4.0 LAND USE MANAGEMENT STRATEGIES

Land use management strategies are actions that can be used to promote the development of compatible uses and to prevent the development of incompatible land uses in areas that will continue to be subject to aircraft noise impacts. In most cases, the responsibility for implementing such strategies rests with municipalities surrounding the BNIA. Through the effective use of their land use control powers, communities can ensure that incompatible uses do not continue to develop within noise-impacted areas. An effective NCP involves measures that combine land use management with operational and remedial strategies to ensure that all possible actions are taken to resolve existing and potential noise problems.

A reduction in the number of people exposed to levels of DNL 65 dBA or greater is anticipated for communities surrounding the BNIA due principally to fleet mix changes and the use of more quiet aircraft by the airlines serving the Airport. Operational strategies that are recommended in Chapter 2.0 are intended to minimize existing and future noise impacts, as best possible, and will require the commitment of ATC personnel at the BNIA, as well as the airlines serving the Airport. In turn, the remedial program that is recommended in Chapter 3.0 will require a substantial financial commitment on the part of the NFTA and the FAA.

However, the benefits of the operational and remedial strategies will be reduced in the future if further encroachment occurs around the BNIA by residential development or other noise-sensitive uses. This chapter evaluates strategies that can be used by municipalities in the vicinity of the BNIA to promote the development of compatible uses on those lands that are not yet developed or that can be redeveloped. FAA policies encourage airport operators and communities to work together to focus their efforts on existing incompatible uses with remedial land use measures and preventive land use measures such as comprehensive planning, zoning, subdivision regulations, building codes, and real estate disclosure.

In their application, land use management strategies typically incorporate noise contours that guide community planners and decision-makers in evaluating development proposals. It is

important that community planners and decision-makers remain abreast of the Airport's issues and be flexible in planning for compatible development.

4.1 REVIEW OF LAND USE MANAGEMENT STRATEGIES

The following section reviews the range of land use management strategies that may be used to promote compatible development in areas affected by aircraft noise. Many strategies are available and can be grouped into three categories: regulatory, policy, and market intervention techniques. These techniques are reviewed below to determine their appropriateness for implementation by the communities surrounding the BNIA.

4.1.1 Regulatory Strategies

Regulatory strategies include land use and development controls established through an ordinance which is approved by appropriate governing bodies. These strategies include zoning controls, building codes, and subdivision/site plan regulations.

4.1.1.1 Conventional Zoning

Traditionally, zoning ordinances have been used by municipalities to regulate the location of land uses and the height, bulk, density, and siting of buildings on parcels or lots. Conventional (or "general purpose") zoning can be used in the vicinity of an airport to promote noise-compatible future development by limiting the number of noise-sensitive land uses that are developed, and thus the number of people potentially exposed to aircraft noise. There are two ways in which conventional zoning has been applied across the country to control land use development in noise areas around airports:

- **Large Lot Zoning** – Large lot zoning involves using conventional zoning measures in noise compatibility planning to reduce the number of residents in the high noise areas, rather than preventing residential development altogether. This type of zoning is accomplished by reducing the permitted housing densities or increasing the minimum lot sizes in the noise-impacted areas.

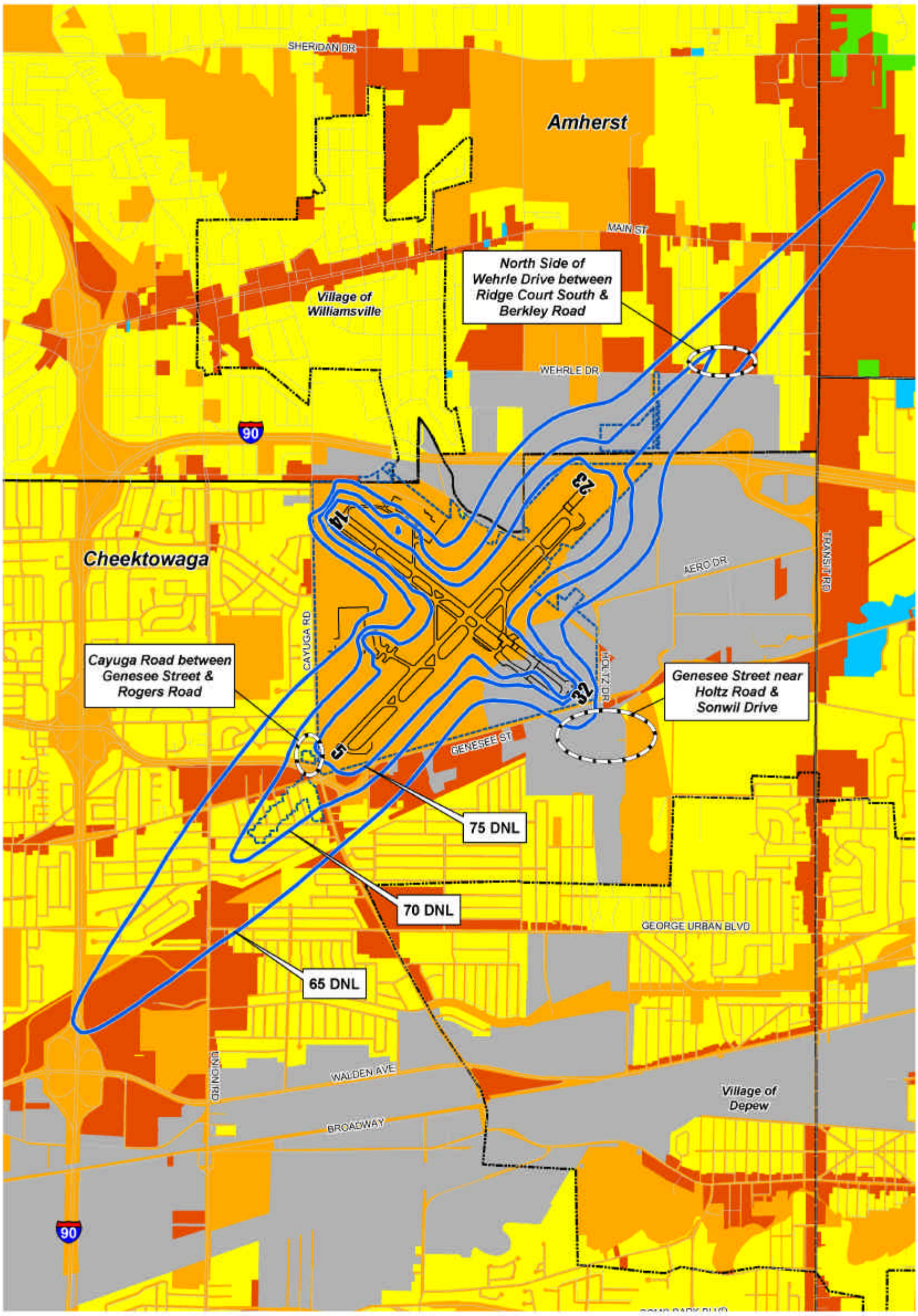
- **Compatible Use Zoning** – One of the most common zoning techniques is to eliminate zoning designations for housing and noise-sensitive uses from high noise areas, and replace them with

commercial or industrial zoning. Communities surrounding the BNIA have utilized conventional zoning techniques in selected land areas immediately surrounding the BNIA, such as industrial zones east of the Airport in the Town of Cheektowaga and industrial and office/commercial zones north of the Airport in the Town of Amherst. The continuance of compatible use zoning, or rezoning to a compatible use, would be effective in discouraging the incompatible development of parcels for which other uses may be suitable.

Use of large lot zoning is not feasible because of the highly developed land use characteristics in the vicinity of the BNIA. There are no substantially large tracts of residentially-zoned vacant land in areas exposed to significant levels of aircraft noise.

However, while limited to smaller areas, compatible zoning and/or rezoning to a compatible land use is an appropriate strategy to be further considered in the BNIA's NCP. There are three locations where potential re-zoning for compatible uses should be considered. They involve selected portions of existing residential zoning districts that would be exposed to aircraft noise levels of DNL 65 dBA and above; but moreover, they exhibit locational or other characteristics that would suggest the potential for other, more compatible zoning. **Exhibit 4.1-1** depicts the locations of these areas and descriptions of these areas are provided below:

- **West Side of Cayuga Road, between Genesee Street and Rodgers Road (Town of Cheektowaga).** This area includes three properties fronting upon Cayuga Road, two of which are existing residential properties proposed for acquisition by the NFTA because they are within the projected DNL 75 dBA contour on the Recommended Future (2008) NEM (see Chapter 3.0). The third property (immediately south of the two lots identified for potential acquisition) has been converted from a residential use to a professional office use. This type of professional office conversion activity has occurred in various locations along Cayuga Road between Genesee and Wehrle Drive, given that Cayuga Road has evolved into a minor arterial road in the area, the area's the proximity of NYS Rte 33, and the recent development of office/light industrial land uses on the east side of Cayuga Road. It is reasonable to consider re-zoning this area for professional office uses at a scale consistent with conversions that have already be approved in the area and compatible with adjoining residential neighborhoods to the west of this area. This is particularly applicable should the NFTA determine it is feasible to redevelop these properties for compatible uses (see Section 4.1.3.2).



BUFFALO NIAGARA INTERNATIONAL AIRPORT

PART 150 STUDY

POTENTIAL CONVENTIONAL ZONING CHANGES

EXHIBIT 4.1-1

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- **Areas South of Genesee Street near Holtz Road and Sonwil Drive (Town of Cheektowaga).** This area includes a mix of land areas zoned for industrial and commercial uses; a single parcel zoned and currently used for residential; and a large vacant tract zoned for community facilities (in Cheektowaga, the PS-Public Facilities District). The commercially-/industrially-zoned areas would be compatible with airport operations; in turn, the PS Public Facilities District permits a range of uses typically operated as public facilities (parks, municipal service facilities) that would likely be compatible. The single residential property is incompatible with airport operations, but moreover, it is also incompatible with its adjoining industrial/commercial properties. The Town of Cheektowaga should consider re-zoning this parcel to a non-residential use. This could either be done now and render the property non-conforming (which would allow the use to be maintained but not expanded), or be considered in the future as part of a larger development proposal. In addition, the town should avoid consideration of re-zoning vacant tracts in this area for new residential uses.

- **North Side of Wehrle Drive, between South Ridge Court and Berkeley Road (Town of Amherst).** This area includes properties fronting on the north side of Wehrle Drive, which include a mix of commercial (i.e., office) and residential zoning. The character of this segment of Wehrle Drive has evolved somewhat over the last decade as the road has taken on a greater level of traffic. Select properties on the north side of the road are being developed for new office uses and the areas south of the road are realizing new office park developments. Residential zoning districts in this segment often contain older single family uses, sometimes part of larger subdivisions to the north of Wehrle Drive. Because this area is within areas of significant aircraft noise, it is recommended that the Town of Amherst consider re-zoning this area for office land uses, most likely as part of larger private proposals for redevelopment.

4.1.1.2 Noise Overlay Zoning

Noise overlay zoning is one of the most effective tools that municipalities can use to manage development in the areas impacted by aircraft noise. This technique limits new incompatible uses in areas subject to aircraft noise, while maintaining the overall zoning pattern. It involves the creation of special zoning districts "on top of" (or overlaying) the geographic extents of general purpose zoning districts, establishing an additional set of regulations to which properties in the overlay district must comply. Regulations in noise overlay zones may involve the prohibition of some or all noise-sensitive uses as long as the underlying general purpose zoning district permits enough other land uses to

provide reasonable development opportunities. The regulations may also require performance standards for sound insulation in the construction of noise-sensitive uses.

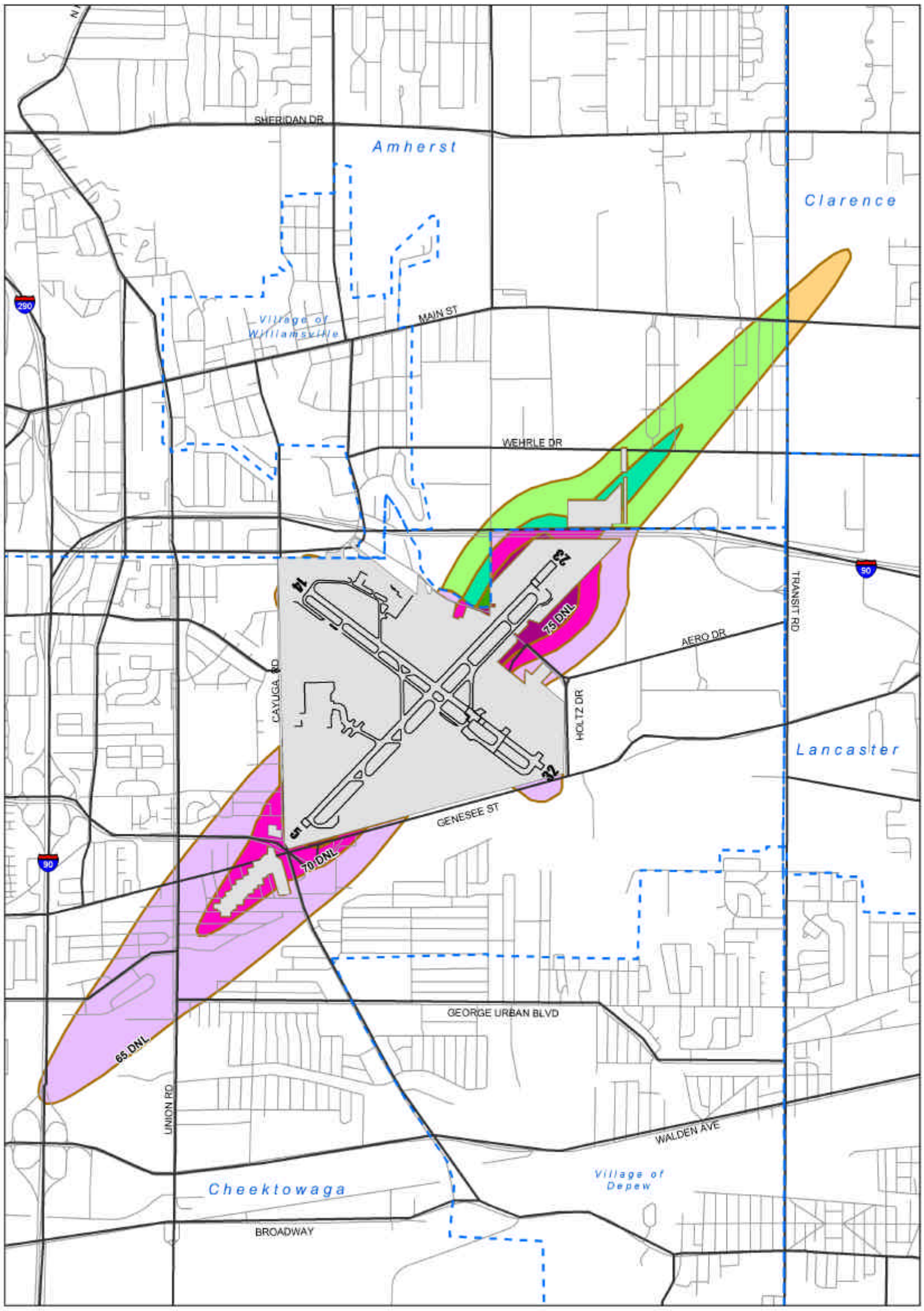
The boundaries of a noise overlay zone are generally based on the recommended noise exposure map, often coinciding with the DNL 65, 70, and 75 dBA contours. **Exhibit 4.1-2** depicts the zone boundaries using the Recommended Future (2008) NEM. The boundary lines of the overlay zone may also vary to follow the noise contour line of nearby streets or property lines to simplify administration of the regulations. In the vicinity of the BNIA, such an overlay zoning measure would involve three municipalities:

- The Town of Cheektowaga, which could adopt overlay districts in what would be termed "Noise Zone 1" (DNL 65 to 70 dBA), "Noise Zone 2" (DNL 71 to 75 dBA), and "Noise Zone 3" (over DNL 75 dBA);
- The Town of Amherst, which could adopt a similar scope of overlay districts; and
- The Town of Clarence, which could adopt standards for "Noise Zone 1" (DNL 65 to 70 dBA) only.

Standards that could be adopted for each of the overlay districts would involve identifying uses that would be prohibited because of potential exposure to aircraft noise, uses that would be permitted (provided that they area permitted in the underlying general purpose zoning district), and uses that would be permitted provided that appropriate sound insulation measures are employed in the construction. These standards are summarized in **Table 4.1-1**.

The actual structure of such an overlay zoning ordinance could vary among municipality based upon the format of their development regulations. However, the overall purpose, intent, and standards would be similar, deriving from technical issues and analyses encompassed in the Part 150 Study. Typical language for this type of overlay district approach is provided in Appendix E.

Some of the advantages of noise overlay zoning are that this technique can be implemented with amendments to the existing zoning ordinance and there is a clear relationship of the regulations to their purpose. In addition, the noise overlay regulation has minimal impact on the application of the zoning ordinance in other parts of the community. This strategy will be evaluated further in the Part 150 Study.



BUFFALO NIAGARA INTERNATIONAL AIRPORT

PART 150 STUDY

POTENTIAL NOISE OVERLAY ZONING DISTRICT

EXHIBIT 4.1-2

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TABLE 4.1-1

Buffalo Niagara International Airport

COMPATIBILE USE CHART – AIRPORT NOISE OVERLAY ZONING DISTRICTS

Land Use	Noise Zone 3 (over DNL 75 dBA)	Noise Zone 2 (DNL 71-75 dBA)	Noise Zone 1 (DNL 65-70 dBA)
RESIDENTIAL			
Residential – single or multi-family	Incompatible/ Not Permitted	Note 1	Note 1
Mobile Homes or Mobile Home Parks	Incompatible/ Not Permitted	Incompatible/ Not Permitted	Incompatible/ Not Permitted
Transient Lodging (Hotels, Motels, Guest Houses, etc.)	Incompatible/ Not Permitted	Note 1	Note 1
PUBLIC/SEMI-PUBLIC			
Schools, Libraries	Incompatible/ Not Permitted	Note 1	Note 1
Hospitals, Nursing Homes	Incompatible/ Not Permitted	Note 3	Note 2
Churches, Auditoriums, Theaters, Concert halls	Incompatible/ Not Permitted	Note 3	Note 2
Governmental Services	Note 3	Note 2	Compatible/ Permitted
COMMERCIAL			
Office Buildings – business & professional	Note 3	Note 2	Compatible/ Permitted
Wholesale and Retail – building materials, hardware, farm equipment	Note 3	Note 2	Compatible/ Permitted
General Retail	Note 3	Note 2	Compatible/ Permitted
Utilities	Note 3	Note 2	Compatible/ Permitted
Communications	Note 3	Note 2	Compatible/ Permitted
MANUFACTURING AND PRODUCTION			
Manufacturing, general	Note 3	Note 2	Compatible/ Permitted
Photographic and Optical	Note 3	Note 2	Compatible/ Permitted
Agriculture (excluding livestock)	Compatible/ Permitted (Note 5)	Compatible/ Permitted (Note 4)	Compatible/ Permitted (Note 4)
Livestock Farming	Incompatible/ Not Permitted	Compatible/ Permitted (Note 4)	Compatible/ Permitted (Note 4)
Mining and Extraction	Compatible/ Permitted	Compatible/ Permitted	Compatible/ Permitted

TABLE 4.1-1(continued)

Buffalo Niagara International Airport

COMPATIBILE USE CHART – AIRPORT NOISE OVERLAY ZONING DISTRICTS

Land Use	Noise Zone 3 (over DNL 75 dBA)	Noise Zone 2 (DNL 71-75 dBA)	Noise Zone 1 (DNL 65-70 dBA)
RECREATIONAL AND OPEN SPACE			
Outdoor Sports Facilities	Incompatible/ Not Permitted	Note 6	Note 6
Outdoor Music Shells, Amphitheaters	Incompatible/ Not Permitted	Incompatible/ Not Permitted	Incompatible/ Not Permitted
Nature Exhibits and Zoos	Incompatible/ Not Permitted	Incompatible/ Not Permitted	Not Permitted
Playgrounds/Parks	Incompatible/ Not Permitted	Compatible/ Permitted	Compatible/ Permitted
Golf Courses, Stables, Other Active Recreation	Compatible/ Permitted (Note 3)	Compatible/ Permitted (Note 2)	Compatible/ Permitted
Permanent Vacant/Open Space Areas (utility/road rights-of-way, closed landfills, etc.)	Compatible/ Permitted	Compatible/ Permitted	Compatible/ Permitted

Source: Compiled by PB Aviation based on Federal Aviation Regulations 14 CFR Part 150, effective January 18, 1985.

Notes:

1. Residential uses in Noise Zones 1 and 2 are discouraged unless no better or viable use is available. In such cases, noise level reduction (NLR) measures of at least 25 dB (Noise Zone 1) to 30 NLR (Noise Zone 2) are required. This could include, where applicable, outdoor measures such as construction of berms or sound barriers, and/or indoor measures such as acoustically-test doors/windows, HVAC improvements and wall insulation.
2. Measures to achieve NLR of at least 25 dB are required for portions of buildings where the public is received, office areas, and learning spaces.
3. Measures to achieve NLR of at least 30 dB are required for portions of buildings where the public is received, office areas, and learning spaces.
4. Restrictions on residential buildings – see Note 1.
5. Residential uses not permitted.
6. Sound reinforcement systems and/or amplification systems are recommended.

4.1.1.3 Environmental Overlay Zoning

Special zoning provisions may be used to preserve environmentally sensitive areas or to protect development from an environmental hazard. Such environmental provisions can also aid in achieving land use compatibility near airports because they reduce the density of development. Floodplain and steep slope zoning require reduced development densities and special construction standards. Wetland preservation zoning involves reduced densities and restriction on drainage facilities. Groundwater recharge zones require limits on density and building coverage. All these regulations can be used to reduce the occurrence of noise-sensitive uses in environmentally sensitive areas that are also impacted by aircraft noise.

Land areas surrounding the BNIA do not exhibit a significant amount of the aforementioned environmental constraints. Of the various environmental

overlay controls noted, only floodplain regulations are currently applied in these areas. Floodplain zoning ordinances that comply with the Federal Flood Insurance Program requirements are in effect in Amherst, Cheektowaga, Lancaster, and Clarence. These ordinances somewhat restrict development that would substantially increase flood levels or be within flood-risk areas, particularly around creeks or streams. Overall though, such controls have been limited in controlling the density or extent of incompatible development in areas affected by aircraft noise. Thus, this land use technique is not considered an appropriate strategy to be considered in the BNIA's NCP.

4.1.1.4 Building Codes

Building codes regulate the construction of buildings and set standards for materials and construction techniques. Building codes can also establish noise performance requirements typically associated with the building envelope. Once aircraft noise impact areas are defined, municipal building codes may be amended to require soundproofing of new structures or structures undergoing major alterations within these areas.

However, municipal building codes in New York must conform to a State Building Code; in 2001, New York State adopted the 2000 International Building Code (IBC) as the official State Building Code to be utilized by municipalities. The IBC does not include specific guidelines or requirements regarding sound insulation associated with aircraft noise impact. Changes to the Code to address aircraft noise exposure issues would require action by the New York State Legislature. Thus, it is not considered an appropriate strategy to be further considered in the BNIA's NCP in lieu of considering performance standards as part of an overlay district concept.

4.1.1.5 Transfer of Development Rights

The transfer of development rights (TDR) concept is based on the idea that ownership of land involves certain rights such as access, mineral rights, rights to airspace above land, and that the rights to develop land can be separated from each other. According to this concept, these rights have a market value, and they can be sold without selling the entire property.

The TDR concept is typically implemented by dividing a municipality into "sending zones" and "receiving zones". Sending zones are areas where minimal development is desired, and receiving zones are areas where additional development is desired. Development rights measured in terms of development density are assigned to areas by means of the zoning ordinance. The receiving areas are allowed to build to higher densities than normally allowed by the zoning ordinance if the developers have acquired additional development rights. Developers obtain these rights from property owners in the sending zones. The idea is that the public can benefit from preserving the environment.

TDR is potentially a very effective tool for airport land use compatibility planning in fast-growing areas which have large amounts of vacant land. At no cost to the taxpayers, TDR can neatly deal with the problem of what to do with land in noise zones when there are no practical alternatives to residential development.

This technique is not appropriate for consideration in the BNIA's NCP. Vacant land is limited to scattered areas, thereby limiting any feasibility of designating sending or receiving zones. Further, it would likely require special legislation by the New York State Legislature to enable surrounding communities to establish such a program.

4.1.1.6 Subdivision and Site Plan Regulations

Subdivision and site plan regulations control the platting and development of land by setting standards for site planning, layout, and the design of utilities and public improvements. They can encourage compatible development around an airport by requiring the consideration of aircraft noise during review of the plat by public officials.

In some communities, noise levels are actually shown on the final subdivision plats and non-residential site plans. Noise levels are designated by either drawing noise contours on subdivision plats or site plans or assigning noise levels to individual lots within the subdivision or upon sections of a site plan. This method has the advantage of making the noise level information a matter of public record. An important disadvantage is that while the plat is recorded and on file for perpetuity, noise levels can change substantially over time. As a practical matter, buyers of individual subdivided building lots or buyers/lessees of properties subject to site plan review rarely look at the plats/site plans.

Subdivision and site plan regulations are most effective where significant tracts vacant land exist that are likely to be considered for future residential subdivisions or site plans for multi-family developments. Most of the land in the vicinity of the BNIA is already developed, therefore changes to subdivision and site plan regulations would not be an effective measure to include in the NCP.

4.1.2 Policy Measures

Policy measures are those land management strategies which are determined by policy decisions rather than by ordinances. Policy measures include local comprehensive planning and procedures for reviewing development proposals.

4.1.2.1 Comprehensive Planning

With the adoption of a comprehensive plan, a community establishes policies for land development and capital improvements. Within the context of noise compatibility planning, a comprehensive plan addresses noise impact areas and recommends development that is in harmony with an airport, as well as the surrounding area.

Development of a coordinated, comprehensive plan can be difficult because airports are often located near the boundaries of a number of political jurisdictions, each having their own plan for the future. This is the case in the study area for the BNIA's Part 150 Study; therefore, it is important that communities coordinate with each other in the development of compatible land use plans.

Many neighborhoods in suburban areas such as those around the BNIA are often in a state of change. Occasionally, areas with older housing stock will transition to other, more compatible uses such as retail, commercial, or office uses. These transitions, in cooperation with public policy and community planning efforts, could result in compatible land uses within the noise-impact area and should be encouraged.

Comprehensive planning is an important tool in promoting compatible use development within airport environs and will be reviewed as a recommended measure in this Part 150 Study. The Town of Amherst recently completed an update of the Town's Comprehensive Plan; town planners have recognized the need to implement localized land use changes in areas north of the BNIA, for overall development consistency in these areas, if not specifically associated with the proximity of the Airport. The Town intends to consider potential land/use and zoning recommendations arising out of this Part 150 Program.[1] In addition, the Town of Cheektowaga will soon be embarking on an update to that Town's Comprehensive Plan; it would be advantageous for this and other applicable future planning processes to consider aircraft noise exposure along with other land use issues.[2]

4.1.2.2 Discretionary Project Review

Planning boards, zoning boards of appeals, and local governing bodies are often required to use their own discretion and judgment in making recommendations and decisions on community development issues such as rezoning, subdivision/site plan applications, and proposed public improvement projects. The exercise of this discretion is constrained by the legal requirements of the applicable ordinances. In the case of noise compatibility planning, it may be appropriate to ensure that the development control ordinances are amended to clearly set forth requirements for ensuring noise compatible development. If opportunities remain for governing bodies to use their own discretion on

development matters, it may be appropriate for the boards and commissions to adopt procedures that incorporate noise compatibility issues in their discretionary review of development proposals.

Local planning boards could incorporate into their review procedures a specific checklist of items that evaluates the impacts of current and future aircraft noise on the development proposal being considered. By maintaining an awareness of noise issues, the commissions can serve the objective of reducing noise impacts. For example, it would be preferable to place roads which are likely to attract industrial and commercial development in areas subject to significant levels of aircraft noise. If residential development is inevitable in that area, then the schools and detached single-family dwellings should be located out of the aircraft noise corridor, and linear parks, multi-family structures, and neighborhood commercial uses should be encouraged in the middle of the corridor. This strategy merits further consideration in this Part 150 Study.

4.1.3 Market Intervention Measures

Regulatory and policy measures, which are presented above, are land use management strategies that are implemented by communities. A third type of land use management strategy pertains to market intervention measures. In contrast to regulatory and policy measures which are implemented by communities, market intervention measure are implemented by an airport. Three potential market intervention strategies are discussed below: public information/dissemination, property acquisition/redevelopment, and development right purchase.

4.1.3.1 Public Information/Dissemination of Airport Noise Impacts

This strategy is intended to ensure that prospective buyers of property are informed that the property is or will be exposed to potentially disruptive aircraft noise. In New York State, prospective buyers are entitled to fair disclosure of all material issues affecting a property that they are considering for purchase.

At the most formal level, fair disclosure rules can be implemented through regulations requiring the seller or his agent to provide a notice regarding aircraft noise on the real estate listing sheet at the time that a sales contract is executed. The implementation of such a formal program would likely be difficult because it would require a procedural mechanism at the local or county level to ensure that such notices are issued.

Another approach could include actively disseminating information to local groups in the housing industry such as the board of realtors, home builders association, and local lending institutions. NFTA, for example, could actively disseminate information regarding the noise environment through distribution of the Recommended Future (2008) NEM; establishment of a formal page explaining airport noise exposure issues on the BNIA's web site; posting of public notices, advertisements in real estate sections of newspapers; and Airport newsletters sent to lenders, realtors, and home builders. Fair disclosure can also be handled by the various communities involved in the Part 150 Program by making noise contours and this Part 150 Study document available for public review. This strategy merits further consideration in this Part 150 Study.

4.1.3.2 Property Acquisition/Redevelopment for Compatible Use

As discussed in Chapter 3.0, property acquisition by the BNIA is proposed for two residential properties along Cayuga Road between Genesee Street and Rodgers Road, because they would fall within the DNL 75 dBA contour. Typically, when outright acquisition is anticipated, the airport operator would clear the site(s) of incompatible uses and retain ownership of the parcels as open space. During agency and public involvement activities, it was suggested that such a measure in this particular location could result in other unwanted effects, such as:

- Removal of two relatively well-maintained properties from the tax rolls; and
- Increasing the perception of airport noise effects by residents of properties fronting upon Rodgers Road because it would open a line of sight to the Airport, as well as to traffic along Cayuga Road.

Because these two properties are along a major road, and are adjoined on the south by a former residential property that was converted to a professional office use, it may be possible to maintain the development character of this block by redeveloping these properties to similarly-scaled office uses. This would require the application of sound insulation measures appropriate for such a use in the DNL 75 dBA contour. It would also require the Town of Cheektowaga to rezone this block face to permit office uses, as noted in Section 4.1.1.1.

Upon conversion, the properties could be sold with deed restrictions that would prohibit the development of incompatible land uses. This would allow them to remain on the tax rolls and maintain the development context of having structures fronting on Cayuga Road that somewhat shield interior residential lots on Rodgers Road.

The implementation of such a strategy could vary in terms of the NFTA's involvement in the redevelopment/resale activities, including the following:

- NFTA could undertake all activities directly, including land acquisition, sound insulation, application for zoning changes, and transfer/sale to a private user.
- NFTA could undertake land acquisition, and then issue a Request for Proposal (RFP) for redevelopment. The RFP could identify performance standards for sound insulation, need for zoning changes, and future uses. Upon selection of a redeveloper, the NFTA could transfer the property with appropriate deed restrictions.
- NFTA could enter into an agreement with the Town of Cheektowaga or one of its development agencies (e.g., Cheektowaga Industrial Development Agency) whereby NFTA would acquire the property and transfer it with restrictions to the Town or such an agency for building rehabilitation, zoning changes, and resale/leasing.

Such a strategy, regardless of the ultimate method of implementation will be considered as a "potential" measure to be considered for further feasibility by the NFTA in this Part 150 Study.

4.1.3.2 Development Right Purchase

As discussed in the review of TDR, the ownership of land involves a bundle of rights. It is possible for property owners to sell some of the rights to their land while still retaining title. For example, an owner surrenders some of the rights to his or her property when he or she grants someone an easement or sells the mineral rights to the property. One of the rights inherent in land ownership is the right to develop the land, at least to the extent permitted by government regulations such as zoning, health and safety, and environmental laws.

The purchase of development rights is most appropriately considered when there is insufficient legal justification to use zoning to prevent incompatible uses or where there is strong local opposition to the use of zoning. Only the rights to use the property for incompatible land uses would be acquired. The land would continue in private ownership and could be used for limited purposes such as parks, recreation, agriculture, grazing, and other compatible uses, including commercial and industrial development.

The advantage of purchasing development rights is that complete protection for incompatible development can be assured. Additionally, property remains in private ownership and on local tax rolls, and the property owners can receive compensation for any loss they may suffer. The main disadvantage is that acquisition of development rights can cost nearly as much as fee simple acquisition but give buyers only limited rights.

This strategy is not effective if land has already been developed with residential or other noise-sensitive uses. Current federal requirements do not

allow relocation assistance as an eligible, reimbursable expense unless property has been acquired in fee simple.

Purchase of development rights cost nearly as much as fee simple acquisition; yet it provides only limited rights. Therefore, it is not carried forward for further evaluation as a potential measure in the BNIA's NCP.

4.2 EVALUATION OF LAND USE MANAGEMENT STRATEGIES

The land use management strategies identified for further consideration are reviewed in this section to determine their feasibility for preventing incompatible development in the communities surrounding the BNIA. This evaluation is based on input from the local planners, the NFTA staff, the TAC and CAC members, and comments from the public.

Four factors were considered in evaluating the available land use strategies. These factors address the feasibility of implementing each technique and are:

- Cost to implement;
- Ease of implementation by responsible agency;
- Existence of clear, local jurisdictional authority to implement; and
- Political acceptability by various jurisdictions.

The evaluation of land use management strategies is shown on **Table 4.2-1**.

4.2.1 Cost to Implement Measure

Generally, the costs to implement the regulatory and policy strategies are low to moderate. The costs associated with these measures are administrative and would come from the individual jurisdictions' operating budgets. The Acquisition/Redevelopment strategy would more costly because it involves the purchase of property, clearance or sound insulation of structures, and marketing for new users.

TABLE 4.2-1

Buffalo Niagara International Airport

EVALUATION OF LAND USE MANAGEMENT STRATEGIES

Alternative Strategies	Cost to Implement	Ease of Implementation	Local Jurisdictional Authority	Political Acceptability
REGULATORY STRATEGIES				
Compatible Use Zoning	Low	Moderately difficult to implement	Clear authority present	Probably acceptable
Noise Overlay Zoning	Low	Moderately difficult to implement	Clear authority present	Probably acceptable
POLICY STRATEGIES				
Comprehensive Planning	Low	Easily implemented	Clear authority present	Acceptable
Discretionary Project Review	Low	Easily implemented	Clear authority present	Acceptable
MARKET INTERVENTION STRATEGIES				
Public Information/Dissemination of Airport Noise Impacts	Moderate	Easily implemented	Clear authority present	Acceptable
Property Acquisition/Redevelopment for Compatible Use	High	Moderately difficult to implement	Clear authority present	Probably acceptable

Source: PB Aviation.

4.2.2 Ease of Implementation

The strategies evaluated in this chapter have been or are being implemented by other communities that surround airports across the country. Some of the communities are more aggressive in preventing the development of incompatible uses within the airport environs and develop very stringent noise compatibility programs. Others take a more moderate approach. Most of the strategies discussed can be easily to moderately difficult to implement in municipalities that are located in the vicinity of the BNIA.

Compatible use and noise overlay zoning are two strategies that could be moderately difficult to implement. Zoning amendments would require the coordinated efforts of all the communities in the vicinity of the BNIA. The overlay zoning requirements would have to be incorporated into the zoning ordinance of each municipality so that development would not be precluded in one jurisdiction versus another. In turn, the ability of to enact such changes would ultimately depend on

successfully communicating that such measures would not inordinately prevent future development, but rather would shape such development in a manner that avoids future incompatibility issues.

4.2.3 Clear and Legal Authority

Each of the municipalities within the BNIA's environs has responsibility for developing their comprehensive plans and administering their zoning ordinances. Therefore, these jurisdictions have the authority to implement any of the strategies.

4.2.4 Political Acceptability

Most of the strategies should be politically acceptable because the goal is to reduce the population exposed to significant levels of aircraft noise. Property developers may feel somewhat constrained by overlay zoning changes in the development of their properties; however, the suggested strategies can be flexible in allowing development with some construction modifications for sound insulation purposes.

4.3 RECOMMENDED LAND USE MANAGEMENT STRATEGIES

Land use management strategies are recommended on the basis of the preceding evaluation and the comments from the public, local planners, and the CAC and TAC members. Twelve different land use management strategies were reviewed. Some measures were more suited for communities in the vicinity of the BNIA than others, given current zoning, development trends, and the historical nature of the area development patterns.

The evaluation of these strategies led to the recommendation of the following six strategies. The recommended strategies are as follows:

- **Compatible Use Zoning/Rezoning** – The towns of Cheektowaga and Amherst should pursue compatible use zoning where noted in Section 4.1.1.1 to prevent the development of additional noise-sensitive uses within the noise contours

- **Airport Noise Overlay Zoning** – The towns of Cheektowaga, Amherst, and Clarence should consider the adoption of airport noise overlay zoning ordinances as noted in Section 4.1.1.2 for land areas within the DNL 65 dBA or greater contours.

- **Comprehensive Planning** – Municipalities within the noise impact area should consider aircraft noise as guide for land use development and redevelopment decisions. As their local comprehensive plans are updated, communities should consider incorporating the NCP's land use management recommendations.

- **Discretionary Project Review** – This land use measure recommends that applicable municipalities adopt a policy requiring them to consider the impacts of airport noise when reviewing development proposals, applications for variances, and special use permits. The adoption of internal review procedures requiring the consideration of airport noise in evaluating special development proposals would ensure the consideration of this concern. Special consideration should be given to the layout of buildings on the site so that:

  - Buildings and structures are located the greatest distance from the noise source, taking maximum advantage of existing topographical features to minimize noise impact to the extent allowable within zoning district requirements, such as setbacks.

  - Building and structures should be oriented to minimize exposure to the noise source and building openings, such as windows, should be located away from the noise source.

- **Public Information/Dissemination of Airport Noise Impacts** – The NFTA should establish a public information program in conjunction with surrounding municipalities to disseminate information on the NCP and noise compatibility issues to facilitate awareness to potential purchasers an/or developers of real estate in the vicinity of the BNIA.

- **Property Acquisition/Redevelopment for Compatible Use** – As part of its acquisition program, the NFTA should examine the potential of converting two properties along Cayuga Road within the DNL 75 dBA contour for reuse/redevelopment for professional office use.

Implementation of the land use management strategies is discussed in Chapter 5.0.

ENDNOTES

[1] Gillert, Eric, Planning Director, Town of Amherst, personal communication with Paul Tronolone, Parsons Brinckerhoff, March 4, 2004.

[2] Gabryzak, Dennis, Town Supervisor, Town of Cheektowaga, personal communication with Paul Tronolone, Parsons Brinckerhoff, June 21, 2004.