

Final Generic Environmental Impact Statement (FGEIS)

For the New City of Niagara Falls Comprehensive Plan and Accompanying Amendments to the City of Niagara Falls Zoning Ordinance

Location: City of Niagara Falls, Niagara County, New York

Lead Agency: City of Niagara Falls City Council
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City Council

**Date of
Acceptance
by Lead Agency :** June 29, 2009

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1.0 EXECUTIVE SUMMARY

1.1 Description of the Action

A. Evolution of the Plan and Zoning Amendments

The action involves the adoption of a new City of Niagara Falls Comprehensive Plan (the "Plan") and amendments to the City of Niagara Falls Zoning Ordinance (the "Zoning Amendments") designed to implement the Comprehensive Plan. The Plan is based upon citizen participation in an open planning process dating back until at least 2003. The process led initially to the release of the Niagara Falls Strategic Master Plan in October 2004, and continued with public workshops in May of 2005, public meetings throughout 2005 and 2006, and the first of several duly noticed public hearings on February 14, 2007.

By resolution dated February 27, 2007, the Planning Board of the City of Niagara Falls recommended adoption of the 2007 versions of the Plan and Zoning Amendments to promote economic and physical revitalization and enhanced quality of life in the City of Niagara Falls. Subsequently, the Planning Board further scrutinized the documents and made various additional changes designed to address concerns expressed by the public, and to clarify and enhance the consistency of the proposed zoning changes with applicable enabling legislation and other legal and procedural requirements. Those changes were embodied in a draft 2008 Plan and draft Zoning Amendments dated October 11, 2008.

The Planning Board duly noticed and conducted a public hearing on November 5, 2008 concerning the proposed 2008 Plan and draft Zoning Amendments and received and considered all public comments concerning those proposals. In response to concerns expressed by the public, particularly with respect to the need for enhanced flexibility in building height restrictions in the downtown districts, the Planning Board thereafter developed and proposed an additional round of changes to the proposed Zoning Amendments designed to address those concerns and to enhance the clarity of the proposed Zoning Amendments. These efforts lead to the current proposed Zoning Ordinance dated April 14, 2009. In addition, a minor proposed revision to the 2008 Plan consisted of the removal of Part III, Section 3 ("Institutional Strengthening"), which was no longer applicable because it predated the creation of the City Department of Planning & Economic Development.

By resolution dated June 24, 2009, the City of Niagara Falls Planning Board recommended that, in consideration of all public comments received, adoption of the 2008 Plan (with the aforementioned minor revision) and the Zoning Amendments dated April 14, 2009 is necessary and appropriate to promote greater social and economic opportunity and enhanced quality of life in the City of Niagara Falls in light of the current conditions described in Part I of the proposed Plan. The Planning Board further concluded that the proposed amendments will further the purposes set forth in Section 1300.01 of the City's current Zoning Ordinance for the reasons detailed throughout the

Plan itself and in the accompanying DGEIS, and will otherwise be protective of the public health, safety and general welfare of City of Niagara Falls residents. Accordingly, the Planning Board has recommended that the City Council, as lead agency, adopt the proposed 2008 Plan and proposed Zoning Amendments dated April 14, 2009 after meeting all applicable requirements of the New York State Environmental Quality Review Act (SEQRA).

B. Overview of the Current Proposed Plan and Zoning Amendments

A detailed summary of the Plan and Zoning Amendments as currently proposed is set forth in Section I(A)(2) of the April 15, 2009 Draft Generic Environmental Impact Statement (DGEIS) prepared in accordance with the SEQRA and the implementing regulations set forth in Title 6 Part 617 of the New York Code of Rules and Regulations (N.Y.C.R.R.). A copy of the DGEIS is incorporated herein by reference as **Appendix A**. A brief overview of the Plan and Zoning Amendments is set forth below.

The general intent of the Plan is to guide the physical revitalization of City of Niagara Falls neighborhoods and districts and to foster economic development within the City. Part I of the Plan discusses the City's current urban and economic context and the challenges, opportunities and major economic drivers for the City.

Part II of the Plan identifies specific planning policies with respect to land use, historic resources, built environment, environmental and open space resources, transportation, economic development and tourism, housing, brownfield / greyfield development and waterfront development. The Plan also sets forth strategies for urban revitalization and recommends specific renewal programs and "catalyst projects" designed to strengthen the City. In addition, Part II of the Plan calls for enhanced tourism amenities such as way-finding and signage strategies, visitor orientation centers, parking and shuttle systems, Rainbow Bridge Plaza Improvements and "pedestrian priority zones."

Part III of the Plan outlines key policy changes and institutional improvements necessary to implement the plan. The recommendations include, among other things, a comprehensive revision of the City's existing zoning code.

Pursuant to the Plan, the Zoning Amendments are intended to harmonize City zoning regulations with historic development patterns within the city's residential areas and establish new opportunities for growth and enhancement in core commercial areas. The Zoning Amendments include new and revised zoning and overlay districts. While the City's 14 existing zoning districts are redistributed into 25 districts which are intended to be more closely tailored to the character of the City areas covered, the overall proportion of district classes do not change significantly and few properties undergo a change in zoning classification. The Zoning Amendments also include new and revised zoning district regulations including, among other things, revised bulk, density, setback, building height, parking and other requirements in certain districts of the City. The

Zoning Amendments also include changes to zoning enforcement and administration provisions including, among other things, streamlined procedures for site plan approval.

1.2 FGEIS Overview

A. Substance and Procedure

This Final Generic Environmental Impact Statement or "FGEIS" has been prepared in accordance with SEQRA. SEQRA requires the consideration of environmental factors in the planning of actions that are directly undertaken, funded or approved by local, regional and state agencies in New York.

A GEIS is designed to identify, evaluate and if possible, mitigate any significant adverse environmental impacts that may arise from a particular action as determined through a public environmental and review process. A GEIS may be used to "...assess the environmental effects of ...an entire program or plan having wide application or restricting the range of future alternative policies or projects. 6 N.Y.C.R.R. §617.10(a)(4). Further, GEISs may be broader, and more general than, site-specific EISs, and may be based upon conceptual information and discuss in general terms the constraints and consequences of any narrowing of future options. 6 N.Y.C.R.R. § 617.10(a)

Agencies may prepare GEISs for the adoption of a comprehensive plan prepared in accordance with Gen. City Law § 28-a(4). 6 N.Y.C.R.R. § 617.10(b). In fact, a comprehensive plan may be designed to serve as, or be accompanied by, a GEIS. Gen. City Law 28-a(9). Because the Plan itself proposes numerous mitigation measures intended to alleviate various adverse environmental, social and economic impacts in the City of Niagara Falls associated with current conditions there, the Plan is expressly incorporated into this FGEIS by reference as **Appendix B**.

On May 4, 2009, the City Council declared itself lead agency for purposes of compliance with SEQRA, upon the April 22, 2009 recommendation of the only other involved agency in this matter, the City of Niagara Falls Planning Board. Again, as lead agency, the City Council is responsible for ensuring that the proposed Comprehensive Plan and Zoning Amendments are subject to a thorough environmental review under SEQRA.

On May 4, 2009, the City Council also classified adoption of the proposed Plan and Zoning Amendments as a Type I action under SEQRA, and issued a Positive Declaration reflecting the Council's determination that preparation of a GEIS for the action is appropriate. The City Council also directed the issuance of a Notice of Completion of the DGEIS and a Notice of a joint public hearing of the Planning Board and City Council to be held on June 1, 2009.

The City Council thereafter referred the Plan, Zoning Ordinance and DGEIS to the Niagara County Planning Board in accordance with Gen. Mun. Law § 239-m. On or about May 12, 2009, the Niagara County Planning Board voted to recommend approval of the proposed Comprehensive Plan, Zoning Ordinance and DGEIS.

On June 1, 2009, the Planning Board and City Council conducted a joint public hearing to receive public comments on the DGEIS. SEQRA requires the City Council as lead agency to consider the substantive comments received on the DGEIS during that hearing and during a minimum 30-day public comment period ending on June 15, 2009, and to respond to such comments in this FGEIS.

On June 24, 2009, the Planning Board recommended that the City Council conduct its own independent review of all public comments received on the DGEIS; prepare and publish an FGEIS in accordance with SEQRA; render its independent findings under SEQRA with respect to the proposed Plan and Zoning Amendments; and act affirmatively to adopt them.

A summary of all public comments on the DGEIS received during the joint public hearing and through the close of the public comment period, and the lead agency's responses thereto, is set forth in Section 2.0 of this FGEIS. Copies of all written comments on the DGEIS are included in this FGEIS as **Appendix C**.

The City Council as lead agency may not make a final decision to adopt either the Plan or the proposed Zoning Amendments until at least 10 days after its filing of a Notice of Completion of this FGEIS. Prior to rendering a final determination, the City Council must also file written findings that it has considered the FGEIS and that the requirements of SEQRA have been met. The findings statement must demonstrate that, consistent with social economic and other essential considerations, adoption of the Plan and Zoning Amendments minimizes or avoids adverse environmental effects to the maximum extent practicable and incorporates those mitigation measures identified in the DGEIS as practicable.

B. Potential Environmental Impacts

The proposed adoption of the Plan and related Zoning Amendments will not directly result in any building activity or otherwise directly affect the environment in the City of Niagara Falls. However, the strategies and policies set forth in the Plan and the related Zoning Amendments are expected to have a significant beneficial impact on the City by ensuring that economic revitalization efforts proceed in accordance with sound urban planning strategies and in a manner that is protective of the natural environment.

Again, the GEIS is based upon conceptual information and is intended to discuss in general terms the constraints and consequences of the proposed action. On a conceptual level, the proposed Plan and Zoning Amendments themselves are designed to mitigate the potential adverse impacts on the urban environment and community

character in the City of Niagara Falls, which for several decades has suffered from steady population, economic and infrastructure decline. At the Generic level, mitigation measures may include the type of Core City Strategies, Citywide Policies, zoning district reconfigurations and design standards embodied in the proposed Plan and the Zoning Amendments themselves. To cite just one example, the Zoning Amendments include a new "Design District" with associated design standard reforms which are intended to balance economic development with prevailing smart growth principles designed to foster a pleasant human-scale pedestrian environment. As detailed in Section V of the DGEIS, these and other proposed design criteria and building height restrictions are also intended to protect and enhance the world class view-sheds occupied by the Falls and the Niagara River Gorge.

It is not the City Council's intent that this FGEIS will fulfill the SEQRA requirements for the approval of any future project- and / or site-specific proposals which may follow adoption of the Plan and Zoning Amendments. Rather, this FGEIS will serve as a general foundation for the review and consideration of such possible future actions. In fact, certain future project- and/or site- specific proposals will require the preparation of a supplemental or site-specific EIS if the particular proposal was not addressed or was not adequately or site-specifically addressed in this FGEIS. Further, depending upon the size and character of a given future project, it may require certain additional approvals from and / or collaboration with various City and other agencies including, but not necessarily limited to:

- ▶ Niagara County Industrial Development Agency
- ▶ Niagara County Planning Board
- ▶ Niagara County Department of Economic Development
- ▶ Greater Buffalo Niagara Regional Transportation Council
- ▶ New York State Department of Environmental Conservation
- ▶ New York State Department of Transportation
- ▶ New York State Department of State
- ▶ New York State Office of Parks, Recreation and Historic Preservation
- ▶ United States Army Corps of Engineers
- ▶ United States Coast Guard
- ▶ Federal Highway Administration

2.0 SUMMARY OF PUBLIC COMMENTS AND RESPONSES

COMMENT 1

The City should not allow the construction of more tall buildings in this City close to the Falls, the rapids above them and the gorge below them. The view of the Falls is better from the Canadian side due to the natural features of the Olmstead state natural reservation and City beyond. Tourists are coming to Niagara Falls to see natural features not skyscrapers and towers. The Falls should be kept as natural as possible. There should be restrictions on the heights of buildings close to the river, the gorge and the Falls.

SOURCE:

June 1, 2009 verbal remarks of Paul Gromosiak, 5819 Grauer Road, Town of Niagara, N.Y.

RESPONSE:

Careful regulation of building heights is essential to preserve the quality of development in the City of Niagara Falls and to encourage an aesthetically pleasing, human-scale pedestrian environment. The proposed Zoning Amendments are intended to avoid a clustering of buildings with excessive heights, and are designed to prevent the uncontrolled development of high rise buildings along the waterfront and residential neighborhoods, as this could adversely affect river and gorge views and property values.

The proposed Zoning Amendments include several tools to regulate building heights within the City Core. The tools incorporate, among other things, bonus incentives, design guidelines, as well as building height restrictions. During the extensive public outreach efforts conducted by the City in developing the Plan and proposed Zoning Amendments, concerns were raised regarding the extent to which height restrictions may unduly constrain downtown development. Mindful of this concern, the City has fashioned reasonable and appropriate height restrictions that allow development flexibility while affording reasonable protections for the world class view-sheds occasioned by proximity to the Falls and the Niagara River Gorge.

The proposed bulk and density standards in the downtown districts encourage buildings to gradually rise in height as the development moves toward the center of downtown. This is intended to encourage high-density, vertical development, while preserving the City's valuable views and reducing street level impacts. The proposed regulations also include potential bonuses to exceed the base building height allowances in the D1-A, B and C sub-districts

in a manner that will preserve and/or enhance important scenic view-sheds. The potential building height bonuses in these sub-districts are tied to the provision of public amenities, including public plazas and parks, structured parking, improved retail / commercial design and streetscape elements, subject to building height caps and square footage limitations at specified elevations. The incentives are intended to encourage greater creativity in the design component of buildings, and enhance the likelihood of pedestrian-friendly and other public amenities in exchange for building height increases.

To complement the City's proposed building height restrictions in the downtown districts, the proposed Zoning Amendments include a proposed Gorge View District (D-2) that would fall between the Robert Moses Parkway and Main Street just north of downtown, which district would allow recreational, cultural and tourist activities along the waterfront. The proposed D-2 district predominantly is composed of land currently zoned public space and downtown commercial district, with a small portion of an R-3 zone as well. The new D-2 district will not only promote tourist activity in a concentrated location, but promote the enhancement of the natural environment there as well.

COMMENT 2

Concurs with Comment 1. City should adopt a tiered approach to building height restrictions which increases with distance from the river banks. There should be no height distinctions once you get past the Casino.

SOURCE:

June 1, 2009 verbal remarks of Charles Knoll, 5820 Buffalo Avenue, Niagara Falls, N.Y.

RESPONSE:

See response to Comment 1 above.

COMMENT 3

Feels very positively that this plan should go forward, with planned reconnection of the water front, updating of the cultural district, the opening path of the north way to the City. Allows the Aquarium to expand and to renovate. Plan will facilitate more economic development for the City.

SOURCE:

June 1, 2009 verbal remarks of Gay Molnar, Director of Niagara Falls Aquarium, 701 Whirlpool Street, Niagara Falls, N.Y. 14201.

RESPONSE:

The lead agency concurs.

COMMENT 4

Is in full favor of comprehensive plan and zoning code amendments. The comprehensive plan is based largely on the 2004 Strategic Master Plan and is a comprehensive assessment of the City's strengths and opportunities. This plan, which is based upon significant public involvement, represents appropriate recommendations that rightfully focus on initiatives and strategies designed to leverage economic regeneration, new public infrastructure and residential opportunities downtown and elsewhere in the City in a manner that protects and celebrates local natural and historic resources. The Plan and Zoning Amendments will foster positive change and help to maintain current residents and attract new residents and visitors to the area.

SOURCE:

June 1, 2009 verbal remarks of Beverly Foit Albert, Member of Niagara Experience Board, and author of Niagara Falls for Preservation Training Manual.

RESPONSE:

The lead agency concurs.

COMMENT 5

Voiced strong support of the proposed new comprehensive plan and the proposed zoning amendments. Believes that the plan will help the City of Niagara Falls to capitalize on its unique and incredible assets and tourism opportunities. The plan is innovative, progressive, and represents a good balance between economic development policy and protection Of the natural environment.

Supports the incentive zoning provisions that authorize increases in building heights in exchange for public amenities, which balances green space and greenway protection with enhanced downtown development.

The comprehensive plan also seeks to protect the Niagara River Greenway and better integrate the City into the waterfront and surrounding park. The plan encourages transformative catalyst projects that will set a foundation for coordinated future development.

Rio Vista Development owns property at 1000 Buffalo Avenue that is currently zoned M-1 Industrial, and is currently considering a 25-story hotel condominium development there, representing a roughly \$ 200 million investment. This project would not be possible under current zoning restrictions.

The new plan and zoning ordinance will enable this project and other beneficial projects to proceed in accordance with the purposes and intent of the comprehensive plan and zoning code.

SOURCE: June 1, 2009 verbal remarks of Adam Walters, Attorney, on behalf of Rio Vista Development.

RESPONSE: Subject to the caveat that any future site specific development proposals will be subject to all applicable state and local approvals and SEQRA review, the lead agency concurs.

COMMENT 6

Adoption of the Plan and Zoning Amendments will enhance tourism with optimized views of the Falls, mixed-use development and community amenities. Rezoning of 1001 Buffalo Avenue from M-1 Industrial to D-1 Downtown will facilitate development of much-needed quality accommodations for hotel / convention capacity as demonstrated by market studies and help to revitalize this gateway location along the waterfront.

SOURCE: May 27, 2009 letter from Erez Lapsker, President, Rio Vista, Inc.

RESPONSE: Subject to the caveat that any future site specific development proposals will be subject to all applicable state and local approvals and SEQRA review, the lead agency concurs.

COMMENT 7

Page I-7, Table 1: The total acreage in the existing zoning plan and the proposed zoning plan differs by eight acres. Is there an explanation for this discrepancy?

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, Western District, Niagara Frontier Region.

RESPONSE: The Zoning area discrepancy can be attributed to minor boundary location measurement differences across the entire City and slightly greater boundary errors in the current Zoning. The total acreage figure provided in the DGEIS more accurately reflects on the current ground reality. There are and will continue to be minor measurement differences due to the imperfect nature of mapping. In view of the total acreage of the entire City, which is

calculated to be approximately 9,000 acres, the 8 acre discrepancy represents less than 1/10th of 1% or 0.09% of this total figure.

COMMENT 8

Page I-13: D1-A is described as "High Density Downtown area with allowances for some of the tallest structures in the downtown. This area is generally surrounded by other commercial and downtown districts". Most of the area within this district seems appropriate. However, there is a small area of D1-A south of Buffalo Avenue and east of John Daly Boulevard where this zoning is inconsistent with existing features. It is surrounded on two sides by Open Space and another side by institutional. We strongly object to designation of D1-A south of Buffalo Avenue at this location. This would allow for structures next to these parklands that will obstruct views of the Niagara River and gorge. The rest of the area along the waterfront (Open Space Zone) is zoned as D1-C. D1-C is described as "Lowest density allowance of the D1 sub-districts encompassing areas along the city's downtown waterfront (south and west of Rainbow Blvd.) and adjacent to Buffalo Avenue. This sub-district moderates the scale and height of development and the core downtown transitions to the waterfront park and surrounding residential areas - particularly the residential district along Buffalo Ave." The above-mentioned parcel belongs in the D1-C zone as it is located near the waterfront and Buffalo Ave.

SOURCE:

June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, western District, Niagara Frontier Region.

RESPONSE:

The lead agency respects and appreciates the comments and concerns of the NYSOPRHP.

Reference is made to the lead agency's response to Comment 1 above. In addition, the "small area of D1-A south of Buffalo Avenue and east of John Daly Boulevard" referred to above is currently zoned M-1 Light Industrial. Under the current zoning ordinance, permitted uses at this property include, among other things, trucking terminals, public utility installations, food processing plants, motor vehicle repair establishments, and adult entertainment uses. In addition, under the current zoning ordinance, the maximum height permitted for this area is 200 feet.

To the extent that such industrial uses clearly create the potential for more objectionable impacts on adjoining parkland and open space and obstruction of ground-level views of the River and Niagara Gorge there, the lead agency believes that the Zoning Amendments as proposed represents a reasonable and appropriate compromise between measures designed to protect important view-sheds and critically needed efforts to facilitate economic revitalization and tourism.

For areas where high-rise development is allowed and encouraged, the proposed Zoning Amendments are intended to favor tall, thin tower developments pursuant to progressive urban design standards to ensure that such developments are not overwhelming on the street level.

In addition, any future project- and/or site- specific proposals will be subject to SEQRA and may require the preparation of a supplemental or site-specific EIS if the lead agency determines that the project in question may result in potentially significant adverse environmental impacts and the subject proposal was not addressed or was not adequately addressed in this FGEIS. In this regard, the SEQRA regulations provide that proposed actions which are substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space and which meet certain specified threshold criteria are presumed to require an EIS in order to ensure that adverse impacts are identified and mitigated to the maximum extent practicable. Further, such future project- and/or site- specific proposals may require certain additional approvals from and / or consultation with various state or local agencies including, but not necessarily limited to, the New York State Office of Parks, Recreation and Historic Preservation.

COMMENT 9

On Page I-15-16, the height "bonuses" for downtown districts described further exacerbate our concerns with respect to the incorrect zoning of the parcel discussed in the previous comment. The "bonus" would allow for a building up to 608 feet tall on a parcel adjacent to the waterfront. While buildings of that height may be appropriate in the interior part of the downtown area, placing a building of that height adjacent to the waterfront is inconsistent with statements in the rest of the plan and the EIS that Downtown districts that border lower density commercial and residential areas or the waterfront will

have lower base building height allowances. If the subject parcel is appropriately zoned as D1-C then the height "bonus" would still allow for a 152' tall building on that site. While that is still a significant building height it would allow the city to more closely meet its goals of creating and providing world class views from that parcel while not unduly obstructing future views from properties that are located farther from the waterfront.

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, western District, Niagara Frontier Region.

RESPONSE: See response to Comment 8 above.

COMMENT 10 With respect to the Building height bonuses discussed on page I 13-14: Since some of the area bordering the Niagara Falls State Park borders an area zoned D1-C where the base height allowances of 80 feet could be increased to 152 feet, we would appreciate the opportunity to provide comments on specific proposals in that area before the "height bonus" is awarded to potential developers. Decisions regarding awarding of height bonuses should require a more in-depth review process including notification of adjacent landowners and opportunity for public comment.

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, western District, Niagara Frontier Region.

RESPONSE: See response to Comment 8 above.

COMMENT 11 P. I-24. We note that restrictions including a maximum lot coverage (10%) and a maximum height of 45' have been added to the Open Space districts "to guide the development of any structures which may be erected in these areas in connection with their use as open space." It is important to point out that much of the area shown as Open Space in Figure 1 is State Parkland, which is not subject to local zoning ordinances. Any mention of open space zoning in the document should acknowledge the fact that OPRHP is not subject to municipal zoning.

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, Western District, Niagara Frontier Region.

RESPONSE: The lead agency acknowledges that the State of New York is not subject to municipal zoning regulations when performing its specified governmental, as opposed to proprietary, functions. The precise parameters of OPRHP's exemption from local zoning presents a legal issue which is beyond the scope of this FGEIS, the Plan and the Zoning Amendments.

COMMENT 12 Page III-4 Potential Impacts - Building Height: This section again discusses that the zoning amendments will allow taller buildings in the core, downtown area of the City and that measures to protect views and mitigate visual impacts of taller buildings have been incorporated into the zoning. However, this is not the case for the parcel referred to in our previous comments. This parcel is not located in the core downtown area of the City but adjacent to the waterfront. A building height of 608 feet which would be allowed by the "height bonuses" for some projects would result in a significant adverse visual impact on both the views and view-shed from other areas within the City as well as from State parkland. This potential impact and inconsistency needs to be addressed within the DGEIS.

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, western District, Niagara Frontier Region.

RESPONSE: See response to Comment 8 above.

COMMENT 13 The proposals outlined in this document omit the fact that the Robert Moses Parkway (RMP) is not owned, maintained or controlled by the City of Niagara Falls. In fact, the RMP is owned and controlled by the State Office of Parks, Recreation and Historic Preservation (OPRHP), and maintained by New York State Department of Transportation (DOT). Comments in the document as to the reconfiguration of the RMP or its removal should be made with the caveat that any such changes would have to

be agreed upon by OPRHP. Additionally, no mention is made in the document of the Memorandum of Understanding (MOU) now in existence between OPRHP, DOT, USA Niagara and the City of Niagara Falls. This MOU lists OPRHP as the lead agency in planning on the Robert Moses Parkway. It also fails to mention that there is currently on-going planning on the south section of the RMP and a draft contractual agreement for a planning team for the RMP north section. These omissions clearly affect the facts of the document and should be included so that the agencies in authority are identified.

SOURCE: June 15, 2009 letter from Shelly Weinreb, Deputy General Manager, NYS Office of Parks, Recreation and Historic Preservation, western District, Niagara Frontier Region.

RESPONSE: This FGEIS is based upon conceptual information and is intended to discuss in general terms the constraints and consequences of the City's general urban revitalization efforts. A recurring theme in the Plan is that the RMP is a barrier between the City of Niagara Falls and the waterfront, and has otherwise outlived its usefulness as currently designed. The Plan, which is incorporated into the DGEIS and this FGEIS, expressly indicates that efforts by the City to pursue reconfiguration of the RMP would be made in partnership with OPRHP, DOT and USA Niagara.

The omission of a reference to the May 3, 2006 Memorandum of Understanding (MOU) between OPRHP, DOT, USA Niagara Development Corporation and the City of Niagara Falls, or to the on-going planning efforts of the OPRHP, is inadvertent. A copy of the MOU is expressly incorporated into this FGEIS as **Appendix D**, and readers are directed to § 7 of the MOU for clarification of OPRHP's role and status as state lead agency.

The MOU is largely intended to advance two future RMP projects – the North & South initiatives – into formal planning and design. The RMP South project was included as the “signature” project in USA Niagara’s 2005 Downtown Niagara Falls Multi-Modal Access Program, to re-connect downtown Niagara Falls to the upper Niagara River. That Multi-Modal study is referenced in DGEIS § III(C)(viii).

In addition, DGEIS § III(C)(vi) references the August 2005 NYPA Report entitled "Impediments and Opportunities for the Future Use and Disposition of the Robert Moses Parkway," which is intended to describe the roles and responsibilities of the various regulatory agencies with respect to the Robert Moses Parkway, outline the regulatory requirements applicable to any proposed changes to the Parkway; describe proposed redevelopment plans affecting the Parkway; outline the results of related ongoing pilot studies; describe the historical purpose and intent of the Parkway; and identify impediments and opportunities related to the future of the Parkway.

COMMENT 14

On or about May 12, 2009, the Niagara County Planning Board voted to recommend approval of the proposed Comprehensive Plan, Zoning Ordinance and DGEIS.

SOURCE:

Niagara County Planning Board Zoning Referral Form faxed to City on May 19, 2009.

RESPONSE:

The City Council appreciates the consideration and approval of the Niagara County Planning Board.

COMMENT 15

The New York State Department of Environmental Conservation (NYSDEC) is not an involved agency and does not have any comments regarding the proposed ordinance. However, NYSDEC may be an involved agency with respect to future specific projects by virtue of proximity to regulated freshwater wetlands, 100-year floodplains, protected streams / water bodies, hydric soils, Niagara River Areas of Concern, Cultural / Archaeological Resources, Environmental Justice Communities and Coastal Erosion Areas.

SOURCE:

June 4, 2009 letter from Steven J. Doleski, Regional Permit Administrator, NYSDEC.

RESPONSE:

The City will continue to refer future specific project proposals to NYSDEC as appropriate.

COMMENT 16

The proposed Zoning Amendments will be detrimental to the City of Niagara Falls and its taxpaying residents by adversely affecting the taxable property base in the City. The proposed Zoning Amendments

would also impermissibly alter the rights of Niagara Falls Redevelopment, LLC ("NFR") under the terms of an alleged 2003 agreement with the City of Niagara Falls.

SOURCE: May 22, 2009 letter from James Coniglio, attorney for Niagara Falls Redevelopment, LLC, to Mayor Paul Dyster.

RESPONSE: The lead agency disagrees with the NFR's conclusory and unfounded opinions with respect to impacts of the proposed Zoning Amendments on the City tax base. For the reasons detailed throughout the Plan and DGEIS, the proposed Zoning Amendments are expected to yield just the opposite result.

The lead agency also disagrees with NFR's legal arguments with respect to an alleged 2003 agreement with the City of Niagara Falls, to which a detailed response is neither required nor appropriate in this FGEIS.

COMMENT 17 While the map in Schedule 2 of the proposed Zoning Amendments depicts a Design District which clearly encompasses, among other districts, the current C-2 District, the legend on Schedule 2 does not list the C-2 District.

SOURCE: City of Niagara Falls Office of Planning

RESPONSE: The legend in Schedule 2 should reference the C-2 District to correct this clerical error.

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**Final Generic Environmental Impact Statement
(FGEIS)**


**For the New City of Niagara Falls Comprehensive Plan
and Accompanying Amendments to
the City of Niagara Falls Zoning Ordinance**


APPENDIX D


**Copy of May 3, 2006 Memorandum of
Understanding between NYS OPRHP,
NYS DOT, USA Niagara Development
Corporation and the City of Niagara Falls**


Residential

R1 - Detached Single


R1-A 


R1-B 

R1-C 


R1-D 


R2 - Doubles


R2-A 

R2-B 


R3 - Multi-Family

R3-A 

R3-B 


R3-C 


R4 - Heritage

R4 


Commercial


C1 - Neighborhood

C1-A 


C1-B 

C2 - Traditional

C2-A 


C2-B 


C3 - General


C3 


Downtown

D1 - Downtown


D1-A 

D1-B 


D1-C 


D1-D 


D2 - Gorge View


D2 


Other


I1 - Business Park 


I2 - Industrial 

INS - Institutional 

OS - Open Space 

NPD - Negotiated 





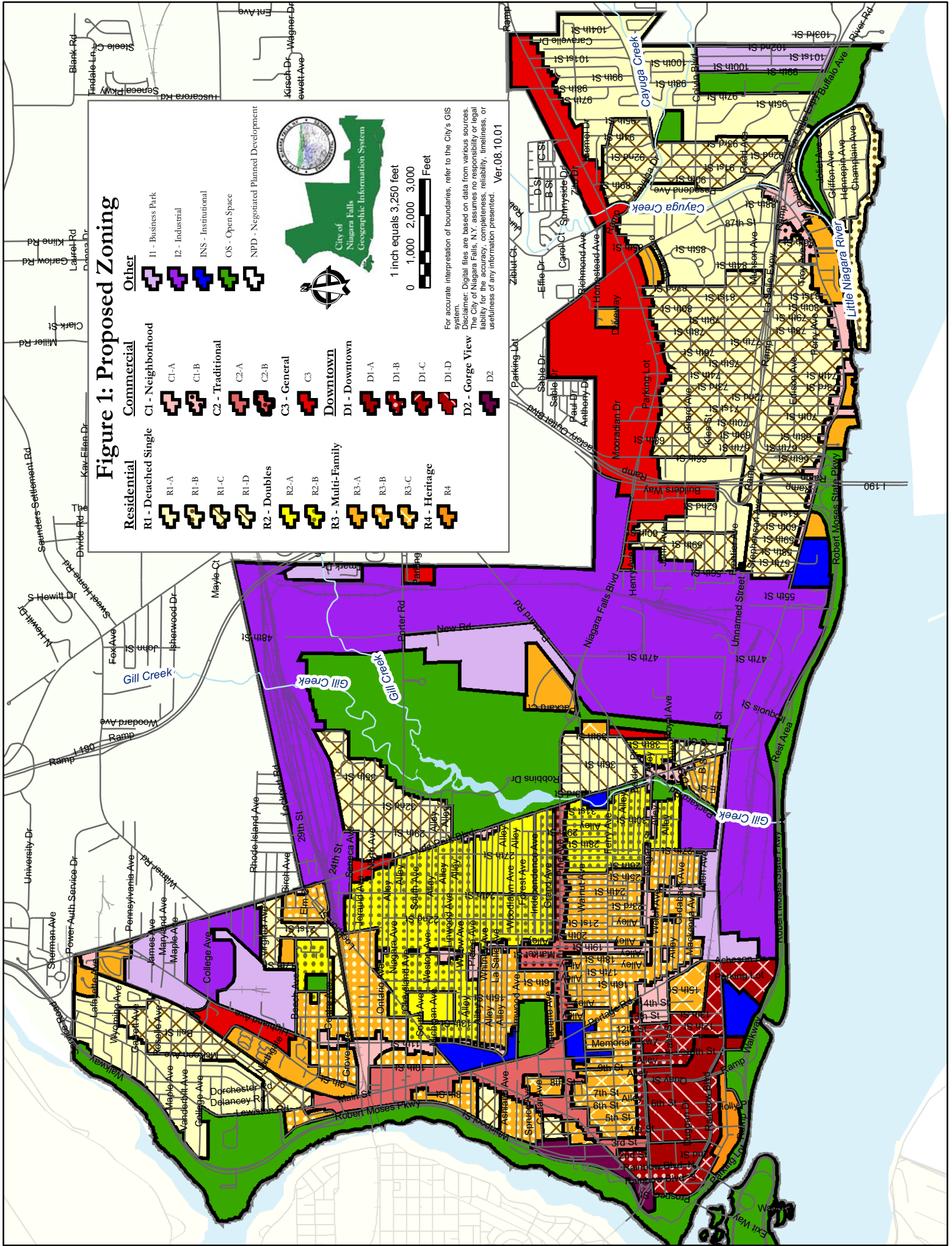
City of
Niagara Falls
Geographic Information System

1 inch equals 3,250 feet

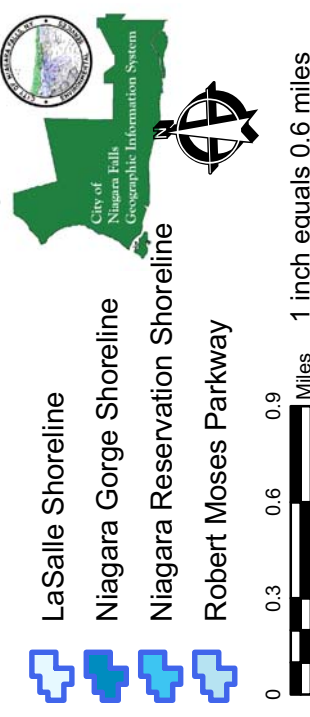
0 1,000 2,000 feet

For accurate interpretation of boundaries, please refer to the official zoning map.

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**Figure 2:
Proposed Waterfront Overlay District**



For accurate interpretation of boundaries, refer to the City's GIS system.
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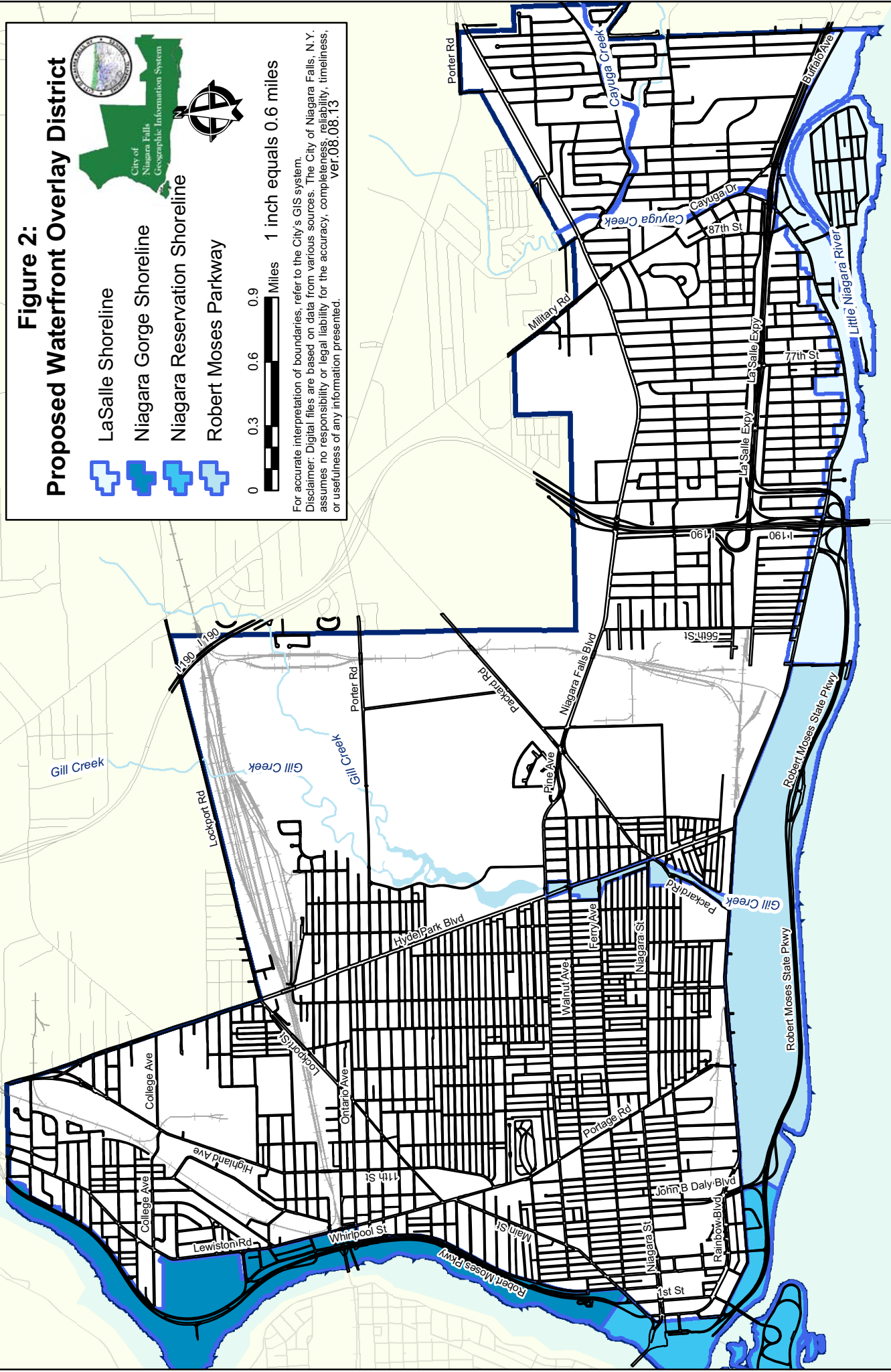


Figure 3: Proposed Design Overlay District



Design Overlay



1 inch equals 3,200 feet

0 1,600 3,200 4,800

Feet

For accurate interpretation of boundaries, refer to the City's GIS system.
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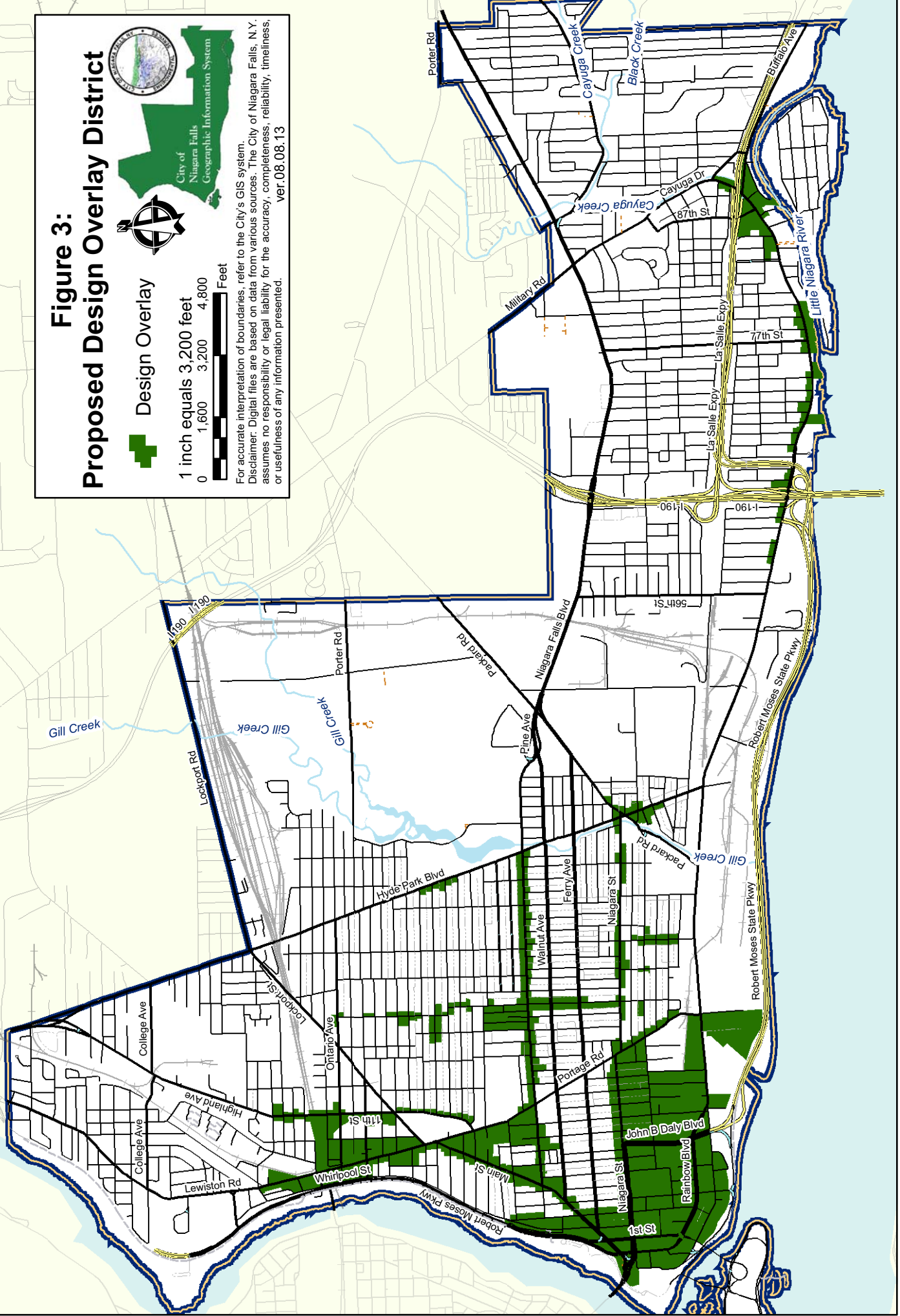


Figure 4: Existing and Proposed Single Family Detached Districts



Residential - Current



Residential - Proposed

R1 - Detached Single



1 inch equals 3,250 feet

0 0.25 0.5 0.75

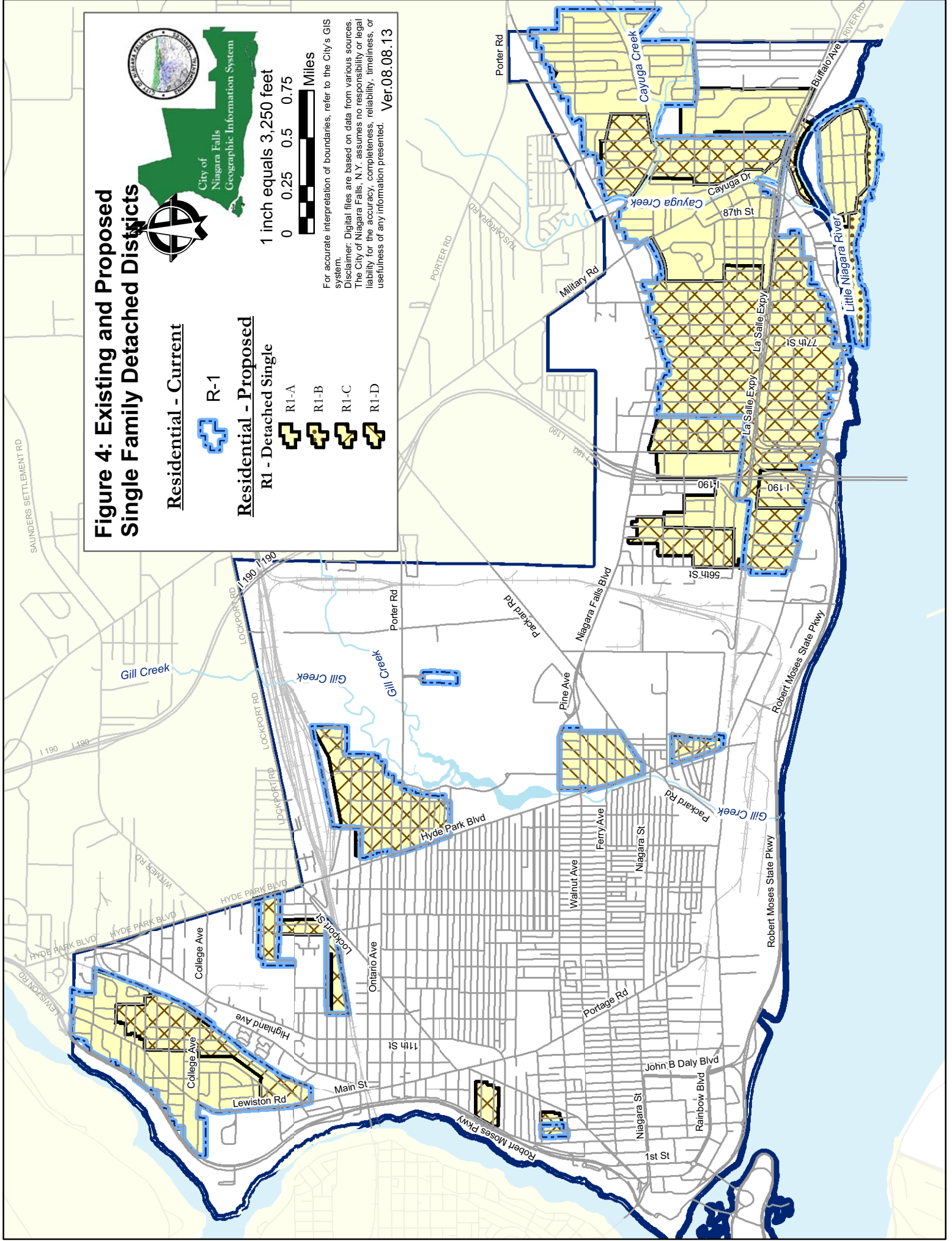


Miles

For accurate interpretation of boundaries, refer to the City's GIS system.

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**Figure 5: Existing and Proposed
Two Family Districts**



Residential - Current



R-2

Residential - Proposed

R2 - Doubles



R2-A



R2-B

1 inch equals 3,250 feet

0 0.25 0.5 0.75



Miles

For accurate interpretation of boundaries, refer to the City's GIS system.

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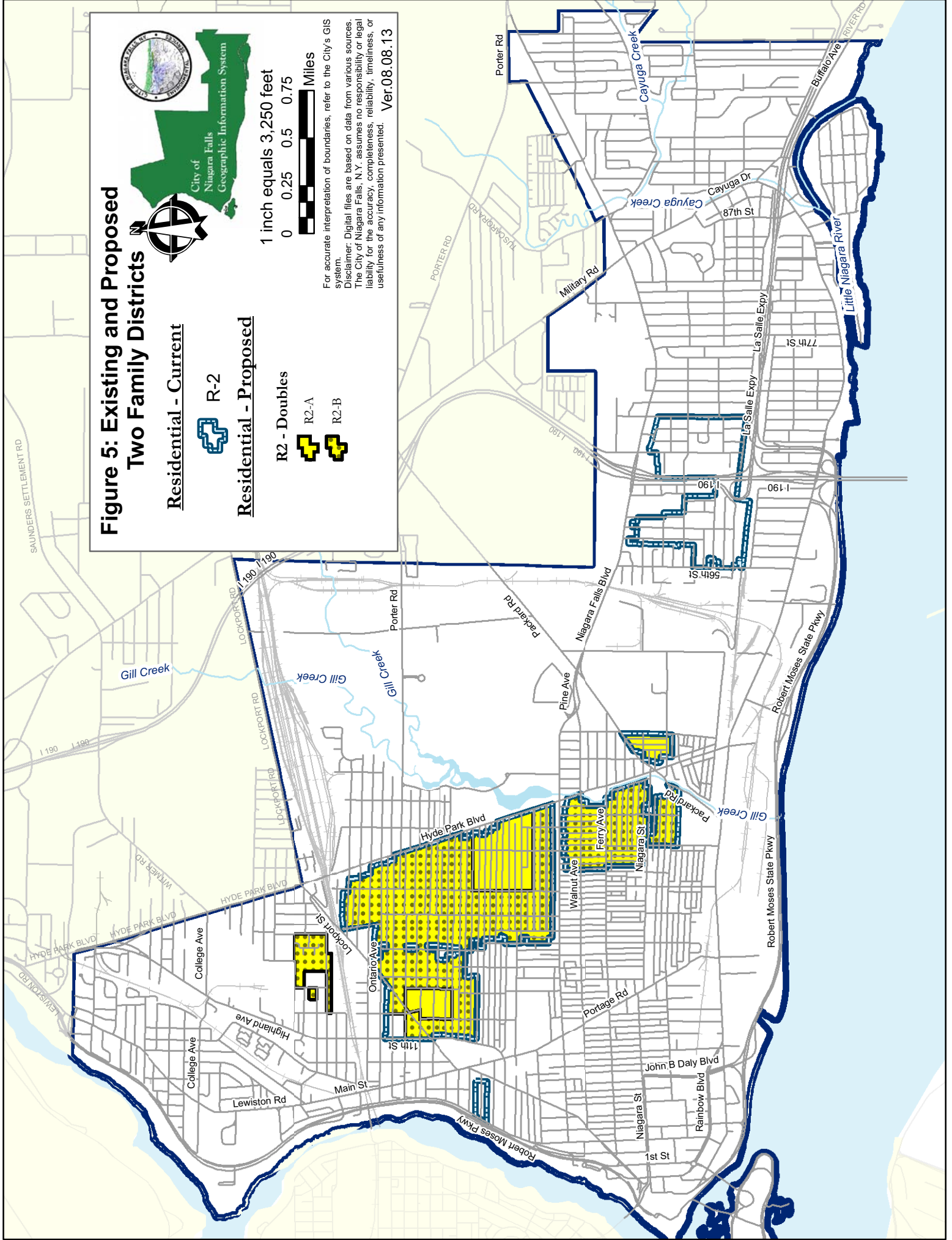
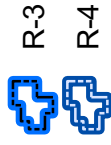


Figure 6: Existing and Proposed Multifamily Districts

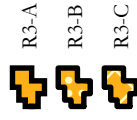


Residential - Current



Residential - Proposed

R3 - Multi-Family



1 inch equals 3,250 feet

0 0.25 0.5 0.75



Miles

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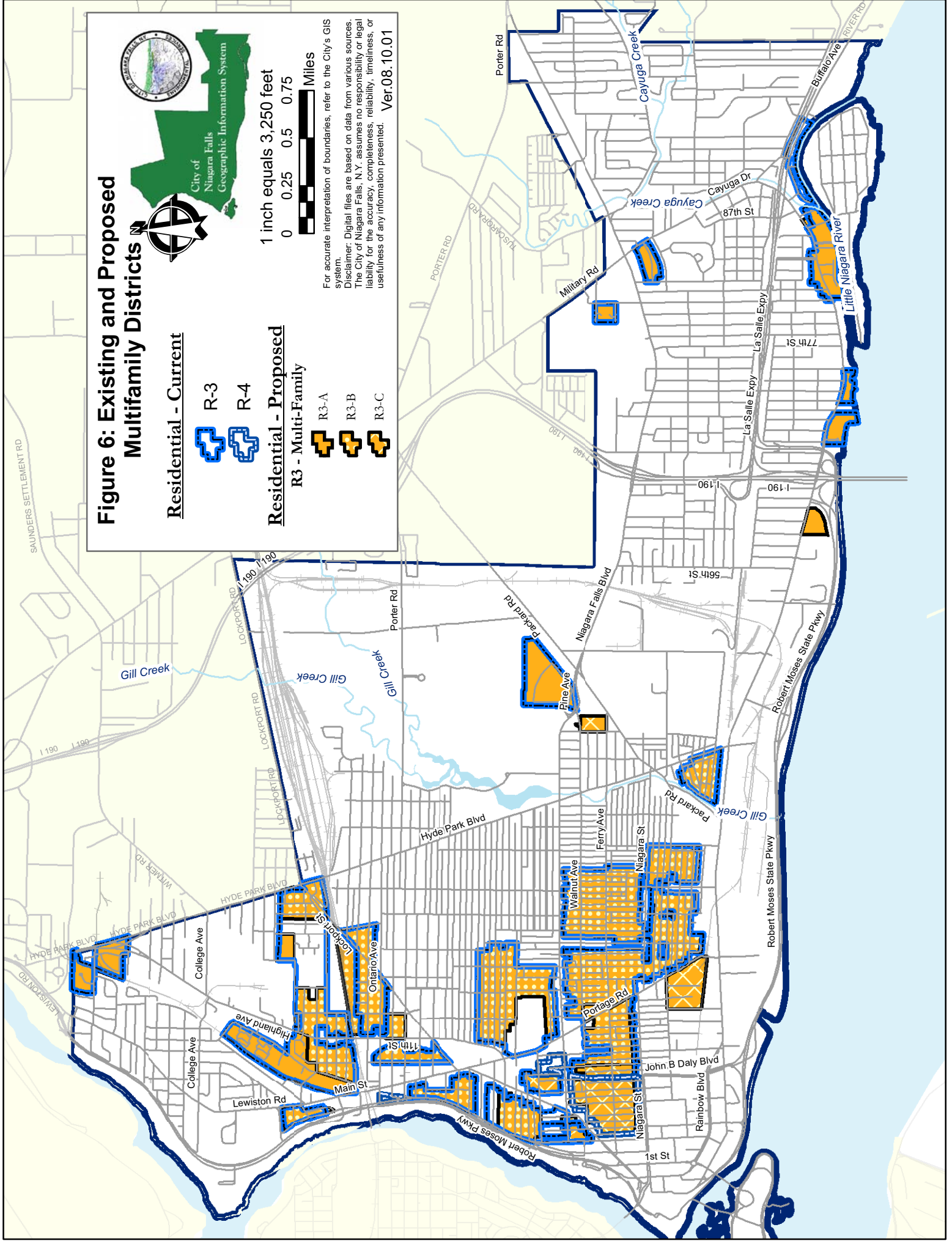


Figure 7: Proposed R4 Heritage District



Residential - Current

No Equivalent

Residential - Proposed

R4 - Heritage



1 inch equals 3,250 feet

0 0.25 0.5 0.75 Miles

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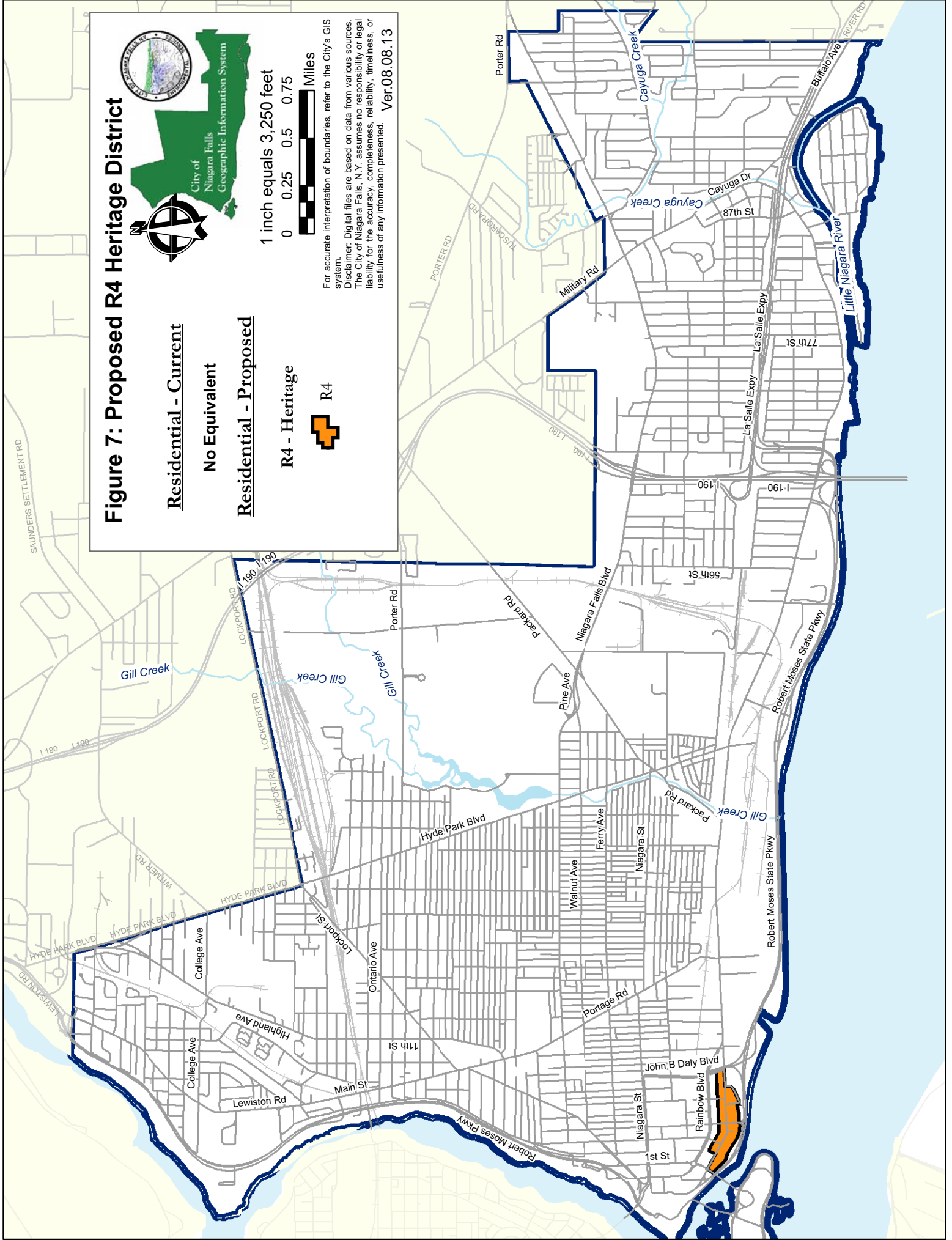


Figure 8:

Non-Conforming Lots With Respect to Lot Area, Existing Zoning



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Zone: Non-Conforming	
R1	50%
R2	62%

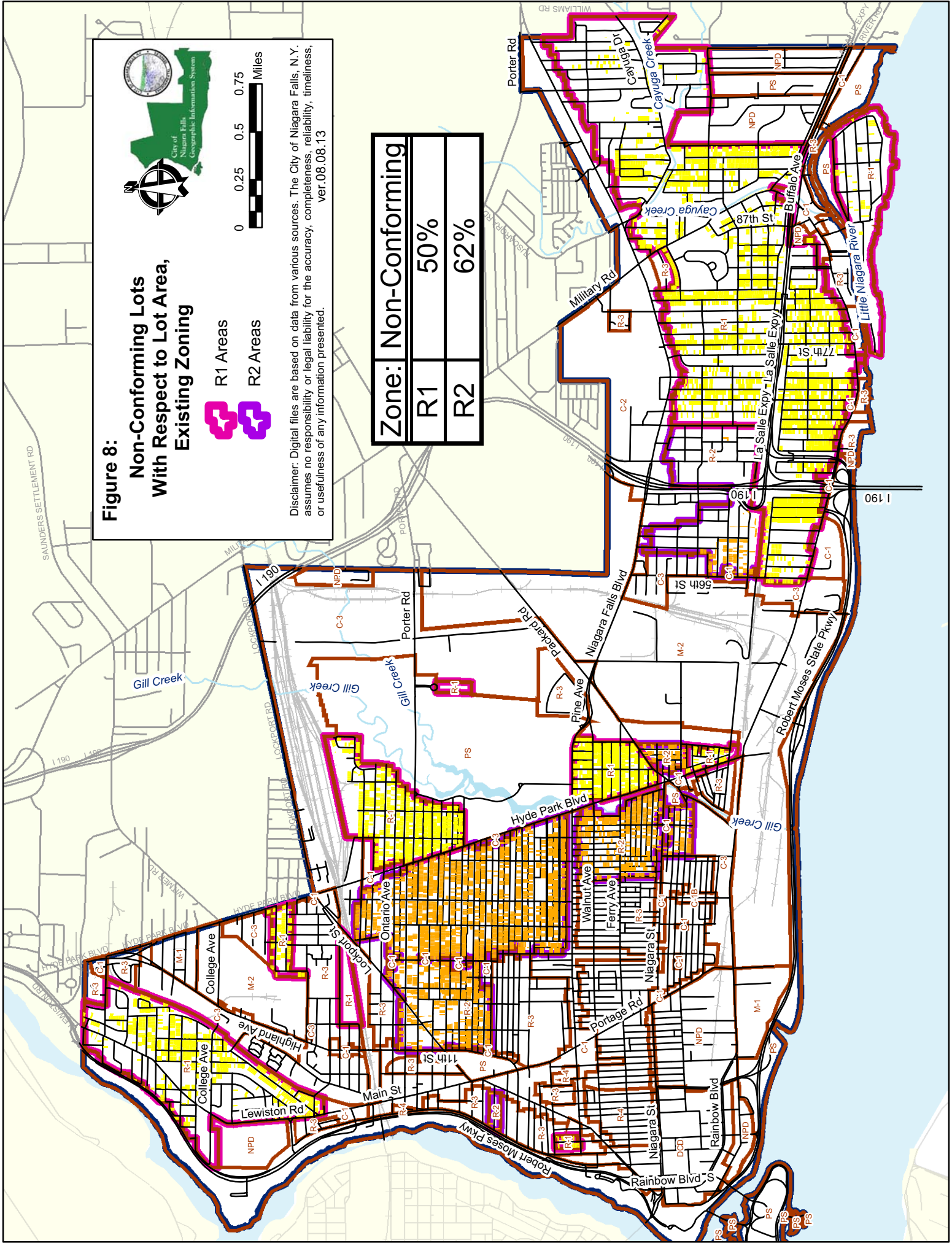
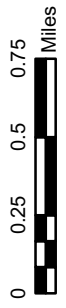


Figure 9:

**Non-Conforming Lots
With Respect to Lot Area,
Proposed Zoning**



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Zone: Non-Conforming	
R1	20%
R2	18%

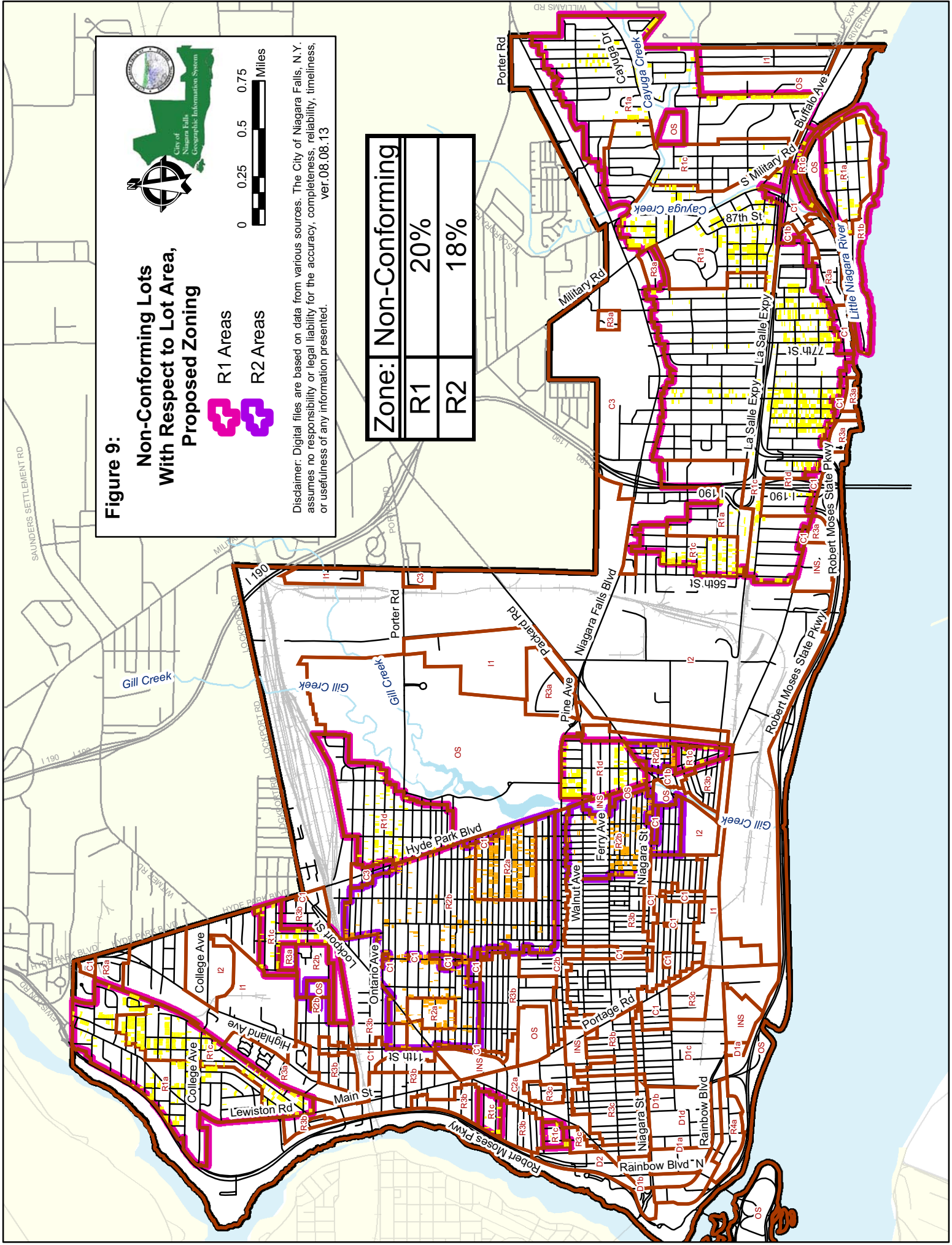


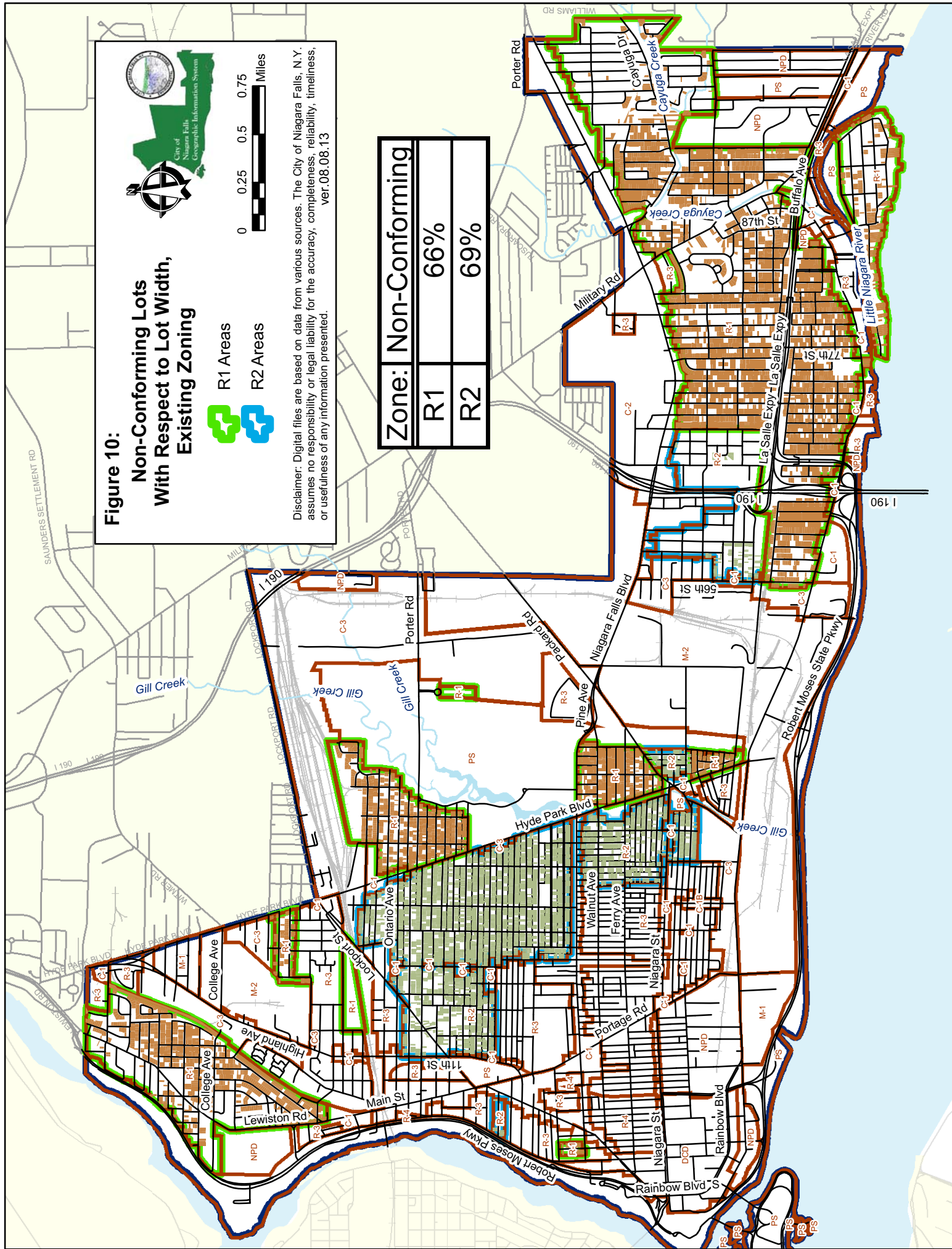
Figure 10:

Non-Conforming Lots With Respect to Lot Width, Existing Zoning



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Zone: Non-Conforming	
R1	66%
R2	69%



**Figure 11:
Non-Conforming Lots
With Respect to Lot Width,
Proposed Zoning**



R1 Areas
R2 Areas

Color	Miles
Black	0.15
White	0.25
Grey	0.40
Blue	0.60

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Zone:	Non-Conforming
R1	20%
R2	10%

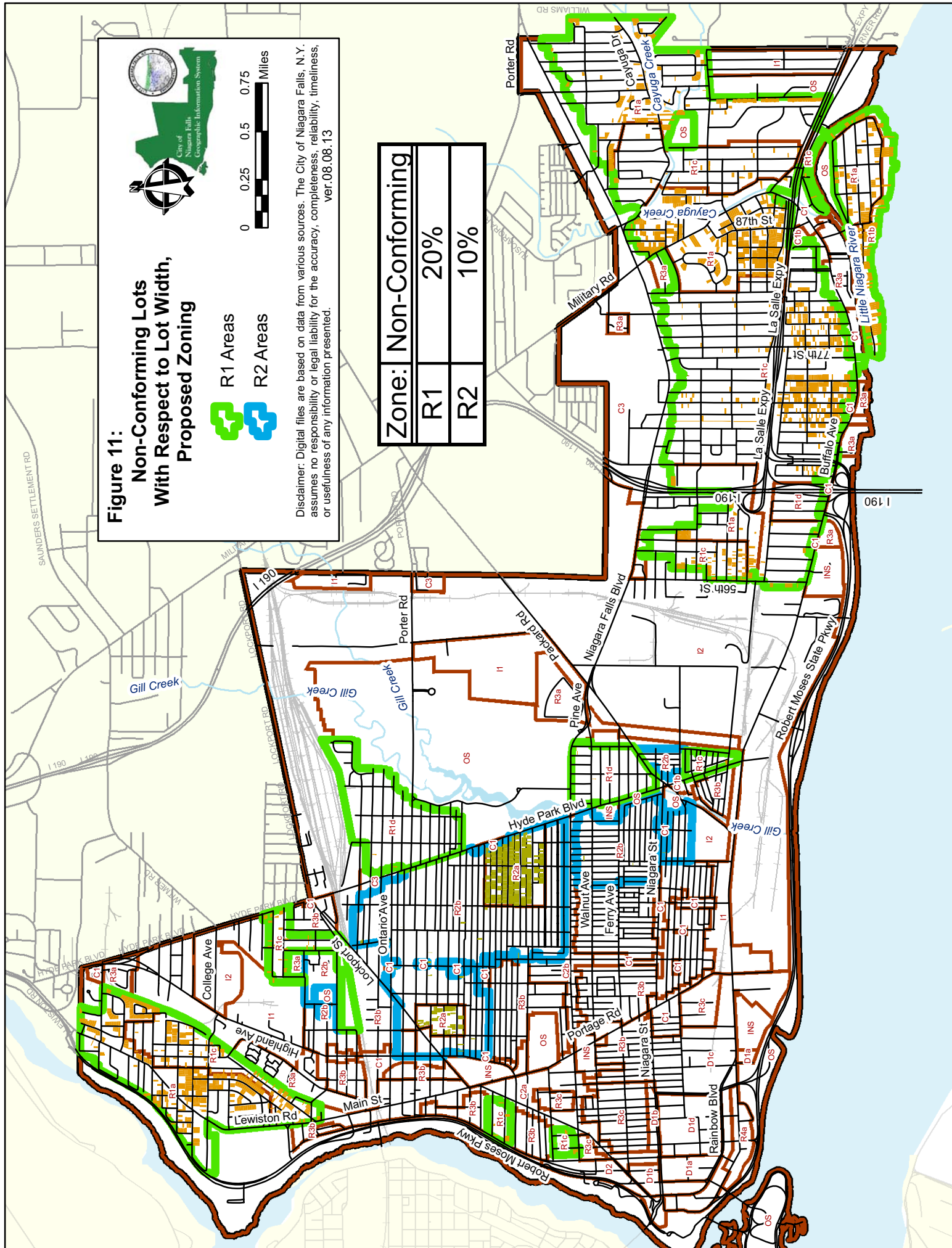


Figure 12: Existing and Proposed Downtown Districts



Downtown - Current



DCD

Downtown - Proposed

D1 - Downtown



D1-A



D1-B



D1-C



D1-D

D2 - Gorge View



D2

1 inch equals 3,250 feet

0 0.25 0.5 0.75



Miles

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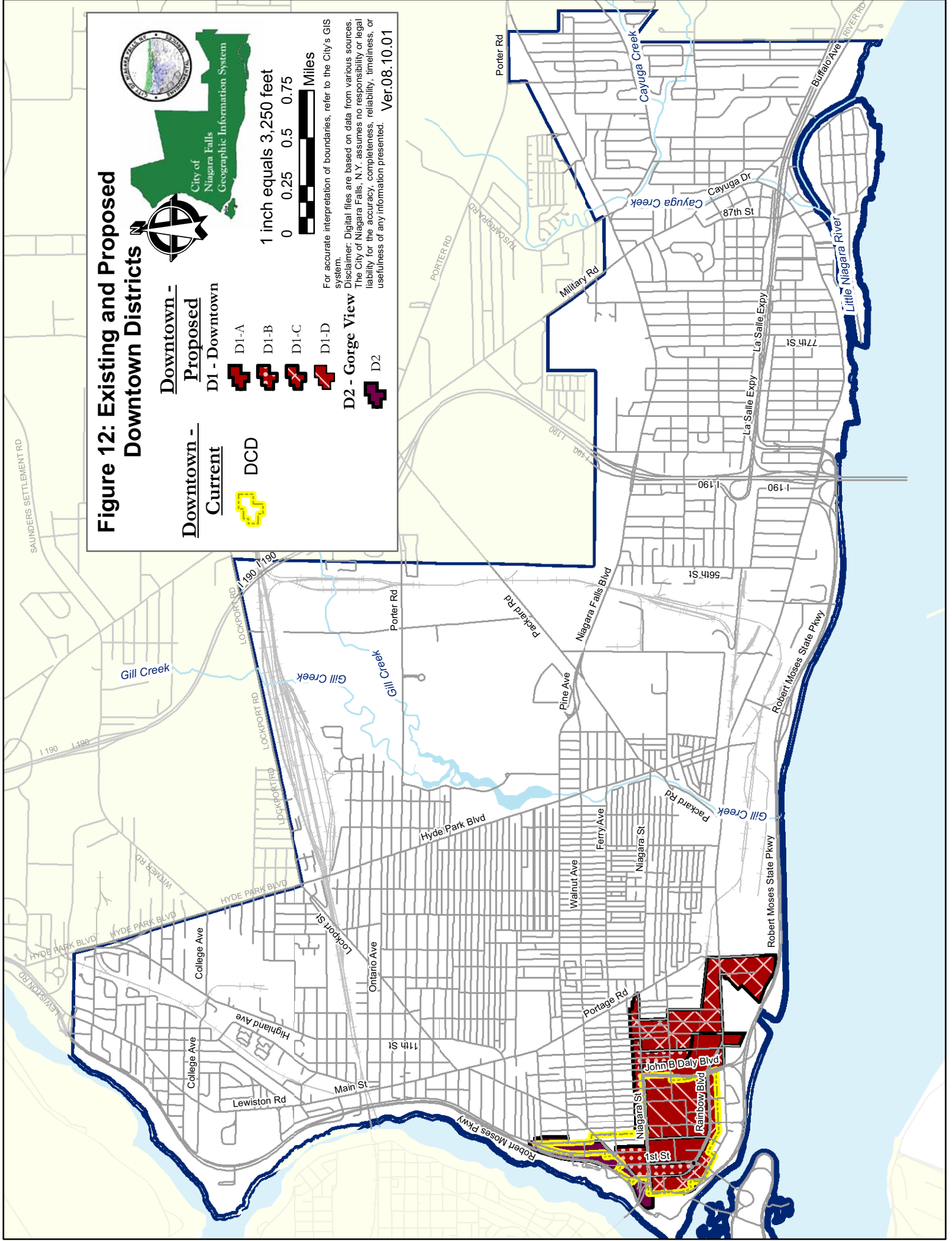


Figure 13: Existing and Proposed Neighborhood Commercial Districts



**Commercial -
Current**



C-1B

**Commercial -
Proposed**

C1 - Neighborhood



C1-A



C1-B

1 inch equals 3,250 feet

0 0.25 0.5 0.75 Miles



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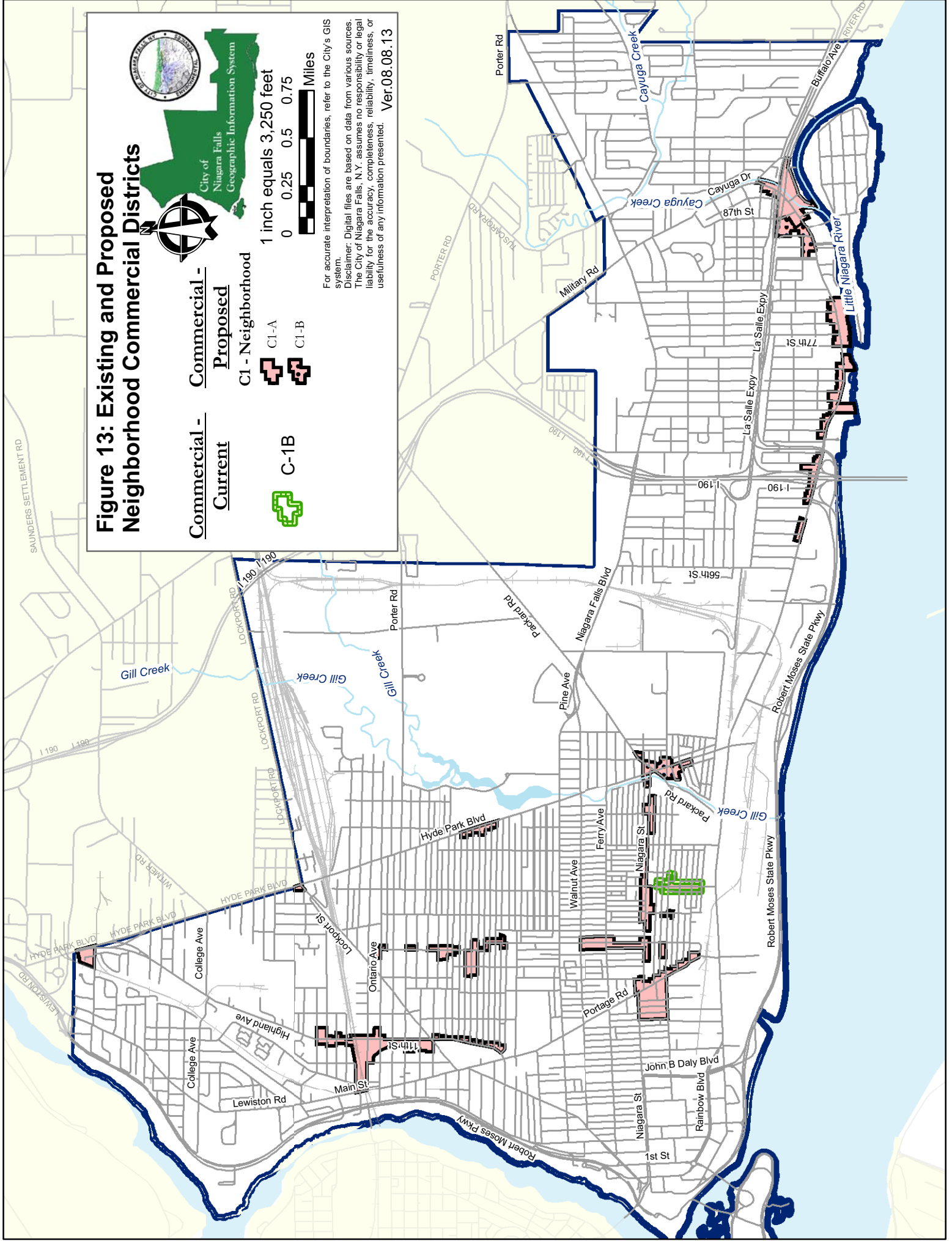


Figure 14: Existing and Proposed Traditional Commercial Districts



**Commercial -
Current**

**Commercial -
Proposed**

C2 - Traditional



1 inch equals 3,250 feet

0 0.25 0.5 0.75 Miles



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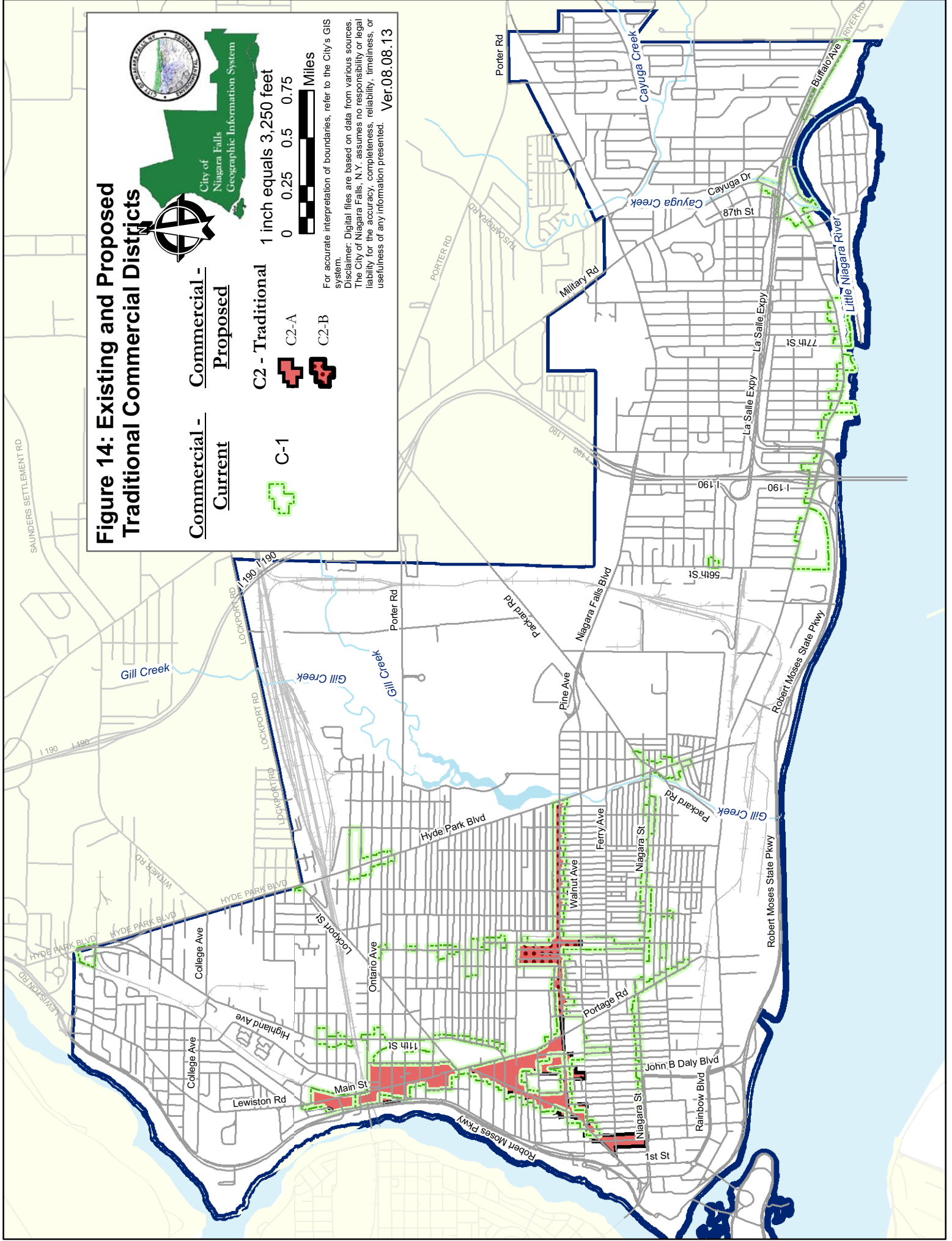


Figure 15: Existing and Proposed General Commercial Districts



**Commercial -
Current**

C3 - General



1 inch equals 3,250 feet

0 0.25 0.5 0.75 Miles



C3

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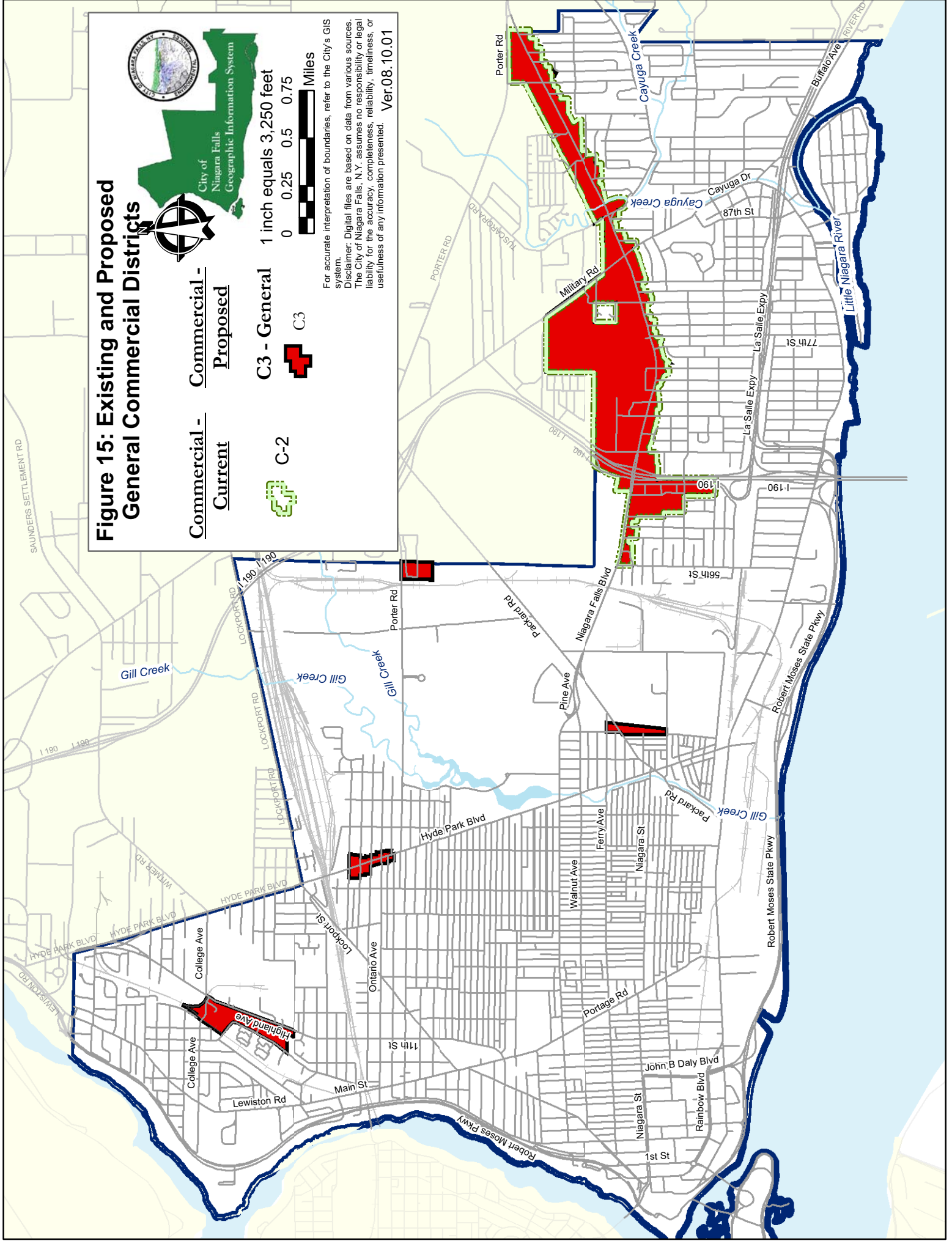


Figure 16: Existing and Proposed Industrial Districts

