

Chapter 4

Section 4(f) Evaluation

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Acronyms and Abbreviations

BRT.....	Bus Rapid Transit
FEIS.....	Final Environmental Impact Statement
FHWA.....	Federal Highway Administration
FTA.....	Federal Transit Administration
LRT.....	Light Rail Transit
Metro.....	Niagara Frontier Transit Metro System, Inc.
Metro Rail.....	Metro Light Rail Transit System
NFTA.....	Niagara Frontier Transportation Authority
NRHP.....	National Register of Historic Places
SHPO.....	State Historic Preservation Office
UB.....	University at Buffalo

4. Section 4(f) Evaluation

Section 4(f) of the Department of Transportation Act of 1966 (now 49 United States Code [USC] Section 303 and 23 USC Section 138; U.S. Department of Transportation [USDOT] Act) applies to the use of publicly or privately owned historic sites determined eligible for or listed on the National Register of Historic Places (NRHP); and publicly owned parks, recreation areas, and wildlife and waterfowl refuges (collectively, Section 4(f) properties). The full Section 4(f) Evaluation is provided in Appendix D, “Section 4(f) Evaluation,” of the Final EIS (FEIS).

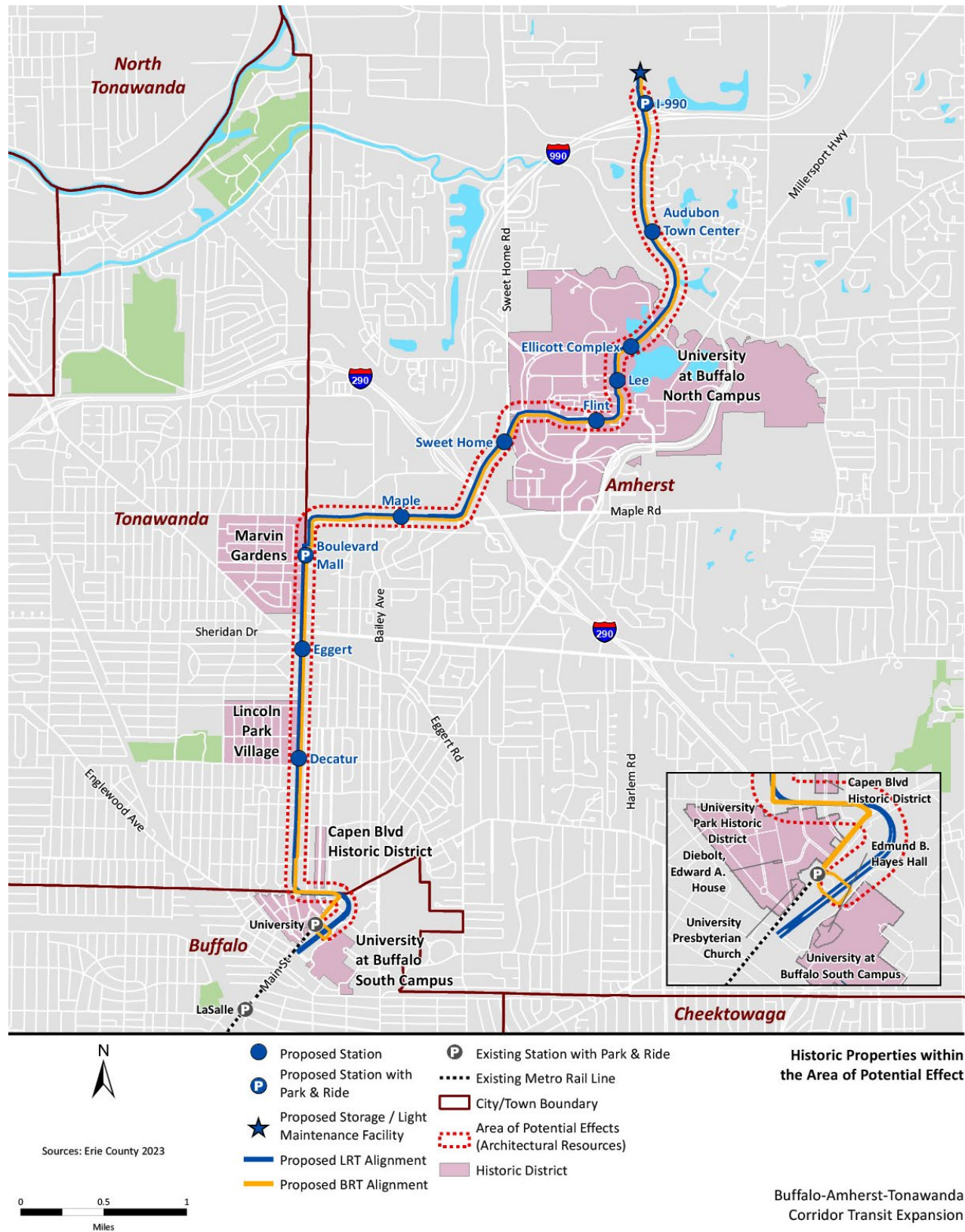
There are ten built resources within the Project area of potential effect (APE). Table 4-1 lists the historic properties identified within the Project APE and summarizes determinations of Section 4(f) use for each Build Alternative. Figure 4-1 shows the locations of these historic properties.

Table 4-1. Historic Properties Evaluated for Section 4(f) Use

Property Name	NRHP Status	Period of Significance	LRT Build Alternative	BRT Build Alternative
University at Buffalo South Campus	Eligible	1865 to 1963	<i>De minimis</i>	<i>De minimis</i>
Edmund B. Hayes Hall	Listed	1925 to 1962	No use	No use
University Park Historic District	Listed	1913 to 1941	No use	No use
University Presbyterian Church	Listed	1928 to 1956	No use	No use
Charles and Rose Waldow House (3404 Main St.)	Eligible	—	No use	No use
University Court Apartments (3442 Main St.)	Eligible	—	No use	No use
Capen Boulevard Historic District	Eligible	—	No use	No use
Lincoln Park Village	Eligible	—	<i>De minimis</i>	<i>De minimis</i>
Marvin Gardens	Eligible*	—	<i>De minimis</i>	<i>De minimis</i>
University at Buffalo North Campus	Eligible*	—	<i>De minimis</i>	<i>De minimis</i>

Sources: NFTA-Metro, Metro Rail Expansion Project: Historic Resources Report (2020); Cultural Resource Information System, New York State, <https://cris.parks.ny.gov>; Jennifer Walkowski, Historic Preservation Program Analyst, Survey and National Register Unit – Western NY Region to Rachel Maloney Joyner, “Re: FTA Metro Rail Expansion Construction Project Amherst, Tonawanda and Buffalo, Erie County, NY, 19PR01900,” April 29, 2020. Information included in the table reflects known available information. Properties with an eligibility status marked by a (*) are those treated as NRHP-eligible for purposes of the Project.

Figure 4-1. Historic Properties within the Area of Potential Effect



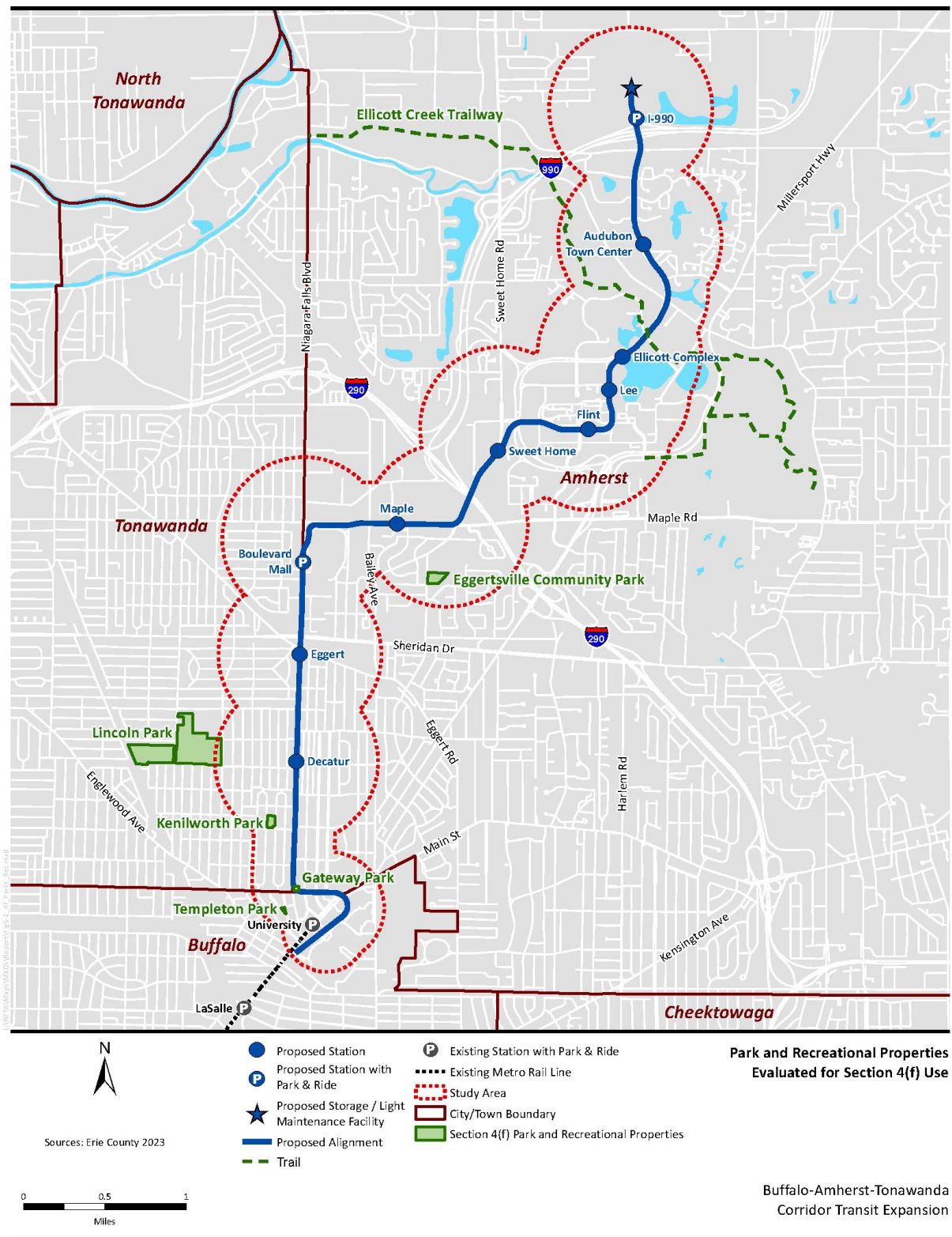
The Project would not result in an adverse effect to these ten historic properties. The Project would permanently incorporate land from four historic properties and result in a *de minimis* use of Section 4(f) properties. Therefore, an evaluation has been conducted to determine whether uses of these properties would occur pursuant to Section 4(f) (see Appendix D of the FEIS).

There are six public parks and recreational properties within 0.25 miles on either side of the alignment of the Light Rail Transit (LRT) Build Alternative and the Bus Rapid Transit (BRT) Build Alternative and a 0.5-mile radius around the proposed station locations. Table 4-2 lists the parks adjacent to the Project alignment and determinations of Section 4(f) use for each Build Alternative. Figure 4-2 shows the locations of these parks. Parks and recreational properties subject to further evaluation under Section 4(f) include Gateway Park and Ellicott Creek Trailway. The Project would result in a *de minimis* use of these two Section 4(f) properties. Therefore, an evaluation has been conducted to determine whether uses of these properties would occur pursuant to Section 4(f) (see Appendix D of the FEIS).

Table 4-2. Park and Recreational Properties Evaluated for Section 4(f) Use

Name	Address	Section 4(f) Use	
		LRT Build Alternative	BRT Build Alternative
Templeton Park	Bellevue Avenue, Buffalo, NY	No Use	No Use
Gateway Park	159 Niagara Falls Boulevard, Amherst, NY	<i>De minimis</i>	No Use
Kenilworth Park	Tonawanda, NY	No Use	No Use
Lincoln Park	299 Decatur Road, Amherst, NY	No Use	No Use
Eggertsville Community Park	845 Sweet Home Road, Amherst, NY	No Use	No Use
Ellicott Creek Trailway	Amherst, NY	<i>De minimis</i>	<i>De minimis</i>

Figure 4-2. Park and Recreational Properties Evaluated for Section 4(f) Use



Source: Erie County, 2019, Town of Amherst Bike & Exercise Paths, 2001

With respect to the Project, the Federal Transit Administration (FTA) finds the following:

- The LRT Build Alternative and BRT Build Alternative would not alter any of the characteristics that qualify the UB South Campus for listing in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on the UB South Campus. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and FTA concludes a *de minimis* finding for this Section 4(f) use.
- The LRT Build Alternative and BRT Build Alternative would require partial right-of-way acquisition on parcels near the Decatur Road-Niagara Falls Boulevard intersection in Lincoln Park Village. This acquisition represents a small fraction of the overall historic district and occurs on parcels identified as having resources with diminished integrity. This change to Lincoln Park Village's integrity of design and materials is not adverse. No other changes would occur to Lincoln Park Village's aspects of integrity as a result of Project implementation. The Project would not alter any of the characteristics that qualify Lincoln Park Village for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on Lincoln Park Village. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and FTA concludes a *de minimis* finding for this Section 4(f) use.
- While the LRT Build Alternative and BRT Build Alternative would be located outside the Marvin Gardens historic property boundary, minor changes to Marvin Gardens' integrity of materials would occur through the acquisition of less than 0.01 acres along Brighton Road to facilitate right turns onto Niagara Falls Boulevard. The Project would not alter any of the characteristics that may qualify Marvin Gardens for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on Marvin Gardens. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and FTA concludes a *de minimis* finding for this Section 4(f) use.
- The LRT Build Alternative and BRT Build Alternative would occur within the historic property boundary of the UB North Campus and would introduce new transit-related infrastructure. However, the Project would not alter any of the characteristics that may qualify UB North Campus for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on UB North Campus. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and FTA concludes a *de minimis* finding for this Section 4(f) use.

- During construction of the LRT Build Alternative, Gateway Park would be closed for approximately 12 months. The undertaking would require excavation in the park for cut-and-cover tunnel construction and use of the rest of the park for construction staging activities (equipment and materials storage; preparation of precast structural segments; rail utilities [air, water, electricity]; mixing and processing slurry for excavation and post-excavation slurry treatment). Following construction, the LRT Build Alternative will require a permanent underground easement below the park, which also constitutes a 4(f) use of Gateway Park. Metro will minimize impacts on the park by restoring the surface of the park to its pre-construction condition following construction. Once completed, no LRT Build Alternative infrastructure would reach the surface of the park as it will be approximately 30 feet below the park surface. The Town of Amherst will retain ownership of the park minus the subsurface easement. FTA concludes a *de minimis* finding for this Section 4(f) use.
- During construction of the LRT Build Alternative and the BRT Build Alternative, Metro would require temporary use of the Ellicott Creek Trailway. To facilitate construction of a new transit bridge deck for either the LRT Build Alternative or BRT Build Alternative, Metro would relocate, slightly to the southeast of the current location, the existing pedestrian bridge across Ellicott Creek using the existing piers remaining from a former section of the John James Audubon Parkway northbound lanes bridge. Metro would also reconstruct the trailway connection under the bridge. The relocation of the Ellicott Creek Trailway pedestrian bridge would take approximately two weeks. During the relocation, the trailway river crossing would not be open for use. Metro will coordinate with the Town of Amherst, to notify the community and define reasonable detour routes. Following Project construction, the trailway would be restored to pre-construction conditions and open for public use. FTA concludes a *de minimis* finding for this Section 4(f) use.
- No designated recreation areas or wildlife and waterfowl refuges are within the Project study area. Therefore, the Project would not result in the use of any such resources.