

**DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT  
FOR THE  
DRAFT LAWRENCE AVIATION INDUSTRIES LAND USE PLAN**



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**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>1.0 EXECUTIVE SUMMARY .....</b>	<b>1</b>
1.1 Description of the Action.....	1
1.2 Significant Beneficial and Adverse Impacts.....	2
1.3 Proposed Mitigation Measures.....	7
1.4 Alternatives Considered.....	8
1.5 Controversial Issues .....	8
1.6 Matters to be Decided .....	8
<b>2.0 PREFACE.....</b>	<b>9</b>
<b>3.0 DESCRIPTION OF THE PROPOSED ACTION.....</b>	<b>9</b>
3.1 Introduction.....	9
3.1.1 Project Location and Area Description.....	10
3.1.2 SEQRA Overview .....	12
3.1.3 Background of Proposed Action & Community Outreach .....	13
3.2 Purpose, Need and Benefits of the Proposed Action .....	15
3.3 Objectives of the Town.....	16
3.4 Approvals Required .....	17
3.5 Consistency with Applicable Plans and Laws .....	17
3.5.1 Long Island Comprehensive Waste Treatment Management Plan (208 Study) .....	18
3.5.2 Port Jefferson Station-Terryville Building Moratoria.....	19
3.5.3 Comsewogue Hamlet Comprehensive Plan, Lawrence Aviation Site .....	19
3.5.4 Port Jefferson Station Commercial HUB study & the Upper Main Street Port Jefferson Village Revitalization Plan.....	21
3.5.5 Suffolk County Comprehensive Plan 2035 .....	22
3.5.6 Town of Brookhaven 1996 Comprehensive Plan.....	22
<b>4.0 ENVIRONMENTAL SETTING, ANTICIPATED IMPACTS AND MITIGATION MEASURES .....</b>	<b>23</b>
4.1 Land Use and Zoning .....	23
4.1.1 Environmental Setting.....	23
4.1.2 Future Conditions without the Proposed Action.....	24
4.1.3 Future Conditions with the Proposed Action.....	25
4.1.4 Mitigation Measures .....	26
4.2 Geology and Hydrogeology .....	26
4.2.1 Environmental Setting.....	26
4.2.1.1 Geology and Soils .....	27
4.2.1.2 Topography and Drainage.....	31

4.2.1.3	Groundwater.....	32
4.2.2	Future Conditions without the Proposed Action.....	34
4.2.3	Future Conditions with the Proposed Action.....	34
4.2.4	Mitigation Measures .....	34
4.3	Surface Water and Wetlands.....	35
4.3.1	Environmental Setting .....	35
4.3.2	Future Conditions without the Proposed Action.....	36
4.3.3	Future Conditions with the Proposed Action.....	36
4.2.4	Mitigation Measures .....	36
4.4	Natural Resources .....	37
4.4.1	Environmental Setting.....	37
4.4.1.1	Rare, Threatened and Endangered Species .....	38
4.4.1.2	Aesthetic Qualities and Scenic Vistas.....	39
4.4.2	Future Conditions without the Proposed Action.....	40
4.4.3	Future Conditions with the Proposed Action .....	40
4.4.4	Mitigation Measures .....	41
4.5	Economic Conditions.....	41
4.5.1	Economic Setting .....	41
4.5.2	Future Conditions without the Proposed Action.....	43
4.5.3	Future Conditions with the Proposed Action.....	43
4.5.4	Mitigation Measures .....	43
4.6	Community Services and Facilities.....	43
4.6.1	Environmental Setting.....	43
4.6.2	Future Conditions without the Proposed Action.....	44
4.6.3	Future Conditions with the Proposed Action.....	44
4.6.4	Mitigation Measures .....	45
4.7	Transportation.....	45
4.7.1	Environmental Setting.....	45
4.7.2	Future Conditions without the Proposed Action.....	47
4.7.3	Future Conditions with the Proposed Action.....	48
4.7.4	Mitigation Measures .....	49
4.8	Noise .....	49
4.8.1	Environmental Setting.....	49
4.8.2	Future Conditions without the Proposed Action.....	50
4.8.3	Future Conditions with the Proposed Action.....	50
4.8.4	Mitigation Measures .....	51
4.9	Community Character.....	51
4.9.1	Environmental Setting.....	51
4.9.2	Future Conditions without the Proposed Action.....	52
4.9.3	Future Conditions with the Proposed Action.....	52
4.9.4	Mitigation Measures .....	53
4.10	Scenic, Historic and Archaeological Resources.....	53
4.10.1	Environmental Setting.....	523

4.10.1.1	Historic and Cultural Resources.....	54
4.10.1.2	Archaeological Resources.....	54
4.10.2	Future Conditions without the Proposed Action.....	55
4.10.3	Future Conditions with the Proposed Action.....	55
4.10.4	Mitigation Measures .....	55
4.11	Energy.....	56
4.11.1	Environmental Setting.....	56
4.11.2	Future Conditions without the Proposed Action.....	56
4.11.3	Future Conditions with the Proposed Action.....	57
4.11.3.1	Proposed Solar Energy Production Facility and Development.....	57
4.11.3.2	Analysis of Public Concerns and Expected Impacts.....	59
4.11.4	Mitigation Measures .....	64
<b>5.0</b>	<b>UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS .....</b>	<b>64</b>
<b>6.0</b>	<b>IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES .....</b>	<b>65</b>
<b>7.0</b>	<b>GROWTH INDUCEMENT.....</b>	<b>66</b>
<b>8.0</b>	<b>ALTERNATIVES CONSIDERED .....</b>	<b>68</b>
8.1	Alternative 1 – No action.....	68
8.2	Alternative 2 – Total Preservation by Government Entities .....	69
<b>9.0</b>	<b>FUTURE ENVIRONMENTAL REVIEW.....</b>	<b>70</b>

**APPENDICES**

- Appendix A:** Labeled Study Area Map
- Appendix B:** Full Environmental Assessment Form
- Appendix C:** Adopted Positive Declaration
- Appendix D:** Aquifer Schematic
- Appendix E:** Existing Zoning Map
- Appendix F:** Soils Map
- Appendix G:** Outlying Parcel Soil Borings and Findings
- Appendix H:** Topographic Map
- Appendix I:** CDM Contour Map Depicting Sub-soil Location of Plume
- Appendix J:** Historic Aerial Maps
- Appendix K:** Wetlands Map
- Appendix L:** NYSDOT Greenway Multi-use Trail Pamphlet
- Appendix M:** SPLIA worksheets for Flannery Home and Greek Orthodox Church
- Appendix N:** Archaeologically Sensitive Areas Maps
- Addendum: Traffic Impact Study**

## **1.0 Executive Summary**

### **1.1 Description of the Action**

The Study Area encompasses approximately 156-acres of parcels in varying ownership which comprise the collectively known “Lawrence Aviation Industries” study area. Additionally, the Land Use Plan identified adjacent parcels which are affected by the plume. These areas are being recommended for a “transition area” for an overlay district that will contain certain provisions designed to protect the health, safety and neighborhood of the residents and business owners.

The goals of the Lawrence Aviation Industries Land Use Plan (LAI LUP) are to be protective of the environment and residents, while returning the study area to productive industrial use. This will be achieved by clustering industrial development on parcels north of the NYSDOT multi-use path, protecting nearby residential development from potential adverse impacts, and limiting permitted industrial uses; while encouraging green energy production.

The Plan proposes the following strategies to accomplish these goals:

1. Rezone six (6) parcels (IV, V, VI, VII, X and XI as shown in Appendix A) totaling 81.36-acres to Light-Industrial-1 (L1), thereby eliminating the potential for future residential uses on parcels within the Superfund designated area. These parcels are currently zoned B-1 Residence, or split-zoned Light-Industrial-1/B-1 Residence which could permit up to 81-single family homes to be constructed.
2. Create a Lawrence Aviation Industries Overlay District as a mechanism to control uses, encourage green energy uses, establish residential development standards for certain adjacent parcels and to provide innovative planning tools to encourage both light-industrial redevelopment and substantial preservation of natural vegetation.
3. Restrict certain currently permitted uses in the Light-Industrial-1 District from the LAI site. The uses to be prohibited include:
  - a. Agricultural;
  - b. Church, or similar place of worship;
  - c. Day Care Facility;
  - d. Non-motorized Recreational Activities.
4. Eliminate certain currently permitted Planning Board Special Permit uses in the Light-Industrial-1 District from the LAI site. The Special Permit uses to be eliminated include:
  - a. Assembly and social recreation hall or dance hall;
  - b. Kennels;

- c. Non-degree granting sports instruction/programs, including dance, gymnastics, self- defense, and swimming (note: non-degree granting instruction/programs associated with manufacturing or professional driver training are permitted);
  - d. Public, private school or parochial school;
  - e. University or College.
5. Require soil and volatile organic chemical (VOC) testing, and as warranted, soil and/or VOC remediation to ensure safety at the site;
  6. Create an LAI Residential Transition Area with performance standards:
    - a. Require advisory notices on Certificate of Occupancy's of residential property down gradient of the LAI site.
    - b. Encourage at-grade construction for all new residential development, or require EPA approved mitigation measures for new basements (as part of a newly constructed house).
  7. Permit transfer-of-development yield, including both sanitary, FAR (floor area ratio) and clearing, between industrially-zoned parcels to encourage clustering and habitat preservation;
  8. Provide incentives for green energy production, particularly solar energy to include:
    - a. Permitted with a Planning Board Special Permit at time of site plan review;
    - b. Increase allowable security fence heights (from 6 to 10');
    - c. Allow unpaved areas to be considered suitable for stormwater containment;
    - d. Expedited Environmental Review;
    - e. Environmental impacts analyzed in LAI LUP GEIS;
    - f. Increased lot coverage limits (from 60% to 75%);
    - g. Permit clearing of natural vegetation for solar arrays.
  9. Maintain Light-Industrial-1 (L1) zoning on contiguous parcel XII.

## **1.2 Significant Beneficial and Adverse Impacts**

The Plan contains recommendations to proactively address current issues with the LAI Site and surrounding area in an effort to encourage cohesive and conscious re-development of a Superfund site while limiting the potential impacts to neighboring parcels. The crux of the overall plan involves re-zoning some residentially zoned parcels on-site to industrial and offering incentives for specific types of development, while encouraging redevelopment of tax-negative parcels and creating jobs. The implementation of the Lawrence Aviation Industries Land Use Plan is expected to have a number of environmental and land use benefits, particularly when compared to

anticipated conditions under current conditions and past abuse on-site. These benefits include:

- **Re-zonings:** The creation of cohesive zoning across the LAI study area by eliminating areas of B-Residential-1 south of the greenway trail and allowing the existing B-1 zoning contained on Parcel VI to be appropriately developed despite the presence of “split-zoning”.
- **Green Energy:** Creating an overlay district with incentives for “green” energy uses on-site; namely the development of a solar energy production facility.
- **Mitigation Measures:** Requiring newly developed or substantially redeveloped residential properties located over the plume to be constructed in a manner that mitigates any potential impacts resulting from the existing plume and provide adequate buffers to existing residential developments.
- **Redevelopment:** Re-vitalization of vacant and derelict industrial property, creating jobs and returning the parcels to a tax-positive position.
- **Preservation:** By clustering development north of the greenway trail, a significant portion of woodlands will be preserved for habitat, scenic vistas and visual/auditory buffers for neighboring parcels.

Adverse impacts are expected to be minimal and mitigated. The potential for negative impacts are mostly associated with land clearing from re-development of the various parcels which will remove existing forest (approximately 40-50 years old, based on historic aerial imagery). Depending on the type of development which occurs on-site, sanitary flow may increase dramatically, however any sanitary flow beyond what is allowed in Groundwater Management Zone I by the SCDHS would need to be sufficiently mitigated, likely through the construction and operation of a state-of-the-art sewage treatment plant which would have the potential to accept flow from other, existing developments nearby.<sup>1</sup>

The DGEIS addresses potential benefits and adverse impacts in the following specific topic areas:

*Land Use and Zoning* – Changes to underlying zoning are expected to have a minimal impact on the environment. Certain parcels within the study area have been declared a Superfund site and are in the process of being cleaned up;

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<sup>1</sup> Additionally, sanitary credits could be transferred from the two (2) southern properties, with the remaining sterilized land being donated to the Town of Brookhaven and/or Suffolk County for open space purposes.

however the cleanup is only being certified to industrial standards, not residential. It should be noted that Parcel VI was never owned, controlled or used by Lawrence Aviation Industries, and as such the parcel is not subject to a cleanup, which is why the residential zoning on Parcel VI is being proposed to remain. Since the parcels are located within the same groundwater management zone, any increases in sewage flow beyond what is permitted will require connection to an STP, or transfer of sanitary credits.

Geology and Hydrogeology – No negative impacts are expected to occur to geology and hydrogeology. Groundwater beneath the site is currently being treated by the USEPA through a series of pump-and-treat wells in an effort to reverse the impacts of past dumping on-site. Any re-development of the parcels which contain varied topography will require the submission of a Soil Management Plan (SMP) to ensure no impacts will be made to existing cleanup infrastructure and to ensure the parcels are not mined for sand and subsequently abandoned.

Surface Water and Wetlands – No impacts are expected to surface water and wetlands. There is one (1) wetland onsite (Flannery pond); however it is located on a parcel encumbered with an occupied single family dwelling. Any developments within the adjacent area will be required to maintain adequate buffers.

Natural Resources – These resources will be impacted if re-development of wooded areas occurs. While the majority of woodlands on-site are between 40 and 50 years old (the majority of the site was previously cleared for agricultural purposes), habitat would still be impacted. It is not expected that the site is utilized by endangered/threatened/special concern species, with the exception of two (2) species of hawks (*Cooper's Hawk* and *Sharp-Shinned Hawk*) which may hunt or nest on-site. The LUP does recommend that the property south of the greenway trail (approximately 50 acres) be left in its natural state, which will permanently preserve this woodland which is connected to the adjacent Suffolk County park (currently undeveloped) via the greenway trail and the LIPA ROW.

Economic Conditions – Without the implementation of the plan, economic conditions for the site are expected to remain the same, with a heavily tax-negative situation. With the adoption of the LUP, it is expected that industrial and related jobs will be created and new businesses will be established on-site, increasing the economic conditions for the site and surrounding area.



Community Services and Facilities – The types or levels of usage of the area’s services or facilities are not anticipated to be impacted by this Action. The proposed LUP recommends that the B-Residential-1 zoning remain on Parcel VI and as such, it is expected that approximately 14 homes will be constructed<sup>2</sup>. While the construction of new homes would require additional demand on local services, the taxes generated would be expected to offset any fiscal impacts. Additionally, this area of residential zoning currently exists, and as such the LUP does not propose residential development in addition to what is currently allowable.

As the LUP calls for industrial development, no negative impacts are expected to community services and facilities. Additionally, if the properties turn tax-positive, the community services and facilities will likely benefit from added tax dollars. If the various sites are fully developed, it is expected that the LIRR will see an increase in usage from employees, and the Suffolk County bus may benefit as well.

Transportation – Re-development of the LAI study area will likely result in significant increases in traffic from present levels to and from the site. As there is currently only one (1) means of egress and ingress from the study area, traffic flow along Sheep Pasture road may be impacted. A traffic impact study has been prepared by an outside consulting firm, analyzing a variety of scenarios, including the addition of access points to the various parcels. Additionally, with the presence of the greenway trail and the close proximity to the LIRR train station and bus routes, it is expected that employees will utilize multiple modes of transportation to get to and from work, lessening impacts to the local roadways. Furthermore, the LUP does incentivize green development of the site (solar energy production facility) which would result in little changes in traffic flow over existing conditions.

Noise – Bringing industrial uses back to the LAI parcels (which have essentially be dormant for a decade) will result in noise generation from increased traffic, construction, outdoor storage of materials and related industrial activities. However, it is possible that the study area could be developed for green energy (solar) which would result in virtually no noise being generated. Additionally, some industrial uses (mini-storage, office space) would generate very little noise. Any development on-site and adjacent to residential areas would require

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<sup>2</sup> The number of homes constructed is dependent upon a variety of factors and the number 14 is a rough estimate based upon current information available to the Division of Planning. Any residential subdivision and subsequent development on this site will be subject to approval by the Planning Board and appropriate public notifications and hearings.

significant visual and auditory buffers which would significantly mitigate noise pollution to adjacent properties.

Community Character – The zone changes of the southern-most parcels are not expected to have any impact on the community character as these properties currently have no access and are not expected to be developed. While the resultant industrially zoned area is expected to be developed fully with industrial uses (or a solar energy production facility), this change is not expected to have negative impacts. The local community, through the LUP and moratorium process, has expressed a desire to maintain the B-1 zoning on Parcel VI and to have the complex developed as a solar energy production facility.

Historic and Cultural Resources – The site contains no known archeological resources and is not in an archeologically sensitive area. Historic and Cultural resources are limited to an existing 1920's home (Flannery House) and a nearby Greek Orthodox Church. No impacts are expected to either of these buildings as a result of the LUP.

Energy – Potential impacts to energy for the site vary drastically depending on the final outcome of the developed site. If the site is developed for green energy, such as a solar energy production facility, the site will be energy positive, meaning it will create electricity for the grid. If the site is fully developed as an industrial park, with manufacturing and other energy dependent uses, the site will require a significant amount of energy. The site also has the potential to be developed with a mix of industrial uses and on-site electric generation (through small solar arrays, and/or fuel cells). Incentives are proposed that would help facilitate use of the site as a green electric generating facility through the implementation of an overlay district. Recent information provided by the local utility company has indicated that the region has sufficient energy to meet any demands created by the site, even if it is fully developed.

While concerns have brought to the Town's attention regarding other utility scale solar energy production facility projects in the Town, extensive and thorough research has shown that no negative impacts to human health and safety would result from development of a solar energy production facility within the LAI complex.<sup>3</sup>

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<sup>3</sup> Archived records of public comments on the project known as "SPower" in Shoreham are available from the Town Clerk upon request.

### 1.3 Proposed Mitigation Measures

Land Use and Zoning - All parcels which receive a change of zone will still be obligated to meet the requirements of the Suffolk County Department of Health Services. No further mitigating measures are required.

Geology and Hydrogeology – Any proposed developments which seek to disturb the ground will be required to submit a Soil Management Plan to ensure the site will not be stripped of sand and/or disturb existing pump-and-treat infrastructure.

Surface Water and Wetlands – Any proposed developments within 150 feet of the existing pond will be required to maintain adequate vegetated and covenanted buffers.

Natural Resources – The parcels south of the greenway trail are proposed to be preserved with their development rights (sanitary, clearing and FAR) transferrable to other parcels within the study area. Adequate natural and vegetated buffers will be required to be maintained adjacent to the greenway trail and surrounding residential areas.

Economic Conditions – No mitigation measures are proposed, as no adverse impacts to traffic/transportation have been identified.

Community Services and Facilities - No mitigation measures are proposed, as no adverse impacts to traffic/transportation have been identified.

Transportation – A connection from the greenway trail to the site will be provided for appropriate development to facilitate “green” commuting from the study area to surrounding neighborhoods and the train station/bus stops. Additionally, a traffic impact study was prepared (by an outside consulting firm) which provides detailed mitigation measures and potential traffic scenarios.

Noise – Adequate and appropriate vegetated buffers will be required to be maintained between any proposed development and existing neighboring residential areas.

Community Character - No mitigation measures are proposed, as no adverse impacts to the community character have been identified.

Historic and Cultural Resources – The LUP proposes that if and when the residential use on the Flannery property is abandoned that re-development of the

site should re-use or move the existing home which has historical and architectural value.

Energy – The LUP contains incentives (an overlay district) aimed at bringing green energy uses to the site (solar energy production facility) which would make the site energy positive.

#### **1.4 Alternatives Considered**

The DGEIS considers several alternatives to the proposed Land Use Plan and analyzes these alternatives. The alternatives explored are as follow:

Alternative 1: No Action – This alternative assumes that the Land Use Plan would not be adopted and that the existing zoning would remain in place.

Alternative 2: Total Preservation by Government Entities – This alternative assumes that government entities (federal, state, county and/or Town) would assume ownership of the parcels within the study area and allow them to be preserved in their natural state. With respect to the developed portions of the site, re-vegetation and remediation would be needed in order to allow passive recreation. It is not expected that all of the parcels would be used for active recreation, without significant additional remediation and/or additional environmental studies due to past practices on-site and cleanup standards as set by the USEPA for the majority of the parcels within the complex.<sup>4</sup>

#### **1.5 Controversial Issues**

The proposed Land Use Plan was largely crafted by area residents whose input guided the Town of Brookhaven. As such, very few of the proposals and recommendations within the Land Use Plan are expected to be controversial issues. However, re-zoning of private property generally creates some controversy for property owners and community members. Furthermore, as evidenced within the FGEIS, area residents are concerned about potential industrial uses that could occur on-site. Specifically, residents question potential impacts related to noise, odors and removal of naturally vegetated buffers. Many of these concerns are addressed in this document and/or the FGEIS.

#### **1.6 Matters to be decided**

As the Land Use Plan is a Town of Brookhaven action and does not propose the alteration of any lands or wetlands, nor does it propose the construction of specific facilities, there are no associated permits required for the Land Use Plan. However, an overlay district is proposed in conjunction with this Land Use Plan and the LUP

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<sup>4</sup> Note that Parcel VI, owned by RCS Management, has no liens and is privately owned and thus would need to willingly enter into an agreement with a government entity in order to sell.

recommends the re-zonings of certain properties. As this document is a *generic* EIS, any development not covered in the scope of this document will require a supplemental EIS to be prepared.<sup>5</sup>

## **2.0 PREFACE**

First and foremost it should be realized that this Draft Generic Environmental Impact Statement (DGEIS) is not a document separate from the *Draft Lawrence Aviation Industries Land Use Plan*. Instead, the *Draft Lawrence Aviation Industries Land Use Plan* is an integral part of the DGEIS and these two documents taken together should be considered as the complete DGEIS.

More specifically, the *Draft Lawrence Aviation Industries Land Use Plan* contains a detailed discussion of the existing conditions, natural resources and past development patterns, as well as the Plan's purpose and goals. These aspects of the Plan represent the typical State Environmental Quality Review Act (SEQRA) Environmental Impact Statement sections "Description of the Action" and "Environmental Setting". The DGEIS document contained herein builds upon that information by adding the mandatory SEQRA sections of "Executive Summary," "Significant Adverse Environmental Impacts," "Mitigation Measures," and "No Action Alternative." Therefore, taken together, these two documents represent the complete DGEIS.

## **3.0 DESCRIPTION OF THE PROPOSED ACTION**

### **3.1 Introduction**

The Lawrence Aviation Industries (LAI) Land Use Plan is the next step in a series of Town sponsored planning efforts completed since 2008 to better coordinate future land use planning in Port Jefferson Station.

The Brookhaven Town Board, adopted a one (1) year building moratorium (Chapter 17-I) in August of 2007 to allow sufficient time for a Comprehensive Plan to be developed for the Terryville-Port Jefferson Station community. The moratorium covered the most at-risk parcels in the hamlet, including the Lawrence Aviation site which had ceased manufacturing operations in March 2004.

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<sup>5</sup> The development of a solar energy production facility on any of the proposed parcels, in accordance with any overlay district requirements, would not need additional environmental review as the project is thoroughly contemplated within this document. If the proposal incorporates elements not explored in this document, additional environmental review may be required.

Immediately following the adoption of the Moratorium, Dr. Lee E. Koppelman was hired by the Town to develop a Comprehensive Land Use Plan for the hamlet. The final Comsewogue Hamlet Comprehensive Plan was completed within one (1) year and accepted by the Town Board in September 2008. Included was a detailed analysis of existing conditions and an extensive community survey. The survey was designed to distill a future community vision for the hamlet and to inform future planning decisions by the Town. The Plan Lawrence Aviation Industries recommended preservation first and secondly, consideration of a future planned office complex together with a significant portion of land dedicated for park and open space purposes, provided that all environmental concerns were addressed.

- In December of 2009, the Town Board enacted a second building moratorium (Chapter 17-J) in the Port Jefferson area for twenty-one (21) specific parcels which had been recommended for changes of zone or additional study by the 2008 Comsewogue Hamlet Comprehensive Plan. Lawrence Aviation Industries was included in the moratorium.
- In December 2010, the Town Board extended the Chapter 17J building moratorium for the Lawrence Aviation Industries site until December 2012 to allow a Land Use Plan to be developed.
- In January 2013, the Town Board extended the building moratorium (Chapter 17-J) for two (2) additional years or until January 18<sup>th</sup>, 2015 so a detailed Land Use Plan and Generic Environmental Impact Statement (GEIS) could be completed.

### **3.1.1 Project Location and Area Description**

The 156-acre Lawrence Aviation Industries (LAI) Superfund site is located in the north-central portion of the unincorporated hamlet of Port Jefferson Station, Town of Brookhaven, New York. The study area is located on the south side of Upper Sheep Pasture Road, approximately 2/5 of a mile west of the intersection of NYS Route 112 and Hallock Avenue. This plan addresses the LAI Superfund site, as well as adjacent parcels associated by ownership or potential groundwater threats. The parcels in the study area have been identified with roman numerals and will be referred to thorough-out the document by these numerals and/or the associated tax map number.

Base Map Location, Tax Map Number, Acreage & Zoning				
Lawrence Aviation Industries & Contiguous Parcels				
<u>Base Map</u>	<u>SCTM</u>	<u>Acreage</u>	<u>Zoning</u>	<u>Ownership</u>
I	159-2-019	33.67	L1	LAI
II	159-1-026	2.5	L1	LAI
III	159-2-8.1	0.69	L1	LAI
IV	159-2-22	0.32	L1/B1	LAI
V	159-2-8.3	3.06	L1/B1	RCS
VI	159-2-8.2	22.51	L1/B1	RCS
VII	159-2-21	2.75	L1/B1	Flannery
VIII	136-2-22	13.61	L1	LAI
IX	159-2-20	24.62	L1	LAI
X	180-4-2	47.51	B1	LAI
XI	180-4-1	5.21	B-1	LAI
		156.45		
XII	159-1-21.1	21.54	L1	Chip It All
<b>Total</b>		<b>177.99</b>		
<b>Residential Overlay District</b>				
XIII	62 parcels See Attachd	35.39	B-1	Various

Table 1: Lawrence Aviation Industries Study Area Parcels

Figure 1: Lawrence Aviation Study Area Aerial



### 3.1.2 State Environmental Quality Review Act (SEQRA) Overview

The action is the preparation by the Town of Brookhaven and adoption by the Town of Brookhaven Town Board of the Lawrence Aviation Industries Land Use Plan. This is a Type I Action pursuant to Chapter 80 of the Town Code and Section 6 *NYCRR Part 617.4, (b), (1) [the adoption of a land use plan] and (2) [changes in uses affecting 25 or more acres are anticipated]*. The action is subject to SEQRA, and the Town Board of the Town of Brookhaven assumed lead agency status and adopted a positive declaration on July 15, 2014, which requires the preparation of a Draft Generic Environmental Impact Statement (DGEIS) (*See Appendix B: Long Environmental Assessment Form and Appendix C: Positive Declaration of Environmental Significance*).

As set forth in 6 *NYCRR Part 617.10(a) [Generic Environmental Impact Statement]*, a DGEIS may be used to assess the environmental impacts of one or more of the following:

- A number of separate actions in a given geographic area which, if considered singly, may have minor impacts, but if considered together may have significant impacts.
- A sequence of actions contemplated by a single agency or individual.
- Separate actions having generic or common impacts.
- An entire program or plan having wide application or restricting the range of future alternative policies or projects, including new or significant changes to existing



land use plans, development plans, zoning regulations or agency comprehensive resource management plans.

As set forth in 6 NYCRR Part 617.10(d), when a Final Generic EIS has been filed:

- “(1) No further SEQR compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the Generic EIS or its findings statement;
- (2) An amended findings statement must be prepared if the subsequent proposed action was adequately addressed in the Generic EIS but was not addressed or was not adequately addressed in the findings statement for the Generic EIS;
- (3) A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the Generic EIS and the subsequent action will not result in any significant environmental impacts;
- (4) A supplement to the final Generic EIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the Generic EIS and the subsequent action may have one or more significant adverse environmental impacts.”

Future stages of this review include: lead agency review and acceptance of this DGEIS with respect to contents and adequacy; Coordinated Review with involved agencies; a public hearing on the DGEIS; preparation of a Final GEIS (FGEIS), which responds to agency and public comments received during the DGEIS review period; preparation and acceptance of a Findings Statement by the Lead Agency (including issues addressed by involved agencies), and the Town Board decision on the proposal, after their review of the FGEIS and in consideration of the contents of the Findings Statement.

### **3.1.3 Background of Proposed Action and Community Outreach**

This Land Use Plan is the next step in a community planning process and moratorium process that began in 2007 in an effort to better coordinate future land use planning in Port Jefferson Station. The Town of Brookhaven Town Board adopted a one (1) year moratorium in August of 2007 to allow sufficient time for a Comprehensive Plan to be developed for the Terryville-Port Jefferson Station community. The moratorium covered the most at-risk parcels in the hamlet, including the Lawrence Aviation site which had ceased manufacturing operations in March of 2004.

After the moratorium was adopted, Dr. Lee E. Koppelman was hired by the Town to develop a Comprehensive Land Use Plan for the hamlet. The final Comsewogue Hamlet Comprehensive Plan was completed within one (1) year and was accepted by the Town Board in September of 2008. Included was a detailed analysis of existing conditions and

an extensive community survey. Building moratoriums were extended several times cover the Lawrence Aviation study area and the final moratorium is coming to a close at the end of 2014.

On August 6, 2013, the Town Board established a Citizens Advisory Committee (CAC) to provide input and guidance in the preparation of the Lawrence Aviation Land Use Plan, and to ensure that the resulting plan is compatible with community needs and desires.

The Citizens Advisory Committee is composed of representatives from the following community institutions:

- Port Jefferson Station-Terryville Civic Association
- Terryville Fire District/Department
- Comsewogue School District
- North Brookhaven Chamber of Commerce
- Comsewogue Historical Society

In addition to representatives from the above local institutions, the Town Board appointed ex-officio representatives to the Committee from local agencies which have been involved in enforcement and remediation at the Lawrence Aviation site, or which otherwise have an interest in the site as follows:

- Office of the Supervisor, Town Of Brookhaven
- Law Department, Town Of Brookhaven
- Brookhaven Town Council, 1<sup>st</sup> District
- United States Environmental Protection Administration
- New York State Department of Environmental Conservation
- Suffolk County Department of Health Services
- Village of Port Jefferson
- Suffolk County Treasurer's Office
- Long Island Railroad/Metropolitan Transportation Authority

Finally, to ensure that all local elected officials were kept up to date on the planning for the site, ex-officio representatives were appointed to the Committee from the following Offices:

- Office of US Congressman Timothy Bishop
- Office of NYS Senator Kenneth P. LaValle
- Office of NYS Assemblyman Steven Englebright
- Office of the SC Legislator Kara Hahn

The Citizens Advisory Committee met on five (5) separate occasions, from September 2013 to January 2014 to develop recommendations for future uses at the Lawrence Aviation site which were in concert with community needs and expectations, and complied with the EPA's Record of Decision (ROD), the Comsewogue Hamlet Comprehensive Plan, and the Town's Adopted 1996 Comprehensive Plan. The Committee met at Brookhaven Town Hall on the following dates:

- September 5, 2013
- October 9, 2013
- November 13, 2013
- December 11, 2013
- January 29, 2014

Summaries were compiled for each of the above Meetings and are provided as an appendix to the Land Use Plan. The summaries provide a written record of the agenda, presentations, and deliberations of each meeting, the various alternative future uses which were explored for the site, and the recommendations for inclusion in the resulting Land Use Plan.

Lastly, a Public Forum was held in February of 2014 at the Comsewogue Public Library to provide an opportunity for residents to learn about the Draft Plan. Town staff provided a power point presentation at the forum summarizing the work of the Citizens Advisory Committee and the major recommendations of the Plan and answered questions from the community.

### **3.2 Purpose, Need and Benefits of the Proposed Action**

The Lawrence Aviation Land Use Plan is the end product of a series of moratoria over the past seven (7) years. What began as a key component in an overall development study within a region has evolved into a specific and comprehensive plan to return a Superfund site to a productive industrial area - providing jobs and taxes to the region while protecting the underlying environment. Without the Land Use Plan, or the previous moratoria, development of the various parcels within the study area could have resulted in haphazard development, clearing of important natural vegetation, disruption of cleanup efforts by the USEPA and NYSDEC and could have further hampered efforts to actively re-develop the former factory parcel. Additionally, incompatible uses (such as residential) could have potentially occurred due to existing residential zoning.

The Town of Brookhaven, in connection with various community groups, volunteers, citizens and professionals have understood the need to consciously plan for re-development of the study area and all agree that there are numerous benefits which may result from a successful plan. These benefits include, but are not limited to:

- Encouraging removal of existing blighted structures;
- Encouraging re-development of the various parcels;
- Permanent protection of approximately 50 acres of woodland, located south of the greenway trail;
- Protection of vegetative buffers between the study area and adjacent residential parcels;
- Return of a tax-positive position for the various parcels, which are currently tax-negative;
- Jobs creation and increased tax base for the community;
- Creation of an overlay district to protect the area from inappropriate uses;
- Creation of an overlay district which encourages solar energy development;
- Removal of the stigma associated with the sites Superfund status.

While it may take several years after adoption of the LUP for changes to begin within the study area, it is expected that the overall impact of the LUP will be positive for the various parcels in the study area as well as the surrounding community.

### **3.3 Objectives of the Town**

The Land Use Plan is designed to address a number of objectives that have been identified by the Town of Brookhaven and the public throughout the planning and moratoria process. The Town of Brookhaven understands the potential for successful re-development of the site, however, at the same time the Town is keenly aware of the potential for problems to arise as a result of uncoordinated planning efforts and a lack of oversight. As such, the Town has several objectives with the proposed LUP, which include, but are not limited to:

- Successful re-development of the LAI study area with new industrial uses;
- Encouraging responsible redevelopment and preservation of the former site;
- Provide incentives for solar energy production as a sole use, or in conjunction with industrial uses;
- Protection of the quality of life of adjacent residential districts;
- Allowance for existing B-Residential-1 zoning on Parcel VI to be developed;
- Providing guidelines for the transfer-of-development yield, sanitary density, FAR<sup>6</sup> and clearing, among industrially-zoned parcels to encourage clustered development and habitat preservation;
- Clarify uses which are allowable and appropriate with respect to USEPA cleanup standards;

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<sup>6</sup> FAR stands for Floor-Area-Ratio. An increase in FAR would allow for a building on-site to be larger than normally allowed under existing code.

- Regulate new residential construction, via a transition area, to protect the health and safety of residents.

### **3.4 Approvals Required**

The following permits, approvals, or reviews by involved agencies are required to undertake the subject action:

- Suffolk County Planning Commission (SCPC) review;
- Town Board completion of the SEQR process;
- Town Board approval and adoption of overlay district and re-zonings.

Suffolk County Planning Commission (SCPC) review is required pursuant to General Municipal Law. The SCPC will review for any adverse impacts on the state, county, or adjoining municipality (i.e., the region), and will adopt a resolution containing its findings and issue a written recommendation to the Town Board. If the SCPC recommends denial, or submits to the Town its conditional approval of the action, the Town must accept the decision or achieve a supermajority vote of the Town Board, including documentation of its findings to override the recommendation for denial or condition(s) of approval and go forward with the action. Following the adoption of the Land Use Plan, the Town Board can adopt the rezoning proposed by the Land Use Plan.

The proposed changes of zone will be open for discussion at a public hearing, at which time the merits of each change of zone will be considered. The granting of a change of zone is the sole responsibility of the Town of Brookhaven. However, under New York State General Municipal Law, the proposed changes of zone will be submitted to the Suffolk County Planning Commission for review. Development under a change of zone will need to conform to all Town, County, and New York State requirements. In addition, this DGEIS will be subject to a public hearing and a written comment period, which could result in new analyses or changes in the proposed action. Only after all of the comments received on the changes of zone and the DGEIS are evaluated will decisions be rendered regarding each of the proposed changes of zone.

### **3.5 Consistency with Applicable Plans and Laws**

The Town of Brookhaven Town Board, through its legislative powers and lead agency status, is responsible for ensuring that the proposed action complies with applicable laws such as SEQR and previously adopted plans. Therefore, the proposed action has been reviewed for consistency with the following plans:

1. Long Island Comprehensive Waste Treatment Management Plan (208 Study)
2. Suffolk County Comprehensive Plan 2035
3. Town of Brookhaven 1996 Comprehensive Land Use Plan

#### 4. Draft Town of Brookhaven 2030 Comprehensive Land Use Plan

##### **3.5.1 Long Island Comprehensive Waste Treatment Management Plan (208 Study)**

In 1978, The Long Island Comprehensive Waste Treatment Management Plan was prepared by the Long Island Regional Planning Board (LIRPB) pursuant to Section 208, the Federal Water Pollution Control Act (thereby referred to as “the 208 Study”), in an effort to protect Long Island’s sole-source aquifer. Long Island was divided into eight different Hydrogeologic zones, and specific residential densities for zones that have critical areas of deep recharge were suggested. The zones were formally established and codified in Article 6 of the Suffolk County Sanitary Code to protect Suffolk’s underground aquifers through strict minimum lot sizes and density standards for development.

The study area is located within Hydrogeological Zone I of the Suffolk County Department of Health Services (SCDHS) Groundwater Management Zones. Hydrogeological Zone I is characterized as a deep flow system and contributes primarily to the middle and lower portions of the Magothy Aquifer which is the primary source for Drinking Water in the area.<sup>7</sup> Groundwater and surface water inputs flow directly down into the aquifer where they then move north toward the Long Island Sound, as depicted in Appendix D. In order to protect the water quality and resources of the aquifer and Long Island Sound, pollutants and inputs of harmful elements such as nitrogen must be controlled and minimized. The previous dumping which occurred on-site is emblematic of the problems which can result from pollution in deepwater recharge areas as pollutants made their way from the subject site to Long Island Sound. This pollution impacted a freshwater pond, resulted in drinking wells being taken offline and retrofits to several buildings including a High School in order to prevent negative impacts from the pollutants in the plume.<sup>8,9</sup>

The re-zonings proposed in the Lawrence Aviation Land Use Plan merely modify the allowable uses for the entire study area and adds additional layers of regulations, however it does not inherently change the allowable “density”, which is tied into the underlying Groundwater Management zone under the authority of the Suffolk County Department of Health Services (SCDHS). Any application for development within the study area will require approval from the SCDHS and it is likely that large-scale development on-site would be coupled with state of the art sewage treatment options (such as BESST or Nitrex®). The pump-and-treat system currently in place treating the on-site groundwater would also serve to prevent degradation of the underlying aquifer as a result of any on-site development as long as it is operational.

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<sup>7</sup>Appendix B-1 [http://suffolkcountyny.gov/Portals/0/planning/CompPlan/vol1/vol1\\_appxb.pdf](http://suffolkcountyny.gov/Portals/0/planning/CompPlan/vol1/vol1_appxb.pdf)

<sup>8</sup> <http://www.epa.gov/region2/superfund/npl/0201335c.pdf>

<sup>9</sup> <http://query.nytimes.com/gst/fullpage.html?res=9B06E2DA1030F93AA35757C0A9609C8B63>

The Suffolk County Water Authority (SCWA) provides drinking water for the land use plan area. The SCDHS must issue both water and sewer permits before any construction is able to commence. Articles 7 and 12 of the Suffolk County Sanitary Code carefully regulate toxic and hazardous materials storage and handling with the goal of further protecting the aquifers. All proposed land uses in the Lawrence Aviation Industries Land Use Plan area must conform to these standards as previously stated.

### **3.5.2 Port Jefferson Station-Terryville Building Moratoria**

The Brookhaven Town Board enacted Chapter 17-I instituting a one (1) year building moratorium effective 8/20/2007 to relieve development pressure on the hamlet and to provide sufficient time for a Hamlet Comprehensive Plan to be completed. The moratorium included 1,673-parcels or 20% of the 8,557 parcels in the hamlet. Existing residential parcels were exempted. The eleven (11) Lawrence Aviation Industry parcels were included to initiate the process of examining options for preservation and/or redevelopment of the site (*see Code of the Town Of Brookhaven, Land Use Legislation, Chapter 17-I for a complete inventory of parcels included in the Moratorium*).

- Effective 12/15/09, the Town enacted Chapter 17-J instituting a one (1) year building moratorium for twenty-one (21) specific parcels which had been recommended for Change Of Zone or other study by the completed Hamlet Comprehensive Plan. Included were all eleven (11) Lawrence Aviation Industry site parcels (*see Chapter 17-J for complete parcel inventory*).
- Effective 12/7/2010, the Town Board amended Chapter 17-J extending the building moratorium for two (2) years until December 2012 for the Lawrence Aviation Industries parcels so a land use plan could be developed.
- Effective 1/18/2013, the Town Board extended the Chapter 17-J building moratorium for the eleven (11) LAI site parcels for an additional two (2) years until January 17, 2015 so a comprehensive land use plan and generic environmental impact statement could be completed.

### **3.5.3 Comsewogue Hamlet Comprehensive Plan, Lawrence Aviation Site**

The Comsewogue Hamlet Comprehensive Plan (2008) identified the Lawrence Aviation site as the largest and single most important undeveloped site in the hamlet, comprising 35% of all privately-owned vacant land and 46% of all vacant non-residential land in the hamlet (*pages 80 – 82 of said Plan*). Because of the site's significance, the Plan recommended that a comprehensive land use study be undertaken to identify and analyze future options for the LAI properties.

The Plan identified the following preliminary alternatives for the LAI site:

*Open Space* – the Plan’s preferred option is to preserve all or most of the site for open space with the proportion of passive or active uses to be determined.

*Office Park* – this proposal included redevelopment of portions of the site as a high tech office park, with the inclusion of a sizable public park for use by the entire hamlet, provided environmental concerns are addressed.

*Industrial & Housing* – the Plan indicates that the USEPA has noted that continued industrial use of the site is an option, but that residential housing is not.

The Comprehensive Plan highlighted a number of important issues that are likely to impact future uses or redevelopment of the LAI site as follows.

*Superfund Designation* – the Plan notes that the EPA superfund designation, the approximately one (1) mile long toxic plume which terminates at Port Jefferson harbor, and the length of the EPA remediation period (30-years), may all contribute to uncertainty about future redevelopment, and possibly impact future financing and insurance for any redevelopment efforts.

*Property Tax Liens* – the Plan indicates that the parcels constituting a majority of the site are burdened with substantial liens for failure to pay County and local property taxes, and that the liens are a major impediment to redevelopment. The Plan further notes that if Suffolk County could be exempted and held harmless from Liability, it could seize much of the property for non-payment of taxes which would remove the tax liens as an impediment.

*Access to the Site* – the Plan identifies and analyzes two options for access to the site – the existing gate on Sheep Pasture Road south of the LIRR tracks, and a second option involving the construction of an access road in the former NYS DOT right-of-way (ROW) through to NYS Route 112. An engineering study by the Town is recommended to analyze options to improve the current main entrance. The current plan for a multi-use pathway in the ROW would remain unchanged, as there is sufficient width in the 150’ ROW for both a new roadway and the multi-use pathway.

*Segmentation* – the Plan strongly urges that separate proposals for portions of the site not be considered until a comprehensive land use plan and environmental review is completed for the site in its entirety.

*Community Survey Responses Relevant to Lawrence Aviation Site Planning* – As part of the Comsewogue Hamlet Comprehensive Plan (2008), a community-wide survey was mailed to every household in the community to identify concerns and issues and gather community input into the compilation of the Plan. Regarding future land uses at the



Lawrence Aviation site, sixty percent (60%) of respondents supported full preservation of the site as the “best” option. Other preferred “best” uses for the site included: affordable housing (24%), light industry (19%), offices (17%), housing (10%) and commercial retail (8%).

The community also identified “worst” possible uses for the site as follows: commercial retail (60%), housing (48%), affordable housing (45%), light industry (34%), offices (32%) and full preservation (20%). Regarding the importance of open space, 93% of all respondents reported that *loss of open space* was a “very important” (78%) or “important” (15%) issue for the community. Only 5% of respondents reported that loss of open space was a “less important” issue.

The community survey included many questions designed to measure “quality of life” issues and concerns which can inform future planning for the Lawrence Aviation site as follows:

- Only 15% of respondents reported that they felt “very connected” to the community, with 84% indicating they were “somewhat connected” or “not particularly” connected;
- Only 5% of respondents reported they had a “strong” degree of community spirit, with 92% reporting they had “moderate” or “little or none” community spirit;
- Forty-one percent (41%) of respondents reported they were “not satisfied” with parks in the community;
- Fifty-six percent (56%) of respondents were “not satisfied” with current land use in the community (this was the highest scoring “not satisfied” question);
- Fifty-one percent (51%) of respondents reported they were “not satisfied” as the community lacked a hamlet center or “focal point.” (e.g.: sense of place. This was the second highest scoring “not satisfied” question);
- Ninety-six percent (96%) of respondents reported that overdevelopment was a “very important” or “important” concern to them.<sup>10</sup>

#### **3.5.4 Port Jefferson Station Commercial HUB Study & the Upper Main Street Port Jefferson Village Revitalization Plan**

Due to the close proximity of the LAI site to both the upper Port Jefferson Station and Port Jefferson Village communities, it is essential that future development of the LAI site be closely coordinated with plans currently being drawn for mixed-use redevelopment in these adjacent areas. Plans have been proposed for up to 250-apartments and approximately 45,000 s.f. of commercial space in upper Port Jefferson Village, while the

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<sup>10</sup> Comsewogue Hamlet Comprehensive Plan; 2008 Town Of Brookhaven; Koppelman et al.

HUB Study is recommending a similar, but somewhat less intensive, Main Street approach on the Town side of the LIRR tracks. Both municipalities envision a future walkable, continuous Main Street extending on both sides of the LIRR tracks providing retail, commercial and housing options for the community.

The most important shared element in planning for both the LAI site and the Station and Upper Village areas is the potential need for additional waste water collection and treatment to support the density required for the proposed pedestrian-oriented, Main Street redevelopment. Other components which will need to be coordinated include but are not limited to the following: office, commercial/retail, industrial space, housing, design elements, roadway improvements, pedestrian safety, streetscape improvements, and transportation.

### **3.5.5 Suffolk County Comprehensive Plan 2035**

Suffolk County is updating its comprehensive plan. Phase one “examines existing and proposed land uses, existing and future needs for housing, commercial and industrial facilities, the adequacy and needs of transportation and other infrastructure, the protection of the environment as well as the needs for open space and parkland. The plan will consider population, demographic and socio-economic trends and future projections.”<sup>11</sup> The Inventory will be the basis for the development of phase two, in which the information collected during phase one will be analyzed and recommendations developed.

Based on 2010 U.S. Census data, the Suffolk County Planning Department projects that the Town of Brookhaven population will increase by 108,000 people by 2035, a 22% change from its current population of over 486,000; this represents the largest numerical increase in the County. The County as a whole continues to be more diverse (with growth in Hispanic, African-American and Asian populations) and older, as residents “age in place”. Volume One of the Comprehensive Plan notes that “[t]he changing face of the suburbs will have housing, infrastructure, education, environmental, economic and healthcare implications”.<sup>12</sup> The Plan notes that there is continued demand for industrial space in the county. There are no specific recommendations for land use in the study area.

### **3.5.6 Town of Brookhaven 1996 Comprehensive Plan**

The 1994 Draft and 1996 adopted Brookhaven Comprehensive Land Use Plans found that industrial uses were widely scattered throughout the Town without the benefit of an overall plan which met the needs of such uses, or provided the necessary separation of

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<sup>11</sup><http://www.suffolkcountyny.gov/Departments/Planning/SpecialProjects/ComprehensivePlan/Overview.aspx>

<sup>12</sup> Ibid. Page 1-6.

these uses from neighboring residentially zoned land. Also noted, based upon a study by Greiner-Maltz, was the reduced demand and increased vacancy rate of industrial space caused by the end of the Cold War and the reduction in defense-related manufacturing on Long Island.

The Comprehensive Plans noted competition for industrial uses from existing industrial hubs in Plainview, Route 110, and Hauppauge as a possible rationale to consider rezoning some industrial land to other uses. The Plans also pointed out that some industrial zoned parcels are located too far from major roadways to be considered viable, and that some industrial land was found to be “inappropriate” because it was surrounded by or intruded into residential lands.<sup>13</sup>

In addition to recommending the amendment of the industrial Town Zoning Districts to more accurately reflect the intensity of industrial uses (accomplished in 2003), the 1996 Comprehensive Plan recommended a series of criteria to be utilized by the Town Board when considering how to address excess, underutilized, or misplaced industrial lands. The Plan did not identify any specific parcels for rezoning. The 1996 Adopted Comprehensive Land Use Plan contained a land use map, Plate # 21, which illustrated the Lawrence Aviation site as a future light industrial use.

## **4.0 ENVIRONMENTAL SETTING, ANTICIPATED IMPACTS AND MITIGATION MEASURES**

### **4.1 Land Use and Zoning**

#### **4.1.1 Environmental Setting**

The study area is composed of eleven (11) parcels totaling ±156.45-acres. This assemblage is the largest and single most important undeveloped site in the hamlet; comprising 35% of all privately-owned vacant land and 46% of all vacant non-residential land in the hamlet.<sup>14</sup> The LAI parcels are identified on the *Base Map*, Figure 1, as parcels I – IV & VIII-XI. Current zoning is 48% L-1 (Light Industry), 34% B-1 (Residential), and 18% split zoned L1/B1 as summarized below. Ownership of the eleven (11) parcels is divided among five (5) entities, including three (3) LAI entities controlling eight (8) parcels totaling ±128.13-acres or 82%, and two (2) separate private entities controlling the remaining three (3) parcels totaling 28.32-acres or 18%.

As previously stated, the Lawrence Aviation Industries study area consists of two (2) zoning categories: B-Residence-1 and Light-Industrial-1 as depicted in Appendix E.

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<sup>13</sup> 1994 Draft Comprehensive Plan, pp. 45 – 46, and the 1996 Adopted Comprehensive Plan, pp. 186-188

<sup>14</sup> Comsewogue Hamlet Comprehensive Plan 2008, pages 80-82

Parcels outside of the immediate study area reflect the same zoning categories – with industrial parcels located to the west (Chip-it-All, Greek Orthodox Church, BASF) and to the east (Bihajlo property, which is currently used for agriculture) and residential zoning to the north/west and south (predominately B-1, with one [1] Multi-family development). Extending further outside of the study area, another L-1 collection of parcels exists to the west, bounded by Comsewogue Road and Hulse Road, between the LIRR and the LIPA ROWs. To the west of the study area is a commercial corridor along NYS Route 112, consisting mostly of J-Business-2 parcels.

Currently, only one (1) parcel within the study area is occupied and actively used. This parcel, known as the “Flannery home” (SCTM # 0200 15900 0200 021000) is zoned for industrial use (though there is a small portion zoned B1); however the land use is residential and dates back to around 1920.<sup>15</sup> A residential structure exists on an adjacent parcel, also zoned predominately L1, though this residence has been abandoned for many years. The remaining structures on-site are confined to the main LAI manufacturing site (SCTM # 0200 15900 0200 019000) which of course has since been abandoned.<sup>16</sup> Past uses of the various sites within the study area include a turkey farm, agriculture (row crops), sand mining, residential and lead product manufacturing.

#### **4.1.2 Future Conditions without the Proposed Action**

If the proposed LUP is not adopted and implemented, it is expected that the existing zoning categories will remain in place. While the industrial zoning is what is envisioned by the LUP, the existing residential zoning is problematic due to the fact that Parcel VI is split-zoned L-1 and B-1. This split-zoning makes development difficult and complicated, with access being a major issue as the L-1 and B-1 portions of the parcel are connected by an approximately 10 foot wide pinch point. The parcels which are zoned residential and located south of the greenway trail have no legal access and as such, development of these parcels would have to be creatively obtained, potentially impacting the existing surrounding residential community.

Another obstacle associated with a mix of residential and industrial development is limited site access. As there is currently only one (1) legal access to the complex, which includes an active LIRR grade crossing, traffic generated by residential and industrial uses would conflict with one another and potentially lead to congestion at the intersection with Sheep Pasture Road and cause potential stacking/queue problems with respect to the LIRR. Furthermore, noise from the industrial use (and traffic) would potentially have a significant negative impact on adjacent residential uses if developed simply as-of-right with no special considerations for the underlying circumstances.

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<sup>15</sup> Information comes from the SPLIA form for the Flannery Home which can be found in Appendix M.

<sup>16</sup> Note: a pump-house exists on SCTM # 0200 15900 0100 026000 which is part of the USEPA/NYSDEC cleanup. For the purposes of this document, this building is not being considered as a “use”.

There are other indirect impacts that could result from a lack of LUP adoption. Without a comprehensive plan, property owners could seek change of zones or other special zoning designations that could lead to uses that are undesirable within the complex. Nothing would prevent an owner, for example, from seeking a change of zone from L-1 to L-2 (heavy industry) which potentially could impact surrounding property owners more than the underlying L-1 zoning designation. These impacts may not be adequately mitigated, as overall development could potentially be haphazard and segmented with the absence of a comprehensive LUP.

#### **4.1.3 Future Conditions with the Proposed Action**

With the proposed LUP being accepted by the Town Board, the conditions with respect to zoning and land use are expected to improve. The existing split zoning is proposed to be remedied with an overlay district, reflecting the fact that Parcel VI is for all intents and purposes two separate parcels (one being residential, the other light industrial) and resolving access issues to the two (2) separate uses. While the existing Flannery home can remain (as it has) as a pre-existing, non-conforming use, the abandonment of this use in the future would result in residential development effectively being removed from this site, as the underlying zoning will remain light industrial.

By allowing only industrial uses within the core study area, the presence of only one access point becomes less of an issue<sup>17</sup>. While full build-out of the site may necessitate an additional point of access, all traffic utilizing the existing entrance/exit along Sheep Pasture Road would likely be confined to standard business hours, Monday through Friday. A predictable flow of traffic to and from the site would be most compatible with existing traffic and train patterns and potential impacts could be mitigated more easily than if this access point were utilized by residential and industrial uses, generating traffic seven (7) days per week at all hours.

Another benefit to the proposed LUP is the re-zoning of the southernmost parcels (which are landlocked) from B1 to L1 and the allowance of the underlying density to be transferred to parcels within the study area. By re-zoning these areas and creating a mechanism to move sanitary, clearing and FAR allotments to other parcels, the potential for these lots to be developed is all but eliminated. This is crucial due to the lack of legal access and the location of the parcels between the greenway trail and existing residential structures and due to the fact that the parcels represent a large contiguous bloc of vegetation (dating to the 1970's as per historic aerial imagery). Adoption of the LUP will allow for a comprehensive re-zoning and a cohesive re-development of the study area which will best benefit the community and compliment existing conditions.

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<sup>17</sup> Access to the existing residentially zoned portion of Parcel VI would come from Scenic View Court/Bayview Drive.

#### **4.1.4 Mitigation Measures**

The LUP proposes to maintain the southernmost parcels (on the south side of the greenway trail) in their natural state, transferring their associated development rights (sanitary, clearing and FAR) to the remaining parcels. This will prevent incompatible uses south of the greenway trail (industrial in a residential community), maintain existing vegetation (which is approximately 40 to 50 years old) and maintain scenic vistas as well as visual and auditory buffers for surrounding residents and users of the greenway trail.

An overlay district is proposed which will restrict specific uses, due to environmental cleanup standards of the superfund site. This proposed overlay district will prevent uses, such as daycare and churches, from occurring on the former superfund site where a potential health hazard may be present. Additionally, the LUP proposes the creation of a residential transition area with specific regulations aimed at preserving the health and safety of residents of newly constructed homes, due to the presence of a contaminated plume in the area.

Lastly, the LUP contains incentives for green energy development (namely a solar energy production facility) for the various parcels within the study area. These incentives (such as expedited review, allowance of higher fences and increased clearing) are designed to aid and encourage the development of a green use on-site which would generate little to no noise, traffic, emissions or controversy, while providing jobs and taxes.

## **4.2 Geology and Hydrogeology**

### **4.2.1 Environmental Setting**

The Lawrence Aviation Industries study area is located within a deep recharge area over a sole source aquifer, which is where all of Long Island's drinking water is derived from. Groundwater on Long Island comes entirely from precipitation that is recharged into the Upper Glacial aquifer, Magothy aquifer or the Lloyd Aquifer where it is then extracted by the Suffolk County Water Authority (or similar) via wells. With respect to Groundwater Management Zone I, groundwater generally ends up in the middle and lower portions of the Magothy aquifer.<sup>18</sup> However, extensive studies and testing as a result of the plume and Superfund designation has shown that the upper reaches of groundwater flow north where it empties into the Long Island Sound, which is consistent with schematics depicting the Long Island aquifers.<sup>19</sup>

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<sup>18</sup> [http://suffolkcountyny.gov/Portals/0/planning/CompPlan/vol1/vol1\\_appxb.pdf](http://suffolkcountyny.gov/Portals/0/planning/CompPlan/vol1/vol1_appxb.pdf)

<sup>19</sup> <http://www.dec.ny.gov/lands/36231.html>

The study area is located north of the groundwater divide of Long Island (which is roughly in line with the Long Island Expressway and the Ronkonkoma moraine), with water flowing north to the Long Island Sound, rather than toward the Great South Bay and the Atlantic Ocean. The two (2) most eastern parcels are almost entirely flat and represent a plateau in the regional topography (known as the “*Port Jefferson Fan*”) with elevations ranging from 180 feet above mean sea level to 200 feet above mean sea level (MSL).<sup>20</sup> The western properties are hilly and feature a steep slope where topography increases (from east to west, running north/south) from 200 feet above MSL to 250 above MSL over 500 a distance of linear feet. Topography then varies continually through the remainder of the western parcels with lows around 200 feet above MSL.

#### **4.2.1.1 Geology and Soils**

The geology of the LAI study area was created approximately 21,000 years ago when glaciers covering Long Island receded to the North. As the glaciers melted and moved northward, the Ronkonkoma Moraine, Stony Brook Moraine and Interlobate Moraine (the latter two [2] individual pieces of the Harbor Hill Moraine<sup>21</sup>) were created, leaving an outwash plain along the south shore which drained into the Atlantic Ocean and the “*Port Jefferson Fan*” which is a plateau along the North shore.<sup>22</sup> The Ronkonkoma Moraine is essentially the spine of Long Island with the Long Island Expressway (LIE) running along it, meaning that areas south of the LIE are mostly considered outwash plain.

The Harbor Hill Moraine (which runs along the north shore of Long Island out to Orient) is marked by glacial erratics (large boulders deposited by the retreating glaciers) and steep slopes. The north shore region of Long Island (particularly in Brookhaven) contains steep cliffs along the Sound, with the Port Jefferson Harbor representing a drainage basin for the “*Port Jefferson Fan*” (which at one point was a lake bounded by sediment and ice to the north and south) and surrounding area.

Soils within the study area consist of four (4) types which are depicted in Appendix F:

- Haven Loam (HaB/HaA)
- Carver and Plymouth Sand (CpE)
- Riverhead Loam (RdC)

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<sup>20</sup> Note that “sea level” is measured approximately one (1) mile to the north at Port Jefferson Harbor.

<sup>21</sup> <https://dspace.sunyconnect.suny.edu/bitstream/handle/1951/47878/mulch.pdf?sequence=1>

<sup>22</sup> <http://www.geo.sunysb.edu/reports/Geomorphology%20of%20Three%20Village-Port%20Jefferson.pdf>

- Cut and Fill (CuB/CuC)<sup>23</sup>

Haven Loam, which covers nearly half of the study area, (along the eastern parcels) is a prime agricultural soil and well drained, thus making it ideal for the past agricultural uses. The specific types of Haven Loam on-site are of minimal slope, hence why they are located on the flattest part of the study area.

Carver and Plymouth Sands are found exclusively on moraines and have 15-35 percent slopes and contain significant amounts of gravel. These soils are subject to erosion and must have permanent vegetative cover to prevent such. These soils are located along the areas with the greatest topography, running north to south through the middle of the study area.

Riverhead Loams exist in a small portion of the northern study area and consist of deep, well drained material. While these soils are well suited for agricultural use in the county, the specific areas where the soils are located were not used for agricultural purposes within the past century, based on historic aerial imagery.

Cut and Fill soils are areas where the natural soils have been removed, altered, or buried. With respect to the subject property, extensive areas of native soils were removed as they were heavily contaminated with numerous chemicals from years of illicit dumping. The cut and fill areas are located mostly near the site of the factory as well as in the northern section of the study area which was previously illegally mined.

#### *Superfund Site cleanup and Soils:*

Exclusive of the main industrial parcels (I & II), there are approximately nine (9) acres which have been documented as having disturbed soils:

- Approximately two (2)-acres in the north central portion of Outlying Parcel VIII was sand mined and contains fill from unknown locations. This site may have also hosted an asphalt plant as early as the 1940's;<sup>24</sup>
- Approximately two (2)-acres in the north central portion of Outlying Parcel X was documented as being cleared by historical photographs but has since succeeded to natural vegetation;

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<sup>23</sup> Soil information is all derived from the Suffolk County, New York Soil Survey (1975).  
[http://www.nrcs.usda.gov/Internet/FSE\\_MANUSCRIPTS/new\\_york/suffolkNY1975/suffolk.pdf](http://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/new_york/suffolkNY1975/suffolk.pdf)

<sup>24</sup> Phase I Environmental Assessment, Vollmuth & Brush, 2/13/03



- As part of the EPA cleanup, contaminated topsoil was removed from a two (2) plus-acre site from adjacent portions of industrial parcel I, the NYS DOT right-of-way (AKA greenway trail), and Outlying Parcel XI and replaced with clean fill. This was the former drum crushing area.
- Again as part of the EPA cleanup, contaminated topsoil was removed from an approximately one (1) plus-acre site on Industrial Parcel II and replaced with clean fill. This was the former unlined lagoon area where dumping occurred;
- Approximately two (2) acres in the central portion of Outlying Parcel V, also known as Mandalay Gardens (a former landscaping business), hosts an abandoned residence, greenhouse, chicken coop and pool.

#### *Soil Cleanup for Greenway Trail:*

With respect to soil contamination in the area of the greenway trail, the USEPA assessed the area for potential for exposure and determined that, “. . . health hazards from exposure to soil are below EPA threshold values for site workers, future pedestrians and cyclists of the proposed NYSDOT bicycle path, and future construction workers.”

Despite this assessment, the federal agency took additional precautionary measures and completed a project in November of 2009 which excavated surface soils in the NYSDOT ROW that had elevated contaminant levels. This extra step removed all soils down to a depth of four and a half (4.5) feet. Additionally, the NYSDOT constructed the new greenway trail on earth fill that was brought in from a clean source outside of the LAI facility. Earthwork consisted of grading and filling only, with no “cutting” needed. Additionally, a fence (and access gate) was installed.<sup>25</sup>

#### *Soil Testing:*

During the 1970’s and 1980’s, Suffolk County Department of Health Services (SCDHS) and the New York State Department of Environmental Conservation (NYSDEC) conducted several site visits and investigations which included the collection of surface soil samples at LAI’s main industrial parcels (parcels I & II). The results revealed high levels of fluoride, toluene, carbon tetrachloride, and

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<sup>25</sup> Final Design Report, July 2011. P.I.N. 0807.97 NYSDOT

heavy metals in all soil samples. Adjacent private residential wells were found to be contaminated with fluoride, nitrates, TCE, dichloroethylene, PCE's, and heavy metals, and were remediated through the provision of public drinking water by the Suffolk County Water Authority.

In 2003, soil vapor testing was performed on outlying parcels V & VI to determine if VOC vapors from the LAI plume were impacting the site of an affordable senior housing. The testing was required by the NYS Department of Housing and Community Renewal which was to provide funding for the project. Samples were taken from eleven (11) test locations including the proposed foundation areas of nine (9) residential buildings and one (1) community building which revealed no contamination.

Additional testing was performed in and around existing structures which included an abandoned residence, greenhouse, tennis court, pool and chicken coop (Mandalay Gardens), and three (3) topographic low-lying areas of the site. The former revealed contamination with semi-volatile organic compounds, pesticides and metals above testing tolerances, while the latter revealed mildly elevated levels of heavy metals.<sup>26</sup> In addition, a buried 1,000-gallon No. 2 fuel oil tank adjacent to the residence first failed during testing and subsequently passed after repairs. Three drums of fuel oil contaminated soil were removed from the area of the tank repair.<sup>27</sup>

In 2006, the USEPA conducted soil testing of the remaining outlying parcels (III, IV, VIII, IX, X and XI) at the LAI site. A total of 136 samples were taken at various locations and soil depths (0 – 2", 2" – 12", 12" – 40") as follows:

- The greenway trail transecting the site between parcels I & XI;
- The former drum crushing area in parcels I & XI, the disposal ditches between parcels X & XI and the NYS ROW and parcel X;
- The formerly cleared area of parcel X;
- The sand pit area in parcel VIII;
- And other selected areas in parcels III, IV, VIII, and IX.

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<sup>26</sup> Wisdom Gardens II, Testing and Analysis Results of Proposed Work Plan and Addendum to Proposed Work Plan, Vollmuth & Brush, April 16, 2003

<sup>27</sup> Phase I Environmental Assessment, Vollmuth & Brush, revised 2/13/03

It is understood but unconfirmed that soil testing was not performed in 2006 on outlying parcels V & VI because these parcels were tested in 2003 (see above). Parcel VII was not tested as it is privately owned and hosts an existing residence.<sup>28</sup>

The 2006 testing results revealed high concentrations of a variety of metals in all of the soil samples. In general, surface soils showed the highest frequencies and magnitudes of screening criteria exceedances. Arsenic exceeded its screening criteria in nearly all of the surface and subsurface soil samples. There were frequent exceedances of screening criteria for iron, aluminum, manganese, and magnesium (See Appendix G, Figure 1-3 which illustrates the locations of all outlying parcel soil borings, and Figures 3-2 and 3-3 which summarize findings which exceed screening criteria).

#### **4.2.1.2 Topography and Drainage**

As mentioned in the above section, the study area is split between a moraine (with rolling topography) and a plateau (known geologically as the “Port Jefferson Fan”) making for two (2) distinct topographic areas. The plateau area (which was used historically for row crop farming) has a mild slope from ~182 feet above MSL in the southeastern corner to ~195 feet above MSL at the western edge of the plateau. The topography then jumps up steeply and uniformly, increasing from 195 feet above MSL to 225 feet above MSL (from east to west). The remainder of the study area consists of peaks and valleys with a highpoint of 250 feet above MSL (near the terminus of Scenic View Ct.).<sup>29</sup> A topographical map of the study area can be found in Appendix H.

The study area contains no formal drainage areas (such as recharge basins, drainage swales or sumps) and consists almost entirely of well drained soils. There is an existing pond within the study area located next to a residential structure. The pond is located approximately 225 feet above MSL and does receive stormwater runoff from surrounding areas during storm events. Due to the fact that the vast majority of the study area is covered with native vegetation (dating to at least the mid 1970’s) and due to the fact that the western portion of the property is flat with well drained soils, drainage on-site is currently a non-issue.

As stated above, there are areas of significant topographical changes on the moraine within the study area. In fact, approximately 22 percent of the subject

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<sup>28</sup> Note: this parcel has been in separate ownership since at least 1957

<sup>29</sup> Topographic data taken from Town of Brookhaven’s GIS topography and DEM layers.

property has slopes greater than 15 percent. Disturbance of these steep slopes would likely lead to erosion and sedimentation without proper controls put in place and would likely effect existing drainage patterns.<sup>30</sup>

#### **4.2.1.3 Groundwater**

The LUP study area is located upon the Harbor Hill moraine which is up to 70' thick and composed primarily of sand and gravel with occasional lenses of silty sand and silt. This layer is about 30 to 40 feet thick, lying directly beneath the LAI property. Groundwater is between 150 feet and 175 feet below the ground surface and flows north to the Port Jefferson Harbor, and subsequently the Long Island Sound. Three (3) aquifers are present beneath the LAI site: the Upper Glacial Aquifer, the Magothy Aquifer, and the Lloyd sand member of the Raritan Formation.<sup>31</sup> The study area is located within Suffolk County Groundwater Management Zone I, which is identified as a deep water recharge area, meaning the majority of water flows directly down into the underlying aquifers which subsequently provide drinking water for Long Island residents.

##### *Toxic Plume:*

In June 2008, the USEPA published a contour map (Appendix I) which depicts the sub-soil location of a toxic plume emanating from the Lawrence Aviation site. Caused by years of improper disposal of chemicals utilized in manufacturing at the site, the map illustrates the north-westerly pathway of the plume from its origins in parcels I & XI (the former drum crushing area), and parcel II (the former unlined lagoon) to its eventual terminus in Port Jefferson Harbor 1.1-miles down gradient.

On its way, the plume passes under approximately 98% of contiguous light industrial parcel XIV to the immediate west of Lawrence Aviation, largely residential neighborhoods in Port Jefferson Station to the north of parcel XIV, and Port Jefferson Village where the plume rises with the water table as it approaches Port Jefferson harbor. The plume also discharges contaminated water into Old Mill Pond and Old Mill Creek, resulting in surface water and sediments within the pond and creek being impacted with VOCs.

From 1979 to 1991, contaminants stemming from the LAI site were found in several off-site residential wells, between the factory and Port Jefferson Harbor. In 1987, the USEPA started to provide affected residents with bottled water and eventually connected them to the public water supply to remove the

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<sup>30</sup> VHB Part III LEAF, Lawrence Aviation.

<sup>31</sup> Public Health Assessment for LAI, ATSDR, 11/29/2005

contamination threat. In the early 1990's, the NYSDEC added more homes to the public water supply, again to remove the threat of contamination.

The following information comes directly from the USEPA Fact Sheet and Superfund Record of Decision (ROD) for Lawrence Aviation Industries, Inc. which was prepared on January 9<sup>th</sup>, 2009:<sup>32</sup>

*Past disposal practices and releases from leaking drums at LAI have resulted in numerous violations cited by both Suffolk County Department of Health Services (SDCDHS) and New York State Department of Environmental Conservation (NYSDEC). In 1980, the company crushed more than 1,600 drums, allowing the liquid contents to spill on unprotected soil. The drums contained trichloroethylene (TCE), tetrachloroethylene (PCE), spent acid sump sludge, salt wastes, hydraulic oils, hydrofluoric acid, nitric acids, and other plant wastes. SCDHS also observed numerous discharges from various plant activities to the ground surface and to two (2) unlined lagoons.*

*Groundwater contaminated with TCE, PCE, nitrates and fluoride has been detected in monitoring wells installed on the perimeter of the site property by NYSDEC, as well as in nearby residential wells. Potential drinking water threats to residents posed by contaminated wells have been addressed by connecting the affected homes to the public water supply. Annual testing of public supply wells show them to be in compliance with State and Federal standards. Due to shallow groundwater in residential areas over the TCE plume [north of the study area], vapor intrusion is a potential threat. EPA has initiated evaluation of this exposure pathway.*

#### *Groundwater Remediation:*

In September 2010, utilizing \$4.7-million in American Resource and Recovery Act (ARRA) funding, the EPA initiated an on-site ground water extraction and treatment system on parcel II (the former unlined lagoon) to clean the contaminated water table and help prevent further movement of plume contaminants down gradient. In the summer of 2011, a second ground water extraction and treatment system was initiated down gradient at the Old Mill Pond in Port Jefferson Village. This treatment system is designed to capture chemicals from the plume which escaped the LAI site, and to prevent them from entering Port Jefferson harbor.

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<sup>32</sup> <http://www.epa.gov/region02/superfund/npl/0201335c.pdf>

#### **4.2.2 Future Conditions without the Proposed Action**

If the proposed Land Use Plan were not to be adopted and implemented, future conditions within the study area may deteriorate. If no development occurs, there will be no impact, however this cannot be guaranteed unless the parcels are all obtained and preserved by a government body (which is one of the alternatives discussed at length near the end of this document). If parcels within the study area are developed individually, there is the potential for inappropriate grading/soil management to occur which could include illicit sand mining. Development may also interfere with cleanup efforts currently underway by the USEPA and NYSDEC, particularly with respect to the underground network of pump-and-treat wells.

Additionally, haphazard development across various parcels over an extended period of time may increase potential issues with respect to drainage. This is particularly true when the varied topography of the site is taken into consideration, as the eastern parcels have significant slopes, and the western portion of the property is particularly flat.

#### **4.2.3 Future Conditions with the Proposed Action**

With the adoption and implementation of the proposed LUP, conditions are likely to stay the same, as various measures will be put into place to ensure that further degradation of on-site conditions do not occur (as explained in *Section 4.2.4* below). Full-scale development of the parcels within the study area will certainly impact the existing topography and result in engineered drainage systems (drywells, leaders, gutters, drainage basins, rain gardens, natural swales, etc.). Through comprehensive planning and proper implementation of the plan, stormwater management should have no impact on the existing site conditions nor should it impact the efforts being made by the USEPA and NYSDEC to cleanup and monitor the site.

#### **4.2.4 Mitigation Measures**

Future development of the selected parcels within the study area should not have an adverse impact on the geology and hydrogeology of the site. However, measures must be put in place to ensure that development does not hinder the groundwater cleanup efforts taking place on-site (which will continue for many more years). Specifically, development will be conducted and allowed in such a manner as to avoid disturbing existing cleanup efforts via the pump-and-treat system and as to avoid disturbing any and all existing monitoring wells on-site. As part of site plan review for any applications the Planning Board (or Town Board) receives, a comprehensive review will be conducted with respect to the location of existing cleanup infrastructure and the proposed development. Additionally, it is expected that the USEPA and NYSDEC will be consulted (through the SEQRA process or otherwise) regarding future development, as both agencies have equipment and responsibilities on-site.

Additionally, the Town of Brookhaven understands that the western portion of the property contains topography which isn't present on the eastern portion of the property, thus creating the potential for significant amounts of material (sand) to be removed from the site during development.<sup>33</sup> As such, any proposed developments will have to adequately prove the need to remove materials from the site and will also be required to submit a soil management plan (SMP) that would have to be reviewed and approved along with the application.

### **4.3 Surface Water and Wetlands**

#### **4.3.1 Environmental Setting**

The land encompassing the LAI study area is all upland woodlands, with the exception of one pond totaling approximately .75 acres in size and located on the "Flannery property", also known as parcel VII in Appendix C and an approximately two (2) acre depression which was previously mined for sand. This pond is not connected to groundwater, which is greater than one-hundred (100) feet below the surface. Instead, the pond exists due to a clay lens underlying the pond which prevents water from percolating through to the aquifer below. Reviews of historical aerial imagery indicate that the pond has been in existence in its current state since at least the early 1900's, but it is inferred that the pond dates back much further.

Since the pond is not connected to groundwater or fed by a natural spring, the perched water originated from precipitation and runoff. As such, the pond is not impacted by the toxins that were dumped into the ground at the factory site, though USEPA/NYSDEC testing of the pond water does indicate minor amounts of pesticides and herbicides, likely from past agricultural practices (and the resulting stormwater runoff) and from application of chemicals to the lawn located at the Flannery property. It is expected that the pond is host to a wide variety of aquatic species (fish, amphibians, plant life) and animals that depend upon water for life cycles, thus making it a vital feature in the general area for wildlife.

No other sources of surface water or wetlands are present within the study area, again, due to topography and underlying soils. In the area surrounding the LAI site, freshwater wetlands and surface waters are few and far between. There is a small body of water typically present on the Suffolk county parkland to the west of the study area (SCTM # 0200 15800 0400 016000). This water body varies in size throughout the year and can disappear during long dry periods. It is underlined with mud and clay (which has been

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<sup>33</sup> Historical activity which occurred in the northwestern portion of the property resulted in unauthorized mining of materials and leaving a "hole" approximately two (2) acres in size.

compacted by frequent off-road vehicle use) and thus is dependent upon precipitation. As the surrounding soils are porous sand, the area does not receive runoff from severe storm events. Additionally, since it is a relatively shallow basin, it supports little aquatic life (since it freezes solid in winter and can disappear in summer) though it is expected to be utilized by a variety of wildlife and may be a breeding pond for animals such as the Fowler's Toad (*Bufo fowleri*) and/or American Toad (*Anaxyrus americanus*).

#### **4.3.2 Future Conditions without the Proposed Action**

Without the implementation of the LUP, conditions are expected to remain the same. While the existing pond is on a parcel containing a single family dwelling, it is possible that over time, the single family dwelling use would be abandoned and the site would be left vacant or converted to an industrial use which would potentially benefit the existing pond by creating enhanced vegetated buffers.

If the plan were not to be implemented, and the areas currently zoned for residential development were to be developed (this is unlikely due to soil remediation standards), the pond could be impacted by increased nitrogen loading from adjacent sanitary systems. However, any development of surrounding parcels would be subject to thorough environmental and planning review, and best management practices would be utilized in order to avoid impacting the existing pond.

#### **4.3.3 Future Conditions with the Proposed Action**

Conditions with the implementation of the Proposed Action will likely be similar to those without, though the Plan does anticipate a conscious re-development of the entire site which could aid in creating adequate buffers around the existing pond. The LUP proposes to retain the existing industrial zoning (L-1) which would likely eliminate the potential of re-development of the parcel containing the pond if the existing residential use were to be abandoned. Additionally, the proposed plan includes an overlay district that prevents agricultural use (thus eliminating the potential for pesticides and herbicides to be used on-site in large quantities) and encourages the development of the site with solar or fuel cell electric generating facilities. Both solar and fuel cells require essentially zero wastewater flow or on-ground chemical use and are virtually passive uses of the site. These uses would have no measureable impact on the existing pond.

#### **4.3.4 Mitigation Measures**

No mitigation measures are required as the LUP does not propose anything which would impact the existing on-site surface water/wetland.



## 4.4 Natural Resources

### 4.4.1 Environmental Setting

The Lawrence Aviation Industries study area is located outside of any designated environmental areas; however there are four (4) separate critical environmental areas (CEAs) within approximately 1.5 miles in all directions. These CEAs are:

- South Setauket Woods Special Groundwater Protection Area (1.5 miles to the Southwest)
- Central Pine Barrens Critical Environmental Area (Town Boundaries) (1 mile East)
- North Shore Critical Environmental Area (1 Mile Northeast)
- North Shore Critical Environmental Area, Port Jefferson (PJ) (1 mile Northwest)

It should be noted that only the first CEA (South Setauket Woods) is state designated, whereas the rest have been designated and codified by the Town of Brookhaven. Additionally, the property is located approximately one (1) mile south of the Port Jefferson Harbor, a natural deepwater harbor. The Harbor is part of a Stewardship Area<sup>34</sup> designated as a New York State Significant Coastal Fish and Wildlife Habitat<sup>35</sup> and is part of the National Coastal Barrier Resources System<sup>36</sup>. While the property is not located directly in any of these CEAs, the past practices which occurred on-site have impacted Port Jefferson Harbor and to a lesser degree, the North Shore CEA, PJ due to pollutants leaching into groundwater and emptying into the harbor.

The total study area is relatively small (compared to standard Land Use Plans within the Town of Brookhaven) at approximately 150 acres; however the history of the property (including dumping of vast quantities of harmful materials) and designation as a Superfund site place added importance on restoring the property and protecting any and all natural resources which exist on-site. In 2003, an ecological reconnaissance was performed for the LAI site as part of the EPA's "Remedial Investigation".<sup>37</sup> Numerous plants, shrubs and trees were found to be present on the various properties which comprise the study area. Native plants and urban invasive species were observed within the wooded area along the LAI perimeter. Wildlife, including numerous species of song birds, a species of hawk and small mammals such as squirrels were observed within the site. The outlying parcels and their fringe habitats exhibited characteristics of both maritime oak forest and pitch pine-oak forest ecological communities.

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<sup>34</sup> <http://longislandsoundstudy.net/2012/07/mt-sinai-port-jefferson-harbor/>

<sup>35</sup> [http://www.nysegov.com/citguide.cfm?ques\\_id=1066&superCat=396&cat=406&content=relatedfaqs%20](http://www.nysegov.com/citguide.cfm?ques_id=1066&superCat=396&cat=406&content=relatedfaqs%20)

<sup>36</sup> <http://www.csc.noaa.gov/digitalcoast/data/cbrs%20>

<sup>37</sup> [http://www.epa.gov/region2/superfund/npl/lawrenceaviation/relateddocument01\\_020106.pdf?id=0200663](http://www.epa.gov/region2/superfund/npl/lawrenceaviation/relateddocument01_020106.pdf?id=0200663)

Approximately seventy-five (75) acres along the eastern portion of the study area were farmed as recently as the 1970s, as seen in Appendix J, while other portions of the site have experienced varied development projects or disturbances. Currently, nearly two-thirds of the property is wooded with a small area (approximately 2.5 acres) in the northern section of the property devoid of vegetation due to past sand-mining practices. There is a pond, approximately one (1) acre in size located in the northern portion of the property, entirely within the bounds of a parcel containing a single-family dwelling (known as the “*Flannery property*”) as seen in Appendix K. This naturally occurring pond is a depression with a clay lens beneath, as groundwater is approximately 200 feet down.

#### **4.4.1.1 Rare, Threatened and Endangered Species**

The results of the 2003 ecological report as part of the USEPA’s investigation did not discover any plants or animals that are on either the New York State’s list or the Federal Government’s list for said species of flora and fauna. Due to previous disturbance activities (including agriculture practices) and the dumping which occurred as part of the industrial use, it is not expected that rare, threatened or endangered species would utilize the parcels within the study area with the exception of the two (2) species of birds described below. Furthermore, due to the subject parcel being nearly surrounded by roadways and residential/industrial development, it is not expected that animal species would colonize the site from other areas. However, it should be noted that the parcels are adjacent to two (2) distinct corridors that can facilitate movement of species throughout a wide geographic area. These corridors are the LIPA ROW which runs generally east/west, and the NYSDOT multi-use path which travels approximately 3.3 miles from Setauket to Port Jefferson Station. Additionally, Suffolk County owns a nearly 80 acre parcel of open space directly south of the study area, however this area has also been historically disturbed (including sand mining activities) and is not expected to contain rare, threatened and/or endangered species.

Due to the presence of over 100 acres of forest (approximately 40-50 years old based on historic aeriels), it is likely that the property is regularly utilized by two (2) species of bird which are found on the NYSDEC’s list of species of special concern<sup>38</sup>. These species are:

1. Sharp-Shinned Hawk (*Accipiter striatus*)
2. Cooper’s Hawk (*Accipiter cooperii*)

Both species of hawk prefer wooded habitat near clearings as well as residential areas where they prey largely on small birds and rodents. It is likely that one or both of these species actively nest (or have historically nested) within the study area and utilizes the

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<sup>38</sup> <http://www.dec.ny.gov/animals/7494.html>

study area for food. It is important that some habitat be preserved for these species, which also would be expected to be found on the adjacent Suffolk County owned parcel.

#### **4.4.1.2 Aesthetic Qualities and Scenic Vistas**

The study area is largely hidden from view by surrounding properties, however there is approximately 1,000 linear feet of frontage adjacent to Sheep Pasture Road (though the LIRR has tracks/property separating the road from the LAI parcels). The topography at this location is such that a 10-20 foot hill abuts the LIRR property. When combined with the existing vegetation on the slope, any activities or structures on the LAI site are unseen from the main roadway. Other portions of frontage are located along Scenic View Court (approximately 625' of paved frontage with six [6] homes facing the LAI site) and several road endings (Park Avenue, Harborview Avenue and etc.). Despite the name, "Scenic View Court" does not appear to provide any scenic views, though the south side of the roadway is wooded (and is part of the study area).

The New York State DOT has recently completed the "Greenway" trail which bisects the study area, essentially blocking the southernmost portion of the study area from having access to the remaining parcels (Appendix L). This multi-use trail (open during daylight hours) provides views directly into the defunct area of the LAI site due to the existence of an access gate needed for maintenance of underground cleanup equipment. While vegetative screening exists along portions of the trail, there is currently a noticeable gap where the gate is situated allowing users of the path to see into the site. The remaining portion of the path which cuts through the study area provides scenic vistas of native woodlands and has inherent aesthetic qualities which should be preserved to the maximum extent possible during site development and/or enhanced as practicable (the parcel bordering the southern boundary of the trail is proposed to be preserved in its natural, wooded state as part of the LUP).

As previously stated, there is a Suffolk County parkland parcel directly southwest of the study area which is separated from the LAI site by a LIPA ROW. Existing vegetative screening along the bounds of the ROW as well existing topography prevent the LAI site from being seen from this Suffolk County parcel. Additionally, the County land sees no regular use from the public, with the exception of a bi-annual sponsored off-road vehicle event and the occasional hiker.<sup>39</sup> As such the LAI site and future development poses little potential to impact scenic vistas as seen from the County parkland. .

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<sup>39</sup> Note that the aforementioned greenway trail also bisects this county property. It is not assumed that people use the greenway trail to access to the county parcels.

#### **4.4.2 Future Conditions without the Proposed Plan**

Without the proposed plan, the proposed re-zonings would not occur on the Town Board's own motion. There would be little to no control over allowable clearing of the various parcels and the surrounding residential areas (which were already heavily impacted by the past illegal practices) could be impacted further by traffic, inappropriate uses, clearing and development. Additionally, habitat for the aforementioned species would be impacted with little to no control.

While it is possible that the individual parcels would remain in their vacant state for a significant timeframe (with the existing buildings being removed by a government entity), it is expected that eventually parcels on an open-market would be sold and subsequently developed. Previous development projects (including a fish farm and residential housing) have been proposed within recent years within the study area, despite the superfund designation. As such it is impractical to assume that future conditions without the proposed plan would result in unoccupied and undeveloped land in perpetuity.

#### **4.4.3 Future Conditions with the Proposed Plan**

If the proposed plan were to become effective, the re-zonings and overlay district would ensure that appropriate uses are sited within the study area and that existing, undeveloped residential parcels are appropriately developed given the existing underground plume and associated impacts. Any development would take into consideration buffers and proximity to residential areas, as well as impacts on species of wildlife. Furthermore, the proposed plan contains an overlay district that has incentives for solar energy production (a passive use). This use generates no noise, emissions or light and creates no traffic (outside of initial construction).

Clearing of existing vegetation and buffers to adjacent residential areas (or the greenway trail) are more closely regulated with the adoption of the proposed plan and uses such as agriculture or churches/schools are excluded from the site which due to concerns related to soils and the underground plume. The proposed overlay district and LUP contemplate a minimum 100 foot buffer from industrially zoned parcels to residentially zoned parcels (and the greenway trail and LIRR), thus ensuring adequate vegetated buffers and preservation of large swaths of woodlands. Additionally, as the land use plan recommends preservation of the southernmost (land-locked) parcels, these lots will remain in their natural state (with development rights/clearing rights transferred to other parcels with the complex). These southern parcels could be donated to the Town of Brookhaven as open space after the associated rights are removed.

#### **4.4.4 Mitigation Measures**

No mitigation measures are required as the proposed Lawrence Aviation Industries Land Use Plan proposes an overlay district which provides incentives for a passive use (solar energy production facility) and requires buffers that will protect existing vegetation as well as scenic view sheds from surrounding parcels. Additionally, the creation of an overlay district will result in restricting inappropriate uses and avoiding potential adverse impacts to residents due from inappropriate development.

#### **4.5 Economic Conditions**

##### **4.5.1 Economic Setting**

*Retail Inventory – Port Jefferson Station, Terryville and Port Jefferson Village:*

An inventory of existing shopping centers in Port Jefferson Station and Terryville reveals a current inventory of 673,500 s.f. of retail space with 157-stores in twelve (12) separate shopping centers. Individual stand alone retail locations were not included in the inventory. A 2010 survey by Suffolk County Planning revealed a shopping center vacancy rate of 14% for Port Jefferson Station-Terryville vs. 14.8% for Brookhaven Town and 12.42% for Suffolk County. In all, approximately 72-acres were devoted to the twelve (12) shopping centers which were all zoned J-2 Business.

Data for adjacent Port Jefferson Village reveals 367,000 s.f. of current retail space, with 301,000 s.f. and 152-stores in Downtown Port Jefferson Village, and 66,000 s.f. and 17-stores north of the LIRR tracks. The 2010 Suffolk County survey revealed a retail center vacancy rate of 8.4% for Lower Port Jefferson Village and 29.8% for Upper Port Jefferson Village vs. 14.8% for Brookhaven Town as a whole and 12.42% for Suffolk County. In all, roughly 70-acres in Lower Port Jefferson Village and 7-acres in Upper Port Jefferson Village (Main Street portion only) were devoted to commercial uses, primarily retail.

Since 2010, there have been four (4) proposals submitted to the Village for pre-submission meetings for 17,544 s.f. of ground floor commercial space in Upper Port. Each of these projects has a corresponding residential component<sup>40</sup>.

To summarize, existing commercial totals for both Port Jefferson Station-Terryville and Port Jefferson Village are as follows: 1,040,500 s.f. of commercial, 326-stores, with 149-acres devoted to commercial, primarily retail (note: pre-submission proposals for the Village are not included in these totals).

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<sup>40</sup> Draft Upper Port Jefferson Village Revitalization Study, 11/28/12.

Based upon the above inventory and vacancy rates, it would appear that there is sufficient commercial/retail space to serve the needs of the greater Port Jefferson community which in 2010 had a total of 15,588 residents. As such, it would be inappropriate and unnecessary to re-zone any or all of the parcels to commercial zoning based on these economic conditions.

*Office Inventory – Port Jefferson Station, Terryville and Port Jefferson Village:*

There are seven (7) office buildings in Port Jefferson Station-Terryville with a total of 372,000 s.f. of office space, and four (4) office buildings in Port Jefferson Village with a total of 149,000 s.f. of office space. A small office building with 1,934-SF (known as *Celetano*) has recently been constructed on Patchogue-Port Jefferson Road at the intersection with Terryville Road. To summarize, there is approximately 523,000 s.f. of office space in the greater Port Jefferson area.

Office market vacancy rates were not available for greater Port Jefferson, but the Central Suffolk vacancy rate (inclusive of greater Port Jefferson), was 9.3% vs. 10.6% for Western Suffolk and 10.2% for Suffolk County, as of the third quarter of 2012<sup>41</sup>. Based upon the above modest office inventory and relatively low vacancy rates, it would appear that there is a need for additional office space in greater Port Jefferson. A portion of this need could be met at the Lawrence Aviation site as general office uses and specialized office uses such as laboratories for scientific or industrial research, testing and development, are permitted in the L-1 (light industry) District.

*Liens and Tax Arrears on LAI properties:*

Designation of the parcels as a Superfund site by the USEPA, and subsequent cleanup has resulted in significant liens due to tax arrears on various properties totaling over \$11,000,000, as well as a nearly \$40,000,000 claim under CERCLA to recover cleanup costs.<sup>42</sup> The liens placed on the various parcels are intended to recoup the cleanup efforts by the federal government; however it is unlikely that the liens will ever be fully satisfied and could be settled for a percentage of the total. In addition to the tax arrears which exist on the property, the former manufacturing site (SCTM # 0200 15900 0200 019000) contains almost the entire original building infrastructure. These buildings are severely dilapidated and some contain asbestos and other contaminants.<sup>43</sup> Removal of these buildings represents a significant financial burden that will need to be borne by either a government entity (Brookhaven Town, Suffolk County, NYSDEC or USEPA) or a land-

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<sup>41</sup> Colliers International, Research & Forecast Report: Long Island, Nassau & Suffolk County, Office Market Overview, undated

<sup>42</sup> Source: Suffolk County Treasurer's Office. See Section 5.7.1 and 5.7.2 of the LUP for details.

<sup>43</sup> Brookhaven Town/NYSDEC site inspections, 2014

owner. Together with the existing lien, tax arrears and CERCLA suit, there are currently significant economic boundaries which need to be overcome prior to re-development of the site.

#### **4.5.2 Future Conditions without the Proposed Action**

Without the adoption of the Land Use Plan, the subject parcels would likely remain vacant and blighted for the foreseeable future due to split-zoning, access issues, and a lack of a comprehensive plan. Additionally, lack of investment and re-development of the site, over time, could result in a diminished need as the Greater Port Jefferson Area may satisfy industrial space needs and/or industrial space tenants may develop in other areas of Brookhaven or Suffolk County. If the parcels remain in their current state, a severely negative tax base situation will continue to occur (due to arrears and lack of new tax dollars) which has an economic impact on the surrounding communities, the Town of Brookhaven and Suffolk County.

#### **4.5.3 Future Conditions with the Proposed Action**

With the adoption of the Land Use Plan, re-zonings of the southern (landlocked) parcels and creation of an overlay district (which contains various incentives), it is expected that re-development of some or all of the properties will occur in a relatively short time frame. Adaptive re-use of the properties will not only result in the properties becoming tax positive (an economic plus for the surrounding communities and districts) but will also create jobs and supply the Greater Port Jefferson area with needed office and industrial space.

#### **4.5.4 Mitigation Measures**

No mitigation measures are required as the proposed plan is designed to encourage and stimulate re-development of industrial uses within the study area and to help alleviate current economic conditions impeding re-development.

### **4.6 Community Services and Facilities**

#### **4.6.1 Environmental Setting**

The Lawrence Aviation Industries study area is located in Port Jefferson Station, with the Village of Port Jefferson being located on the opposite (north) side of Sheep Pasture Road. The study area is within the Comsewogue school district and the Terryville Fire District, which also provides EMS services, and is patrolled by the Sixth (6<sup>th</sup>) Precinct of the Suffolk County Police Department. Local hospitals include Stony Brook University

Hospital, John T. Mather Hospital and St. Charles Hospital. With respect to utilities, the study area is serviced by the Suffolk County Water Authority (SCWA), National Grid (natural gas) and Long Island Power Authority (LIPA) / PSEG (electricity).

Numerous civic associations have been instrumental in shaping the Land Use Plan and providing information, ideas and feedback to the planning process. These groups include the Civic Association of the Setaukets & Stony Brook and the Port Jefferson Station-Terryville Civic Association. In August of 2013, the Town Board established a Citizens Advisory Committee (CAC) which, in addition to the aforementioned civics included the Fire Department, School District, North Brookhaven Chamber of Commerce and the Comsewogue Historical Society. Additionally, located in the “transition” area is the Greek Orthodox Church of the Assumption and daycare facility next door (Early Discoveries Center).

Located approximately one half mile to the east of the study area is the Port Jefferson train station on the Port Jefferson branch of the LIRR. The Port Jefferson stop represents the eastern terminus of the branch, which west to Penn Station in Manhattan. A bus stop for the Suffolk County transit bus is also located at the train station. Connecting the site to the train station (via Hallock Avenue) is the newly constructed Setauket/Port Jefferson greenway trail (Appendix L). Suffolk County owns a nearly eighty (80) acre passive park (which is bisected by the greenway trail) to the west of the study area.

#### **4.6.2 Future Conditions without the Proposed Action**

Without the Proposed Action, conditions will likely remain the same. However, with the presence of the existing buildings, there is the constant threat of a fire or other harmful situation which could arise from trespassing and vandalism. The remaining buildings have been vandalized and set ablaze numerous times in previous years, creating hazardous conditions for first responders.<sup>44</sup> This condition can put a potential strain on the local volunteer emergency services, particularly with the LIRR grade crossing at the only paved access point. Currently, the number of incidents that the Terryville Fire Department has responded to in the last five (5) years is at an all-time high. In 2013 there were 2,774 total calls (fire and ems); while in 2009 the number of calls was 2,416 which represent a 13% increase in calls over the past half decade.<sup>45</sup>

#### **4.6.3 Future Conditions with the Proposed Action**

With the adoption and implementation of the proposed LUP, conditions will likely improve. Currently, the parcels are heavily tax-negative, due to non-payment of taxes by various owners as a result of the superfund designation. By returning the parcels to tax-

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<sup>44</sup> <http://7online.com/archive/9046791/>

<sup>45</sup> <http://www.terryvillefiredepartment.com/>



generating businesses, taxpayer funded services and facilities within the area will benefit financially to support the new industry or industries. By removing residential zoning from the southern parcels, the potential for additional school children to be generated from these parcels is eliminated and any taxes generated by the parcels would be a boost to the Comsewogue school district.<sup>46</sup>

It is anticipated that with the adoption of the LUP, the remaining buildings and structures will be removed more quickly than without the plan being adopted. Once these buildings are removed, a potential strain on emergency services will be eliminated as the site is currently an attractive nuisance with a history of vandalism and arson. Additionally, with the return of businesses and industrial development to the subject parcels, it is expected that the LIRR and Suffolk County Transit will see increased ridership and revenue.

#### **4.6.4 Mitigation Measures**

No mitigation measures are proposed as no adverse impacts are expected to community services or facilities. Any increases required from fire/police/ems services would be offset by appropriate taxes generated from new developments. Additionally, no housing beyond what is currently allowable on Parcel VI is proposed and thus no significant impacts are expected to the local schools.

### **4.7 Transportation**

#### **4.7.1 Environmental Setting**

The study area for LAI has one (1) legal and developed access point which is located at the northern end of the site, connecting onto Sheep Pasture Road. This access point consists of an at-grade crossing of the LIRR tracks and is protected with a warning gate and lights. Beyond the grade crossing is an additional gate (to prevent unauthorized access) and a former gate house. This access point was used for all ingress and egress from the site, including for employees and any related truck traffic. While there are multiple parcels which make up the LAI site with various owners, this access point serves them all (via easement). It should be noted that there are two (2) other access points to the study area which have never been legally used for access to the former industrial uses on-site. These access points include an informal connection to the “Chip-it-All” site (SCTM # 0200 15900 0100 021001) as well as a narrow paved driveway leading to the Flannery residence (SCTM # 0200 15900 0200 021000).

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<sup>46</sup> The residential zoning on Parcel VI is proposed to remain and will likely result in the development of approximately 14 single-family homes. The total number of homes and school-aged children is dependent upon multiple factors not explored within this document.

The various parcels which comprise the LAI site abut several “un-opened” paper streets, including Soundview Avenue, Harborview Avenue, Park Avenue, Scenic View Court, Brant Avenue, Keenwaydin Circle and an extension of Sheep Pasture Road on the north side of the LIRR tracks. These “paper-street” access points and their potential for access are further discussed in the Traffic Impact Study prepared by L.K. McLean Associates, P.C. The southernmost parcels (X and XI) are legally prevented from crossing the existing NYSDOT multi-use path<sup>47</sup>. Additionally, these parcels are bounded on the south by the LIPA ROW and on the east by residential developments, further preventing access.

*LIRR and Greenway Trail:*

As stated above, the site is adjacent to the LIRR Port Jefferson line. This railway terminates approximately one (1) mile to the east (with the train station being a half mile east of LAI), and runs west to New York City. Virtually all of the traffic on this section of rail is commuter related, though there are several rail sidings serving industrial uses east of the train station. As previously stated, there is an at-grade crossing to access the site, complete with a gate and lights. This grade crossing could cause traffic related issues if peak train traffic coincides with peak ingress/egress traffic from the study area. Currently, there are sixteen (16) peak hour trains from/to the Port Jefferson Railroad Station, eight (8) trains in the morning rush from 4:18 to 7:35 am, and eight (8) trains in the evening rush from 4:19 to 7:22 pm. During off-peak hours, there are an additional eleven (11) trains from Port Jefferson and thirteen (13) trains from Penn Station. Off-peak trains have average headways of approximately one (1) hour. Weekend service includes fourteen (14) trains per day in each direction averaging 1 ½-hour headways. The close proximity of LIRR provides a commuter rail option for employees of companies which choose to locate at the Lawrence Aviation site in the future.

Bisecting the southern portion of the property is the greenway trail which was recently opened to the public by the NYSDOT as a multi-use trail as depicted in Appendix L. This trail is paved and accommodates bicycles, rollerblades, skateboards, scooters and pedestrians. Clifton Place in Port Jefferson Station represents the eastern terminus of the trail and the western terminus is located at the entrance to Renaissance Technologies in East Setauket (along Route 25A). There is a gated access to the trail at the western section of the property which provides access across the trail for maintenance work on groundwater treatment equipment installed by the USEPA. While there is no true (public) access from the site to the trail, potential development of the LAI site could include a connection to the trail, allowing employees to utilize the trail before/after work (or on breaks) as well as provide an access point for employees wishing to utilize

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<sup>47</sup> No access stems from a 1968 NYSDOT acquisition. Personal communication from Bruce Branigan, NYSDOT, 2/14/2014 to Diane Mazarakis. Note that the USEPA crosses the greenway trail to access one of the parcels which contains cleanup equipment.

bicycles for commuting and/or pedestrians who wish to walk from the nearby train station to the facility.<sup>48</sup>

*Suffolk County Transit (bus service):*

Suffolk County Transit operates six (6) public bus routes which transect the Port Jefferson Long Island Railroad Station as follows: the 5A, S60, S61, S62, S69 and the S76. Service is provided six (6) days per week Monday through Saturday from 6:00 or 6:30 am to 9:00 or 9:30 pm depending upon the route. Headways vary from every ½-hour to hourly. In total, there are 157 weekday transects and 136 Saturday transects at the Station (for a complete description of routes, number of transects, route origin & destination, and route description see *Appendix VIII* in the LAI Land Use Plan, Suffolk County Bus Routes Transecting Port Jefferson LIRR Station).

On average, the above six (6) bus routes provide over 52,000 trips per month or in excess of 625,000 trips annually<sup>49</sup>. Suffolk County Transit does not maintain ridership data by bus stop, so it is not possible to determine what proportion of total ridership boards or exits at the Port Jefferson Railroad Station or on nearby Cherub Lane. The Port Jefferson Railroad Station is within a ½-mile distance from the Lawrence Aviation Main Gate on Sheep Pasture Road, allowing for easy connection via taxi, bicycle or on foot particularly if the greenway trail is used (see *Appendix IX* in the LAI Land Use Plan for monthly and annual ridership data by bus routes transecting the Port Jefferson LIRR Station). Suffolk County Transit provides a timely and reliable public transit service to the Port Jefferson LIRR Station which, if supplemented with a shuttle service, is a valuable asset to companies which choose to locate at the Lawrence Aviation site.

#### **4.7.2 Future Conditions without the Proposed Action**

Without the proposed Land Use Plan being accepted and implemented, development of the site may not occur in a cohesive matter and could result in unforeseen traffic impacts along Sheep Pasture Road and conflicts with respect to the existing grade crossing of the LIRR tracks. Additionally, the site would not be connected to the existing Greenway trail which provides a safe alternative for employees to commute to work on foot or via bicycle (particularly in conjunction with Suffolk County Transit busses and the Port Jefferson Train Station) and the unauthorized access through Chip-it-all could continue to be used. It is also possible that access to some of the parcels (depending upon ownership) could come from the residential driveway servicing the Flannery property (off of Willis Avenue). If the plan is not implemented, future uses of the site could result in excessive truck traffic utilizing an access point that is less than ideal for the flow of traffic and adjacent neighborhoods.

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<sup>48</sup> Access to the trail from the LAI complex would require an agreement between the property owner(s) and the NYSDOT.

<sup>49</sup> Suffolk County Department of Public Works

### **4.7.3 Future Conditions with the Proposed Action**

If the LUP is accepted and implemented, a connection to the Greenway could be made allowing commuters to reach the site from the train station safely on foot or via bicycle without having to traverse Sheep Pasture Road. Additionally, access points which currently do not exist could be created to facilitate specific development and tenant needs, as demonstrated in the traffic study prepared by a consultant to the Town (Addendum). Potential impacts to LIRR operations and the safety of commuters both on trains and vehicles traveling to the site will have been identified and thus can be avoided. Additionally, uncontrolled and unauthorized access points (such as via Chip-it-All and the Flannery driveway) would be prevented from continuing. New points of access, if required/needed, could be implemented in a controlled manner designed best to service the site and community while causing the least environmental impacts to existing vegetation, topography and air quality (as a by-product of traffic).

If and when the various parcels within the complex are developed (as well as when the buildings are removed), a certain level of traffic will be associated with the movement of materials. It is assumed that all materials will be brought off of and onto the site via the existing access along Sheep Pasture Road. No materials for industrial projects will be brought on-site through Bayview Drive/Scenic View Court, however these roads will be subject to increased traffic during construction of residential structures on the residential portion of Parcel VI.

Depending upon a variety of factors, it is possible that construction materials for industrial projects could be brought onto the site via the Chip-it-All property. The advantage to this access point is that there is no grade crossing for the LIRR, and it is located in a more industrial area where noise would be less of a factor. However, since Chip-It-All is privately owned, the Town cannot require the property owners to allow access (even temporary access) across their property.

While the land use plan contemplates general industrial development for the majority of the study area, the proposed overlay district is designed specifically to encourage development of a solar energy production facility on-site. While a solar energy production facility is essentially a passive use, with little to no daily traffic associated with it, construction of the solar energy production facility will require frequent traffic from vehicles bringing materials to the site. This impact is expected to be temporary, as the build-out phase (depending upon size) will take several months (including clearing of vegetation). Since the overall traffic impact for such a project (when averaged out over the lifetime of the project) is negligible, the temporary impacts associated with construction traffic are not considered significant. Furthermore, any development on-site will likely require similar levels of construction activity.

#### **4.7.4 Mitigation Measures**

No mitigation measures are required as a Traffic Impact Study (Addendum) has been prepared for the proposed LUP to ensure no negative impacts result from the recommendations of the plan.

### **4.8 Noise**

#### **4.8.1 Environmental Setting**

No noise is currently generated from the site with the minor exception of low level noise emitted from the pump house for the pump-and-treat well system and any typical residential noises stemming from the single-family dwelling within the study area (Flannery).<sup>50</sup> The parcel known as Chip-it-all (SCTM # 0200 15900 0100 021001) generates noise typically associated with outdoor industrial uses and heavy machinery, though the hours of operation are restricted to daylight hours and typically do not include weekends and/or holidays and the site is outside of the study area.

As portions of the LAI site are directly adjacent to residential areas, future development of the site will require adequate noise buffers (via existing vegetation or supplemental vegetation in accordance with Town code). The portion of the study area adjacent to the northern boundary of the greenway in particular is recommended for substantial buffers in order to provide visual and noise buffers between any on-site industrial uses and the greenway trail which should remain as tranquil and scenic as possible.

#### **4.8.2 Future Conditions without the Proposed Action**

Noise levels within the study area without the effectuation of the proposed plan could be detrimental to adjacent neighboring residential communities and/or users of the greenway trail, though existing Town code provides many provisions mitigating noise generated from new development. Currently, there is one point of legal access to the site, however future developments without the benefit of the plan, dependent upon which parcels are involved, could result in significant increases in traffic (including truck traffic) through residential areas which would significantly raise noise levels during business hours along local streets.

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<sup>50</sup> It should be noted that demolition of existing structures is expected to result in significant noise generation which may be heard by residents in the surrounding area. However, the demolition process is temporary and necessary for public safety.

### 4.8.3 Future Conditions with the Proposed Action

If implemented, the LUP and overlay district provides significant incentives for the re-development of the site (individual parcels or the study area as a whole) as a solar production facility. This use would create virtually no noise during operating hours, while achieving the goals of the LUP. Additionally, the LUP discusses the importance of proper buffers near residential areas as well as the greenway trail to prevent noises generated from industrial uses from spilling into these areas and further impacting neighbors. As such, the overlay district requires a minimum 100 foot buffer to residential areas, and allows for larger buffers depending upon a variety of factors, such as how much noise would be expected to be generated from the proposed use.

The incentives for the southernmost parcels (south of the greenway trail) to be preserved will ensure that residents bordering this portion of the study area are not impacted by noise generated on-site. While development of these parcels is extremely difficult due to access issues, the adoption of the LUP will assure that these areas are better protected, virtually guaranteeing significant noise attenuating buffers. Furthermore, the traffic study identifies appropriate additional points of access to the LAI complex, thus eliminating potential conflicts between existing residential development and new industrial development that may occur.

While the LUP contemplates a variety of uses which are allowable in the L-1 zoning district, specific impacts are difficult to analyze due to the varied possibilities. However, the LUP includes an overlay district which provides incentives for solar development within the complex.<sup>51</sup> While the operation of the solar energy production facility will result in virtually no noise heard beyond the boundaries of the complex, noticeable levels of noise would be expected during site development and construction. Main sources of noise during development would include vehicular traffic (mostly trucks delivering machinery or equipment), operation of machinery (used for grading/clearing activities) and installation of panels. The following information comes from the programmatic environmental impact statement (PEIS) of December, 2010 which was prepared for the Bureau of Land Management to evaluate potential impacts from solar development in six (6) southwestern states:<sup>52</sup>

*“The average noise levels from typical construction equipment range from 74 dBa for a roller to 101 dBa for a pile driver at a distance of 50 ft (15 m), with noise levels from most construction equipment ranging from 75 to 90 dBa at 50 ft (15 m). Noise levels would drop to 40 dBa at a distance of 1 mi (1.6 km). Where pile drivers are used, ground-born vibration would also occur in the immediate vicinity of construction sites.*

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<sup>51</sup> Note that much of the information supplied below could be assumed for similar projects during the development phase.

<sup>52</sup> [http://www.solareis.anl.gov/documents/dpeis/Solar\\_DPEIS\\_Chapter\\_5.pdf](http://www.solareis.anl.gov/documents/dpeis/Solar_DPEIS_Chapter_5.pdf) Page 5-77, lines 36-46

*At 25 ft (7.6 m), vibration levels from a roller would be 94 VdB. This level would diminish to 65 VdB (threshold of perception for humans) at 230 ft (70 m).”*

Based on the above information, combined with typical noise expected from vehicular activity during construction, the development of a solar facility at the LAI complex would not be expected to have a significant environmental impact related to noise, particularly due to the presence of substantial existing vegetative buffers and the distance from any solar energy production facility development to existing residential structures.

#### **4.8.4 Mitigation Measures**

No mitigation measures are needed as the proposed Land Use Plan recommends the retention of appropriate and adequate vegetative buffers to prevent noise pollution to adjacent properties including residential areas. Additionally, the LUP provides incentives (via an overlay) for solar and fuel cell electric generating facilities which will result in virtually zero (long-term) noise being generated on-site while accomplishing the goals of the LUP.

### **4.9 Community Character**

#### **4.9.1 Environmental Setting**

The LAI site has been a nuisance to the community for decades due to illegal activities which occurred on-site, resulting in the parcels being classified as a Superfund site by the USEPA. Since the closure of the factory, the site has seen repeated vandalism (including multiple fires), continued illegal activities (including unauthorized removal of metals) and additional environmental hazards (improper handling of asbestos materials and leaks coming from transformers).<sup>53</sup> Neighbors in the surrounding area have also been subject to frequent work conducted by the USEPA and NYSDEC on and around the site, disturbing their quality of life. Some of the businesses and residential homes that are located over the plume have been subject to air quality testing and in some cases, work has been done to mitigate potential environmental impacts (within Port Jefferson Village) due to the presence of the plume.

The Brookhaven Town Board, adopted a one (1) year building moratorium (17-I) in August of 2007 to allow sufficient time for a Comprehensive Plan to be developed for the Terryville-Port Jefferson Station community. The moratorium covered the most at-risk parcels in the hamlet, including the Lawrence Aviation site which had ceased manufacturing operations in March 2004. Immediately following the adoption of the

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<sup>53</sup> <http://www.newsday.com/long-island/suffolk/state-to-ask-court-to-jail-owner-of-superfund-site-1.7587999>

Moratorium, Dr. Lee E. Koppelman initiated efforts to compile a Comprehensive Plan for the hamlet. Included was a detailed analysis of existing conditions and an extensive community survey. The survey was designed to distill a future community vision for the hamlet and to inform future planning decisions by the Town. The final Comsewogue Hamlet Comprehensive Plan was completed within one (1) year and accepted by the Town Board in September 2008.

For Lawrence Aviation, the Plan recommended consideration of a future planned office complex together with a significant portion of land dedicated for park and open space purposes, provided that all environmental concerns were addressed. In December of 2009, the Town Board enacted a building moratorium (17-J), this time for twenty-one (21) specific parcels which had been recommended for changes of zone or other study by the Hamlet Comprehensive Plan. Lawrence Aviation Industries was included in the Moratorium. In December 2010, the Town Board extended the 17J building Moratorium until December 2012 for the Lawrence Aviation Industries site so a Land Use Plan could begin to be developed for the 156-acre site. In January 2013, the Town Board extended the building Moratorium (17-J) for two (2) additional years or until January 18<sup>th</sup>, 2015 so a detailed Land Use Plan and Generic Environmental Impact Statement (GEIS) could be completed.

#### **4.9.2 Future Conditions without the Proposed Action**

Without the adoption of the proposed Land Use Plan, the Town would not be in compliance with the requirements of the moratorium. Furthermore, the property would likely remain in the existing state, with incompatible underlying zoning, no restriction on allowable uses (as per zoning, which could potentially be hazardous), little to no control of comprehensive development, site access and preservation of existing vegetation and the parcels would likely continue to mar the general feel of the area by residents and business owners. The site, despite efforts to secure it, would also continue to be an attractive nuisance, which has resulted in graffiti, arson and further environmental degradation.

#### **4.9.3 Future Conditions with the Proposed Action**

The proposed Land Use Plan, if implemented, would result in zone changes, restrictions on allowable uses, comprehensive design and planning (including site access), protection of underlying natural resources (trees, soils, slopes, etc.) and allow for proper planning resulting in an industrial property that adds to the community character, instead of taking away from it. Potential connection to the existing multi-use path would facilitate and encourage “green” commuting to the site, thus increasing the number of bicycles, walkers and joggers in the greater Port Jefferson area and likely increasing ridership along the LIRR. Furthermore, a well developed industrial site would add significant jobs and



likely result in local businesses benefiting from the added employees in the general area. Regular use of the site, combined with other security measures typically found on industrial sites (cameras, security guards, alarms) would prevent unauthorized access to the site and eliminate the “attractive nuisance”.

#### **4.9.4 Mitigation Measures**

No mitigation measures are necessary as the proposed action is not anticipated to have any adverse impacts on the community character.

### **4.10 Scenic, Historic and Archaeological Resources**

#### **4.10.1 Environmental Setting**

The Lawrence Aviation Industries area and surrounding parcels studied in the LUP have few historic and cultural resources and no known archeological resources. Historically, the main LAI parcels were used as a manufacturing facility for airplane parts needed for construction of the F-14 Tomcat fighter jet for the federal government, with peak production occurring from 1972 to 1992; employing up to 500 people. Additional titanium products were manufactured here, including golf clubs under the Lawrence Aviation name. Prior to this, the site was used to manufacture commercial lead products, including gutters and spouts for roof drains under the business name of Ledkote Products Company.

At the same time, a turkey farm occupied the area north of the manufacturing plant of the property and other farming practices occurred on the western portion of the site which is entirely flat, as opposed to the rolling topography of the remainder of the study area. Agricultural use of the parcels, including the turkey farm, was abandoned around 1970.<sup>54</sup> Any activity prior to 1950 (aside from occupation of the Flannery home) is unknown and can only be inferred from historical images.

#### *Historic Districts:*

There are two (2) Town of Brookhaven historic districts within 5,000 feet of the LUP study area. The nearest is the Terryville Historic District which is located approximately 3,000 linear feet southeast of the study area, on the south side of NYS Route 347. The other district is the East Setauket District, located approximately 5,000 linear feet northwest of the study area, bounded on the east by the LIPA ROW which runs north/south. No historic districts or historic transition areas encompass the subject parcels.

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<sup>54</sup> Site history information from personal communication – Gerald Cohen, 6/17/12 site visit.

#### 4.10.1.1 Historic and Cultural Resources

Within the specific study area, there is one (1) “Society for the Preservation of Long Island Antiquities” (SPLIA) site. SPLIA is a not-for profit organization devoted to the preservation of architecture in the region and was founded in 1948 by Howard Sherwood.<sup>55</sup> The Flannery home (SCTM # 0200 15900 0200 021000 AKA parcel VII) dates back to the 1920’s and the property was listed as the “*O.T. Fanning, Walter Jones Estate and Ebenezer Reeves Estate*” on a 1909 map of the area.<sup>56</sup> The Flannery home includes a 1 ½ story log cabin residence and is set on a picturesque pond, well isolated from the previous industrial activities which occurred on-site.

Within the “Transition Area” of the LUP study area is another SPLIA site – that of the Greek Orthodox Church. While the main church building was constructed within the last few decades, the original church structure, located in the extreme western corner of the property (SCTM # 0200 15900 0100 035002) was built in 1959. The architecture of the structure, as well as interior finishes, make it unique in the area and worthy of preservation. Detailed information of both the Flannery home and the Greek Orthodox Church can be found in Appendix M.

#### 4.10.1.2 Archaeological Resources

The Lawrence Aviation Industries site and surrounding parcels (including the transition area) are not located within a New York State designated archeologically sensitive area.<sup>57</sup> Areas to the north and west, particularly East Setauket, Setauket and Port Jefferson Village are all within archeologically sensitive areas, mostly due to their proximity to the various harbors and Long Island Sound (see Appendix N for a map depicting these areas). The LAI site’s interior and elevated location; along with lack of water access (save for the small pond) are reasons why the area was likely not a hotbed for prehistoric activities by Native Americans and early settlers. Additionally, historical industrial activities, unauthorized sand mining and large-scale farming operations have altered the upper layers of soil on the majority of the property over the past century and as such it is not expected that any artifacts would be present and discoverable.

A Stage 1A Cultural Resources Survey of the site and surrounding area was conducted as part of the LAI site remediation by the USEPA. The study area and the surrounding parcels are within a region designated in a Suffolk County Archaeological Association-sponsored study as sensitive for prehistoric archaeological resources. At least three (3) archaeological sites have been identified within this special area, and over 100 historic

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<sup>55</sup> <http://splia.org/about-us/>

<sup>56</sup> 1909, Atlas of the Sound Shore of Suffolk County (Westerly Section) – E. Belcher Hyde

<sup>57</sup> NY State Historic Preservation Office – GIS Public Access

properties in the Village of Port Jefferson are listed on the State and National Register of Historic Places.

The survey concluded that most of the LAI site, including all outlying parcels, should be considered moderately sensitive for prehistoric archaeological resources. The following parcels are specifically noted as not sensitive for archaeological resources: the main manufacturing parcels to the south (I, II and disturbed portions of XI), and disturbed portions of parcel VIII immediately south of the LIRR tracks which was reportedly sand-mined in the past and may have hosted an asphalt plant.

#### **4.10.2 Future Conditions without the Proposed Action**

Without the proposed action, conditions will likely remain the same; however the Flannery home, which has been identified as a SPLIA site, will have no formal protection aside from those afforded by the presence of wetlands. Additionally, no formal protection of the vegetated areas on either side of the existing greenway trail will exist. As such, it is possible that these areas could be cleared or developed in a manner that would detract from the existing scenic vistas provided.

#### **4.10.3 Future Conditions with the Proposed Action**

With the adoption and subsequent implementation of the LUP, the Flannery home is subject to an extra layer of protection. While the LUP does not specifically forbid the demolition of this structure, it encourages conscious and cohesive re-development of the site and acknowledges the historical importance of the home and recommends the re-use or re-location of the main home if the residential use were to be abandoned. Additionally, the LUP specifically recommends the preservation of the southernmost parcels, which bound the greenway trail. Additional measures in the LUP recommend, or will result in, protection of adequate buffers along the northern boundary of the multi-use path that will maintain the scenic qualities.

#### **4.10.4 Mitigation Measures**

While the Land Use Plan does not propose anything which would impact scenic, historic or archaeological resources on-site, the presence of the Flannery home (circa 1920) is important. As such, if the residential use is ever to be abandoned, re-development of this area should utilize the existing structures and/or relocate the existing structures to maintain their historical and architectural integrity.

## 4.11 Energy

### 4.11.1 Environmental Setting

The LAI area is adjacent to a LIPA ROW which provides power from LIPA/PSEG via overhead wires. National Grid is a provider of Natural Gas to the surrounding area. As the former operation at the site was dependent upon on-site diesel generators, a connection to the local grid did not exist.<sup>58</sup> There currently is an electric connection which provides power for the pump-and-treat system installed by the USEPA; however the current connection is not sufficient to support a fully developed LAI industrial site with over 1,000,000 square feet of space requiring heating, cooling and other electrical needs. It is expected that any future development on the parcels within the study area will require a connection to the grid. Site plans for future work will likely be coordinated to LIPA/PSEG and they have been listed as an agency of interest for SEQRA purposes.

Located approximately two (2) miles to the northwest (via the LIPA ROW) is the Port Jefferson Village power plant, which represents the closest electric generating facility (owned and operated by National Grid). However, this plant is coal fired and rarely used; despite efforts by government officials to have LIPA “re-power” the plant and as such it is expected that the majority of energy needed for site development would come from other electric generating facilities in the immediate future.<sup>59</sup> According to a review by PSEG of LIPA’s power sources, the local utility company had an average of “528 megawatts of surplus power between 2005 and 2013”.<sup>60</sup> PSEG is currently proposing to reduce 185 megawatts of annual demand over the next decade through a variety of programs and by shelving proposed projects such as “Caithness II” (Yaphank). Ultimately, PSEG has stated that by 2018, only 5,959 megawatts would be needed to meet requirements of varying levels of government with that number potentially decreasing further by 2022.<sup>61</sup>

### 4.11.2 Future Conditions without the Proposed Action

Future conditions without the adoption of the Land Use Plan are not expected to have a significant impact on energy use as the site currently uses virtually no energy. Due to potential conflicts with zoning and existing legal as well as environmental concerns on the various properties, it is expected that without the proposed action, even if development were to occur, it would demand relatively minor amounts of energy based on the residential/industrial zoning districts.

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<sup>58</sup> The “Flannery” home has always been connected to the public grid, though this connection is distinctly separate from past industrial operations on-site.

<sup>59</sup> <http://www.newsday.com/long-island/towns/pseg-s-decision-not-to-start-power-plant-construction-in-yaphank-upsets-some-local-officials-1.8982778>

<sup>60</sup> <http://www.newsday.com/long-island/hearings-set-on-pseg-plan-to-reduce-energy-use-1.9089510>

<sup>61</sup> <http://www.newsday.com/opinion/a-welcome-change-in-li-electric-planning-editorial-1.9072873>

### **4.11.3 Future Conditions with the Proposed Action**

The proposed Land Use Plan would incentivize and comprehensively plan out development of the site for industrial purposes. Full build-out potential of the various parcels could result in over 1,000,000 square feet of industrial space that would need electricity for high-demand uses such as manufacturing. Additionally, large amounts of energy would be required for heating and cooling of buildings (seasonally) as well as other needs (lighting for example). Due to the lack of an existing connection, substantial site development could result in significant increases in demand that may warrant re-powering of the nearby Port Jefferson Village plant. It is not expected to result in the need for new electric generating facilities, particularly given the surplus energy condition noted in *Section 4.11.1 (existing conditions)*.<sup>62</sup>

Within the LUP is a proposed overlay district which would incentivize the use of the site (some or all of the parcels) for green electric generation (via solar or fuel cells). If the site were to be used (again, partially or as a whole) for electric generation, the proposed action would have a significant positive net impact on energy within the Town of Brookhaven and Suffolk County as it would produce a significant amount of energy with little to no environmental impact. While developers may choose to construct more typical industrial development on-site, solar arrays on top of buildings and/or within parking areas (and use of fuel cell technology) could significantly reduce any required demand from the public grid leading to a nominal increase in energy demand. While it is too speculative to determine if the site will ultimately produce or demand energy, the proposed LUP proposes avenues to achieve minimal impacts on energy.

#### **4.11.3.1 Potential Solar Energy Production Facility Development:**

While this document is a “Generic” Environmental Impact Statement, thus not requiring detailed information about potential uses, the LUP does propose an overlay district that is modeled to specifically provide incentives for solar development. Due to this proposed overlay district, it is appropriate to consider specific environmental impacts related to solar energy generation. Solar development (or a “solar energy production facility”) is a preferred use on the industrially zoned parcels for the following reasons combined with the conditions present on-site which are a result of past disturbances and activities:

- Solar energy production facilities produce little to no operational noise;
- Solar energy production facilities result in little to no daily traffic;
- No wastewater is produced from solar panels;

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<sup>62</sup> This issue is separate from the potential for the site to be developed as an electric generating facility via a solar energy production facility.

- While clearing of natural vegetation is required for installation, species of grass can be planted beneath the panels, creating important habitat for a variety of species of wildlife among other benefits;<sup>63</sup>
- Visual impacts are minor or non-existent as panels are lower than a standard two-story building;
- Solar energy production facilities are energy positive, meaning they create energy for the grid that can be used in place of energy created from “dirty” power plants that require coal or natural gas;
- No emissions are produced from solar energy production facilities (meaning there are no odors or chemicals released into the air);
- There are little to no long term environmental impacts from solar energy production facilities which are generally in-place for twenty years before being decommissioned or upgraded;<sup>64</sup> and
- Solar energy production facilities require little to no water for operation (aside from occasional washing of panels) and produce virtually no wastewater or solid waste.

The following environmental impacts would be expected to result from the development of the industrial parcels as a solar energy production facility:

- Clearing of natural vegetation (up to approximately 44 acres) and disturbance of soils;
- Traffic associated with bringing materials to the site during the construction phase; and
- Noise associated with construction the solar arrays including the use of pile drivers;

Additionally, the public is likely to have concerns regarding several other potential environmental impacts, as evidenced in a recent public hearing by the Brookhaven Town Planning Board for a project known as “*S*Power” located in Shoreham.<sup>65</sup> The issues raised by the public were:

- Impacts from “EMFs” (Electric and Magnetic Fields);
- Links between solar arrays and cancer (specifically childhood cancer);

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<sup>63</sup> The solar energy production facility at Brookhaven National Lab (BNL) required clearing of vegetation and planting of grassland species which have successfully been established. These grasses prevent erosion during severe storm events, uptake CO<sub>2</sub> and produce O<sub>2</sub>, and create habitat for species dependent upon grasslands which is an uncommon habitat on Long Island due to development over the last several decades.

<sup>64</sup> This twenty (20) year figure is based on current contracts LIPA/PSEG is executing with solar energy production facility operators for twenty (20) year periods.

<sup>65</sup> The public hearing was held on October 20, 2014 and a transcript of the minutes is available from the Town Clerk’s Office upon request.

- Visual impacts;
- Impacts to property values; and
- Appropriate location of a solar energy production facility near residential development.

Below is a detailed analysis of the issues raised by the public for the Spower project as well as an analysis on the aforementioned expected environmental impacts.

#### **4.11.3.2 Analysis of Public Concerns and Expected Impacts<sup>66</sup>**

##### *Clearing*

The following scenarios assume that the Land Use Plan is adopted and implemented and that the proposed Overlay District is adopted as per the model code. If the adopted code differs drastically from the model code, additional SEQRA may be required.

If all of the L-1 parcels are developed for solar (solar energy production facility), it is expected that approximately 44 acres of woodlands will be cleared.<sup>67</sup> Pursuant to §617.4(6)(i) of NYS SEQRA law states:

*“Activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:*

*(i) a project or action that involves the physical alteration of 10 acres;”*

Additionally, this threshold is reduced to just 2.5 acres when the parcels being cleared and/or disturbed are adjacent to open space<sup>68</sup>, pursuant to §617.4(10) which states:

*“Any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space. . .”*

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<sup>66</sup> Note: Much of the information in this section is derived from a variety of previously adopted environmental impact studies for other solar projects throughout the nation, including the BNL solar project (Upton, NY). Additionally, this information is based on studies which were also utilized in determining potential impacts to the “SPower” project. All of the documents which were researched for the “Spower” project by the Division of Environmental Protection were also studied to determine potential impacts within this section, and throughout the DGEIS with respect to solar energy production facilities.

<sup>67</sup> This figure is a rough estimate based on Planning Division calculations. Additionally, it assumes that the “Flannery” property (zoned L-1) would not be included. This calculation also includes 100’ buffers to all adjacent residential development and a 150’ total width buffer from the Flannery Pond and understands that there is considerable acreage which is already cleared and/or disturbed.

<sup>68</sup> The NYS DOT greenway trail would be considered “open space” and thus the parcels adjacent to this trail would be subject to that section of legislation.

While the clearing of more than ten (10) acres (or 2.5 acres based on the above) has the potential to have a significant environmental impact, any impacts would be adequately mitigated. The only way for the L-1 parcels to be developed under this maximum scenario under the proposed overlay district is if the two (2) southern parcels (landlocked) are purchased and stripped of their development rights. These lots would then remain forever wooded (and likely would be donated to the town as open space). The two (2) parcels are approximately 52 acres in size, and when combined with the amount of vegetation retained in the required buffers, approximately 50% of the total L-1 zoned area within the LAI complex (Flannery parcel excluded) would be retained in natural vegetation.

This percentage is well below the standard recommend level for parcels zoned L-1 throughout the Town of Brookhaven which is 65%. Additionally, with the lots south of the greenway trail being preserved in their entirety, and the natural buffers consisting of large, contiguous blocs of vegetation, no significant impacts would be expected to the wildlife which exists in the wooded areas. Furthermore, the vast majority of these parcels were cleared approximately 50 years ago for agricultural purposes, meaning while the woodlands are well established and mature, they would not be considered “old growth”.

*Traffic:*

Another issue which would be associated with development of a solar energy production facility and which would likely have a negative impact stems from traffic. The traffic associated with solar energy production facility development, however, would be limited to the construction phase of the solar energy production facility. Once the solar energy production facility becomes operational, traffic to and from the site would be extremely limited (likely no more than five [5] trips per day) as a solar energy production facility requires limited staff. While the only current access to the site is near the northeastern corner (along Sheep Pasture Road), it is possible, depending on a variety of conditions that materials could be brought to the site via the Chip-it-All site which would alleviate some impacts to local traffic flow and nearby residents. Regardless of how materials are brought to the site, the impacts associated with this traffic are temporary and would be well below any “worst-case” scenario, as described the Traffic Impact Study which is an addendum to this document.

*Noise:*

As would be the issue with traffic, any negative impacts associated with noise would be temporary in nature and would be generally confined to the construction phase of the solar energy production facility. As harnessing solar energy requires no moving parts or machinery, no noise is generated. The following information comes from the programmatic environmental impact statement (PEIS) of December, 2010 which was



prepared for the Bureau of Land Management to evaluate potential impacts from solar development in six (6) southwestern states:<sup>69</sup>

*“The average noise levels from typical construction equipment range from 74 dBa for a roller to 101 dBa for a pile driver at a distance of 50 ft (15 m), with noise levels from most construction equipment ranging from 75 to 90 dBa at 50 ft (15 m). Noise levels would drop to 40 dBa at a distance of 1 mi (1.6 km). Where pile drivers are used, ground-born vibration would also occur in the immediate vicinity of construction sites. At 25 ft (7.6 m), vibration levels from a roller would be 94 VdB. This level would diminish to 65 VdB (threshold of perception for humans) at 230 ft (70 m).”*

Due to the reasons outlined above, temporary impacts associated with noise from the construction of a solar energy production facility are expected to be minimal. Additionally, when compared to noise levels expected from other types of allowable uses on-site, noise generated from a solar energy production facility would be negligible.

#### *EMFs and Cancer:*

The public has previously raised concerns regarding impacts from EMF's (electric and magnetic fields) associated with solar energy production facilities near residential communities.<sup>70</sup> “EMF's are generated when charged particles are accelerated. Charged particles in motion produce magnetic fields. Electric and magnetic fields are typically generated by alternating current in electrical conductors and are also referred to as electromagnetic fields.”<sup>71</sup> Anything which requires electricity has an EMF associated with it (including devices which are plugged in – but not turned on). Many household appliances put out “high” amounts of EMF (measured in units of milligauss [mG]). For example, electric can openers produce 1500mG's at a distance of 6”, while a coffeemaker produces only 10mG's at a distance of 6”. Additionally, the further away one gets from an object that puts out EMFs, the greater the reduction in measurable EMF's. For example, at a distance of four feet, the same electric can opener puts off only 4mG's of EMF's and the coffeemaker produces no measurable amount.<sup>72</sup>

With respect to EMF's produced by substations (which may need to be constructed on-site), the following information is available from the USEPA: “Some people are

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<sup>69</sup> [http://www.solareis.anl.gov/documents/dpeis/Solar\\_DPEIS\\_Chapter\\_5.pdf](http://www.solareis.anl.gov/documents/dpeis/Solar_DPEIS_Chapter_5.pdf) Page 5-77, lines 36-46

<sup>70</sup> These concerns were made at a Town of Brookhaven Planning Board hearing for a proposed solar energy production facility.

<sup>71</sup> The information in quotes comes from the ‘Solar Environmental Impact Summary from Argonne National Laboratory, June 2013.

<sup>72</sup> EMF information is from the USEPA's “EMF in your Environment” – December, 1992.

*particularly concerned about the magnetic fields generated by electric substations. In fact, as with appliances, the fields produced by substation equipment quickly diminish in strength a short distance away and do not extend beyond the substation boundaries. However, magnetic fields near substations can be stronger than those in other parts of the neighborhood because the power lines drop down closer to the ground as they go in and out of the substation, bringing their accompanying magnetic fields closer to people on the ground.”*

Due to the fact that the LAI complex has ample acreage away from existing residential structures, and due to the fact that high-tension power lines already exist adjacent to the site, it is not expected that any impacts would result on residents or people utilizing the greenway trail as a result of solar development. Any substation construction (or similar) would be designed in such a way as to maximize the distance from any residential structures. Furthermore, a letter from the Department of Energy, written on November 12, 2009 to the Oregon Department of Transportation regarding EMF's states the following:

*“[The national Renewable Energy Laboratory’s] analysis shows that the health risks of the proposed installation due to electromagnetic fields are minimal, and that this issue should not impede the [solar energy production facility] project from moving forward. In summary, the magnitude of EMF exposure measured at the perimeter of [solar energy production facility] installations has been shown to be indistinguishable from background EMF, and is lower than that from many household appliances such as televisions and refrigerators. Further, evidence linking MF exposure from high-voltage power lines to cancer has been shown to be weak. High voltage power lines produce much stronger EMF than the proposed [solar energy production facility] installation. The Department of Energy believes strongly that the need to deploy solar technologies on a large scale [is needed to] meet our national priorities for clean energy.”*

Due to this information, as well as extensive research conducted by the Division of Environmental Protection for this document as well as previous and current solar energy production facility proposals, indicates that there is no threat to the public stemming from EMFs which are generated from solar energy production facility projects. Furthermore, there is no evidence indicating that cancer is caused from EMF's (associated with solar energy) that EMF's result in cancer levels above normal. While there is weak evidence that exists showing a potential link to cancer and high energy transmission lines, the construction of a solar energy production facility on-site will not require new power lines, but rather would connect to the existing power lines in the adjacent LIPA/PSEG ROW which are sited at an appropriate distance from existing residential development.

*Visual Impacts:*

No significant visual impacts are expected from the development of a solar energy production facility on-site. While full development of the L-1 parcels would result in significant clearing, the proposed overlay district would require a minimum of 100' buffers to all adjacent residential properties as well as the existing greenway trail. Additionally, as the panels to be constructed would typically be no higher than a two-story building (and in many cases, much lower), the visual impacts associated with solar development, compared to other L-1 as-of-right developments would be much less.

*Property Value Impacts:*

The re-development of LAI would likely result in increased property values for surrounding parcels, as the blighted site and environmentally unsafe conditions of the past will have become remedied. It is not expected that new development, in conformance with the L-1 zoning code would result in decreased property values. Furthermore, it is not within the scope of a DGEIS to consider property value impacts which are highly speculative and based on many factors, including those which are unforeseen and/or not within the control of the Town.

*Siting of a Solar Energy Production Facility near Residential Development:*

As previously stated, this is a concern which has been raised by members of the public on another solar project proposed within the Town of Brookhaven. It should be noted that the major difference between that project and any solar energy production facility project at LAI is that LAI is already zoned for industrial use – whereas the “*Spower*” project was being used as a sod farm and was residentially zoned.<sup>73</sup> The LAI area has been zoned and used for industrial purposes for many decades, with existing residential development in surrounding areas. The proposed LUP recognizes concerns that citizens have regarding a variety of issues, and proposed a minimum 100' buffer from all industrial zoning to residential areas, as well as the existing greenway trail. This buffer will mitigate noise and visual issues (neither of which would be expected from a solar energy production facility).

As the area is already zoned for industrial uses, and as a solar energy production facility would be the best use of the property (as previously discussed and outlined), it would not be out of character for a solar energy production facility to be erected within the LAI complex, despite the presence of adjacent residential neighborhoods. Furthermore, no residents have expressed concerns regarding this use near their homes throughout the moratorium period.

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<sup>73</sup> It should be noted that a land use plan covering the sod farm specifically recommended and considered construction of a solar energy production facility at the prescribed location and that a change of zone was not needed.

#### **4.11.4 Mitigation Measures**

No mitigation measures will be required as no significant impacts are to be expected as a result of the Land Use Plan and because the LUP has built-in incentives and allowances to facilitate usage of solar and fuel cell technologies to generate electricity for on-site consumption or for transferring to the grid. Additionally, recent information provided by the local utility company (LIPA/PSEG) indicate that there is a glut of energy available throughout Long Island, thus even if the build out demanded significant amounts of energy, there is ample capacity to handle it.

### **5.0 UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS**

As the proposed Land Use Plan for Lawrence Aviation Industries consists largely of implementing zoning changes, an overlay district and promoting cohesive development of the involved sites, the environmental impacts associated with these recommended changes will be largely minimal. Additionally, as the collective properties have been identified as a superfund site by the USEPA and is undergoing the final stages of the cleanup process (in conjunction with the cleanup process by the NYSDEC), the impacts associated with the site over the last few decades are being thoroughly mitigated and reversed to the maximum extent practicable and thus any impacts associated with re-development of the site will pale in comparison to the damage which was previously done on-site. However, some environmental impacts cannot be avoided nor mitigated and are as follow:

- Potential sanitary flow increase with full build-out (though anything above SCDHS standards would require an STP, credits or similar means of mitigation).
- Intensification of land use if fully developed (as the majority of the property has been left unused for decades).
- Removal of existing vegetation, which has grown over the past forty to fifty years since the agricultural uses on-site ceased, as part of re-development.<sup>74</sup>
- Potential increase in traffic to the site via adjacent roads (particularly compared to the near non-existent traffic generated since LAI ceased operations).

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<sup>74</sup> Rough estimates made by staff based on buffer requirements, existing clearing/disturbances and potential uses indicate a maximum clearing (100% development of L1 parcels) of 44 acres of natural vegetation (trees/undergrowth) resulting in a total of 73 acres being cleared (as there are extensive cleared areas already existing). When combined with the parcels that are proposed to remain undisturbed and the buffer requirements, approximately 50% of the overall industrial complex would be cleared.

- Potential to increase demand from the local grid, due to the previous factory operating from generators (this could be offset or non-existent if solar/fuel cell technology is used)

## **6.0 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

The primary goals of the Land Use Plan are to put in place comprehensive and thought-out plans and zoning for appropriate re-development of a remediated superfund site and to return the parcels to tax positive while also creating jobs within the community. As such, the recommendations put forth in this plan will likely require a significant increase in resources used; including water, electricity, and natural gas or petroleum products as the site is currently vacant (aside from the USEPA pump station and the Flannery home) and thus using essentially no resources. However, given the past manufacturing which occurred on this parcel (and going back to the mid 1900's when there was a sizeable turkey farm on-site), the commitment to resources will likely be consistent with past demands from the subject parcels (particularly when taking into account more efficient technologies and less demanding uses).

As previously discussed, the past manufacturing activities which occurred on-site were not connected to the local utility grid; instead the equipment was powered by diesel generators which used vast amounts of diesel fuel. Previous activities also required significant volumes of water for manufacturing and energy (propane) for heating. However, if all of the parcels are built out to their maximum capacity, the resulting total footprint could be in excess of 1,900,000 square feet which would be nearly nine and a half (9.5) times the square footage of the previous industrial use (LAI). Given the potential for such an expansive industrial development, the site will require significant quantities of water which would be irreversible and irretrievable.

### *Estimated Waste Water Flow:*

Based upon Suffolk County Department of Health Services standards for Hydrogeological Zone I, a maximum of 94,000 gallons per day (gpd) (600 gpd/acre X 156 acres) could be accommodated on-site without the benefit of sanitary sewers, although this figure may need downward adjustment to reflect the presence of on-site wells and groundwater retrieval and treatment system.<sup>75</sup> The site would yield an estimated maximum 1.9-million s.f. of General Industrial Space which would generate a flow of 76,000 gpd (0.04 gpd x 1.9-million s.f.), while alternatively, 1.4-million s.f. of Non-Medical Office Space would generate a maximum flow of 114,000 gpd ( 0.06 gpd /s.f. x 1.4-million s.f.).

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<sup>75</sup> <http://www.pb.state.ny.us/pbc/CommercialStandards.pdf>

Based upon the above estimates, there appears to be sufficient unused wastewater treatment capacity beyond 1-mile to accommodate this load. It should be noted that redevelopment of the LAI site would in all likelihood proceed in stages, so the more limited available treatment capacity in the immediate area within the 1-mile radius may also be an option in the early stages of redevelopment.

#### *Electricity and Fuel:*

With respect to the commitment of resources for electricity and fuel for heating buildings, there is potential for significant demands of both resources. However, the proposed plan features an overlay district that provides specific incentives to encourage usage of the site as an electric generating facility utilizing solar panels.<sup>76</sup> Use of the site for fuel cell electric generation (which would use natural gas to create electricity) as well as use of fuel cells and/or solar to complement any development on-site are encouraged. As such, it is impossible to say if the site will require more energy or if it will generate electricity for the grid, particularly when advances in technology and efficiency are expected by the time the parcels are fully developed. Due to the reasons outlined above, it is not expected that significant adverse impacts would result from increased demands on resources. If at a future point in time, application(s) are submitted which indicate a need for resource use beyond what was envisioned in the plan and DGEIS, additional SEQRA will be conducted to determine if significant environmental impacts would result.

## **7.0 GROWTH INDUCEMENT**

The proposed Land Use Plan has been designed to control and steer appropriate development toward the collective parcels which have been subject to a moratorium. Typical Land Use Plans prepared and effectuated by the Town of Brookhaven involve general areas of the Township which go through a long community planning process which involves community visioning and numerous public meetings in an effort to identify the best way to move the area forward to plan for the future and address identified needs. With the LAI LUP, the parcels were encompassed in a series of moratoriums, most recently restricted solely to the parcels within the study area, largely due to the site being designated as a Superfund site by the USEPA. This moratorium has allowed the Town, civic groups, government officials and residents in the area to envision how the site should be re-developed, post cleanup.

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<sup>76</sup> While geothermal wells can also be used to reduce energy costs and are encouraged throughout the Town, the potential for use of wells on-site is complicated by past dumping resulting in a toxic plume. As such, the USEPA has installed a series of wells associated with a pump-and-treat system which may hinder geothermal development in certain areas of the property. Due to these circumstances, incentives were not specifically put in place in the overlay district or plan to encourage geothermal technology to be used.

While the main environmental contamination on-site has been removed, with the groundwater plume being actively treated, the existing buildings and much of the equipment still exists. Some of these buildings and equipment pose potential hazards to the environment due to leaking fluids (oil, in the case of on-site transformers) or asbestos (which exists in some of the buildings).<sup>77</sup> As the Town, County, State and Federal Government move forward to finish the cleanup process, the adoption of the Land Use Plan encourages re-development of the site which has been inactive for approximately twenty (20) years.

The collective parcels in the LUP area are roughly 156 acres in size and are proposed to all be zoned L-Industrial-1 (L1), with the two (2) southern most parcels (on the south side of the greenway trail) being preserved in their natural state. By re-zoning the portions of B-1 to L-1, the underlying parcels will be allowed to be developed for industrial uses - a zoning category which allows a wide range of businesses (in contrast to B-1 which strictly allows residential development). The re-zoning of approximately 75 acres of land which is residential or split zoned residential/industrial is designed to encourage comprehensive development of appropriate uses on-site. While the re-zoning does not in itself induce growth, it allows for the collective parcels to be developed more easily than if the existing residential development were to remain.

Adding to the existing industrial zoning acreage will increase the total theoretical maximum build-out of the site, attracting more potential development to the site, particularly when the development rights from land-locked parcels are included. This may result in significant increases in traffic coming to and from the site (by way of employees, deliveries and/or customers) and may add significantly to the tax rolls within the greater Port Jefferson Station area. Adding infrastructure to the site will likely have a positive economic impact on the surrounding area, but will not induce growth outside the study area.

If portions of the site or the entire site are developed as an electric generating facility (via solar or fuel cells), the site has theoretical potential to induce growth in the surrounding area by making more electricity available. However, as discussed at length in Section 4.11 *Energy*, Brookhaven and Suffolk County have had a surplus of energy in recent years and the current utility company (PSEG) is actually working to reduce the amount of electricity needed, while at the same time encouraging new “green” energy production. As such, if the site were to become an electric generating facility, the power transferred to the grid would not induce growth in the region, but rather offset energy requirements from fossil-fuel driven power plants.

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<sup>77</sup> An article dated April 23, 2014 in Newsday indicates that the NYSDEC is taking charge to clean-up the oil spills from the transformers. <http://www.newsday.com/long-island/suffolk/new-agreement-allows-state-cleanup-at-port-jefferson-station-superfund-site-1.7804895>

Existing transit systems (Suffolk County busses and the LIRR) and roadways are not expected to be expanded to account for future development at the site as a result of the Land Use Plan. While modifications to the local roadways may occur (in the form of access to the site), these changes are not expected to promote growth and development outside of the study area. The addition of commuters and employees to the LAI site may *encourage* growth within the surrounding area, particularly near the train station on the village border, but these areas are currently being considered for new development projects (including several pending housing projects), and thus any changes in the area would not be the whole result of adoption and implementation of the LUP. As such, it is not expected that any significant impacts would occur with respect to growth in the surrounding area due to the recommendations of the Land Use Plan.

## 8.0 ALTERNATIVES CONSIDERED

### 8.1 Alternative 1 – No Action

If No Action were taken (with either the LUP not recommending any changes or an LUP not being adopted and implemented) redevelopment of the site could potentially occur based upon existing zoning. This Alternative is in sharp contrast to the purposes of the extensive moratoriums as well as the goals of the proposed LUP. The below chart summarizes current zoning, acreage, percent of site devoted to each zoning District and the estimated yield in each District should the LUP not be adopted and implemented.

<u>District</u>	<u>Acreage</u>	<u>Pct/Site</u>	<u>Estimated Yield</u>
L-1 Industrial	75.41	48%	920,000 SF <sup>78</sup>
B-1 Residential	52.72	34%	81 SFH <sup>79</sup>
L-1/B-1 Split	28.32	18%	34 SFH & 71,000 SF
<b>Total:</b>	<b>156.45</b>	<b>100%</b>	<b>991,000 SF &amp; 116-SFH</b>

To summarize, the above chart illustrates that under current zoning, the Lawrence Aviation site would yield approximately slightly more than 900,000 square feet of light industrial space and 116-single family homes.

#### *Possible Barriers to Implementation – No Action Alternative:*

The primary barrier to implementing this option is the introduction of single family homes at the LAI site. In its Record of Decision, the USEPA has ruled-out future

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<sup>78</sup> SF = Square Feet

<sup>79</sup> SFH = Single Family Home



residential use on industrial parcels I & II at the site, and soil testing of all outlying parcels has revealed residual soil contamination.<sup>80</sup>

In addition, this option is more likely to result in the future segmented and uncoordinated redevelopment of the site, something the community has continually expressed concerns about, provides no incentives to attract future industrial developers, and does not address the additional redevelopment and preservation opportunities contiguous parcels present. Lastly, this alternative provides for a lower percentage of preservation than the recommended option as provided by the Overlay District (45% vs. 35%), and provides no vehicle to transfer development yield among contiguous parcels, which would result in the preservation of a much larger percentage of existing habitat and the clustering of future redevelopment largely on already cleared parcels.

## **8.2 Alternative 2 – Total Preservation by Government Entities**

This alternative envisions the preservation of the approximately 156 acres which represent the LAI study area. It would address the concern raised in the 2008 Hamlet Comprehensive Plan about lack of open space and a community focal point by creating a centrally located park for the community. Derelict industrial buildings at the LAI site, and a number of smaller structures outlying LAI parcels would need to be demolished and properly removed prior to a park being opened to the public. Funding might be available to demolish these structures from New York State's Brownfield Opportunity program, or possibly via Federal Superfund program. Once derelict structures are removed, the parcels would be allowed to succeed to natural vegetation or they could be re-vegetated with native species. Walking paths and trails could be established along existing roadways and meandering foot trails. Inclusion of active recreation facilities would potentially be contingent upon appropriate soil testing. Funding may be available to support such testing and remediation through the State via the Suffolk County Land Bank Corporation.

Assuming the parcels are either taken for tax arrears or are purchased with other available funds, provisions would need to be made through State legislative action to hold Suffolk County and/or Brookhaven Town harmless for the cost of any future environmental remediation, legal action, or the cost of removing derelict structures. It is assumed that removal of derelict structures and succession/re-vegetation of the site would take several years to accomplish, with specific portions of the site to be opened to the public on a rolling basis to coincide with any needed soil remediation.

### *Possible Barriers to Implementation - Total Preservation Alternative:*

This option would preserve the entire LAI site as open space with an option to create some active recreational use(s); both options are identified goals in the Comsewogue

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<sup>80</sup> <http://www.epa.gov/superfund/sites/rods/fulltext/r2006020001436.pdf>

Hamlet Comprehensive Plan and are subject to the availability of resources. Both Suffolk County and the Town of Brookhaven have reduced availability of funds to acquire open space, or have established other priorities, and the County is understandably unwilling to take these properties for tax arrears given the long range environmental clean-up costs and possible liabilities associated with the site. Although the site does meet County criteria for transfer to the Land Bank Corporation, which would permit tax liens to be sold, the degree of prior contamination makes such a transfer a low priority for the County.<sup>81</sup>

The USEPA has on ongoing CERCLA law suit against LAI which has consolidated all liens against the property amounting to approximately \$40 million. It is likely the USEPA would contest the acquisition of the site by tax default for open space purposes as the agency views the site as an asset to be sold to reimburse the Federal government for costs incurred in the environmental cleanup. The USEPA has documented residual soil contamination on all LAI manufacturing and outlying parcels, and has ruled-out future residential use of the site on manufacturing parcels I & II. In order to integrate some active recreational uses at the site, the soil would need to be remediated to Unrestricted Use Soil Cleanup Objectives as specified in NYS DEC Part 375 standards. The cost of this remediation might fall to the public agency acquiring the site for open space, although some funding may be available to support soil cleanup as indicated above.

## **9.0 FUTURE ENVIRONMENTAL REVIEW**

The *Lawrence Aviation Industries (LAI) Land Use Plan* and this DGEIS will aid in assessing impacts. The GEIS is intended to consider, in a generic way, the environmental impacts that may be associated with implementation of the LAI Land Use Plan and does not exclude implementation actions from further SEQRA review.

Proposed actions in the LAI study area to implement the Land Use Plan, including applications for site development and changes of zone, will need to demonstrate compliance with SEQR. The site-specific impacts will be assessed individually and mitigation measures identified and required.

Pursuant to 6 NYRCC Part 617.10(d), “when a final generic EIS has been filed under this part:

- 1) *No further SEQR compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the generic EIS or its Findings statement;*

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<sup>81</sup> SC Land Bank Corporation, 12/11/2013 CAC Meeting

- 2) *An amended Findings statement must be prepared if the subsequent proposed action was adequately addressed in the generic EIS but was not addressed or was not adequately addressed in the Findings statement for the generic EIS;*
- 3) *A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action will not result in any significant environmental impacts;*
- 4) *A supplement to the final generic EIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action may have one or more significant adverse environmental impacts.”*