3)(a)[5] of Appendix G Waterfront District Zoning Revisions should be eliminated due to vagueness. Waivers of the requirements of the zoning law can be retained by the legislative body *only* when the reviewing authority is explicit or clearly defined within either the existing zoning law or the city charter. There is no authority under state law (General City Law §27-a, Site Plan review., No.5, Waiver of requirements.) for the city to undertake or supplement this authority unless it is explicit in the charter or zoning law (it is not). The city has already delegated approval authority to the Zoning Board of Appeals and Planning Commission.

The city council does, however, have the authority to empower either the zoning or planning reviewing boards to waive requirements of a site plan. They may, “empower an authorized board to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, shall be subject to appropriate conditions set forth in the local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of public health, safety and general welfare or in appropriate to a particular site plan.” However, the *waiver of requirements* by any reviewing board of any provisions within the city’s zoning law must be explicit within the zoning law under site plan review.

*Response: Section 2(a) of the Waterfront District defines this authority.*

**Comment #9:** Presently, New York State Department of Transportation is eliminating 5-lane roadways in preference to two lanes (one in each direction) with a center two-way left turn lane to accommodate bicycle lanes. This alternative should have been evaluated for the traffic analysis. In addition, the traffic data from 2014 is over three years old and should be updated before any traffic improvements are proposed for River Road. Finally, 5-lane highways are not pedestrian friendly and eliminates potential access by pedestrians and by bicyclists to the waterfront at Gratwick-Riverside Park and on the Tonawanda Island. Connections and access for bicyclists to the current bicycle trail system should be established and would provide a top-notch recreational tourist destination for the City of North Tonawanda.

*Response: The Traffic Analysis for this NT BOA Master Plan was completed in 2015 and utilized the most recent traffic data at that time. Additionally, feasible and safe alternatives for River Road were explored as alternatives in this traffic analysis. The traffic analysis took into account build out projections for the entire master plan vision, which is proposed over a 30-year planning horizon.*

**Comment #10:** If public sewer and water infrastructure does not exist to development sites, the City of North Tonawanda citizens should not be responsible for the cost of installation of new expensive services before development occurs. Development should only occur where sewer and water is already existing for infill and brownfield sites and not on raw undeveloped land. The city must ensure that taxpayers will not be burdened with the extra expense of extending these services to private development sites. This is especially important regarding the proposed installation of service along River Road to Gratwick-Riverside Park and sanitary sewer and electricity to Tonawanda Island.

*Response: If a developer proposes a specific development within the NT BOA that requires the expansion or new water or sewer infrastructure, the developer will bear the cost of any needed improvements. The master plan does not indicate that the cost burden of new infrastructure would fall on local residents and taxpayers.*

**Comment #11:** Again, projected and detailed cost estimates and financing for any public infrastructure must be transparent in the BOA report even where no matching is required by the City of North Tonawanda. This will give the city an idea of what "10 percent to 60 percent" matching requirement will cost the taxpayers. For example, a \$1 Million sewer and sanity service project will require \$600,000 from the city over a forecasted period. Therefore, the BOA should set reasonable performance standards to ensure that redevelopment funds are utilized within a certain period of time and in the manner intended by the BOA plan. Remember that the creation of temporary construction jobs is not sustainable for long-term economic vitality. Generalizations are not sufficient.

*Response: The NT BOA Master Plan identifies proposed infrastructure improvements and estimated costs for these improvements that may be needed to facilitate future development. In many instances, the project costs for specific improvements will not be known until final engineering designs are created and vetted. Since specific cost estimates are unknown and grant funding or financing for public infrastructure improvements are not secured, projected City matching funds cannot be provided in the NT BOA Master Plan.*