

# Town of Smithtown LWRP Monitoring Report June 2014

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## Community Background:

The Town of Smithtown is located in Suffolk County on the north shore of Long Island at the mouth of the Nissequogue River. It is roughly rectangular in shape and comprises about 111 square miles, of which nearly 58 square miles lie underwater in the Long Island Sound. As of 2010, the Town's population was 117,801. Three villages, Nissequogue, Head of the Harbor, and the Branch, with a cumulative population of 5,028, lie within the Town's borders.

The Town is predominantly suburban/residential, but also contains commercial areas including three central business districts (Kings Park, Smithtown and St. James), industrial areas, institutions, and open spaces. Many residents work in New York City, located about 45 miles to the west and accessible via surface roads and the Long Island Rail Road, which stops in the Town. The Town's topography is complex, including steep hills and broad plains.

The Town has largely preserved the natural character of its waterfront. The Long Island Sound shoreline consists of sandy beaches often backed by steep bluffs rising up to 100 feet above sea level. The larger of these beaches, including Sunken Meadow State Park, are publicly accessible for recreational purposes; many smaller beaches are owned by local associations and are only open to members or Town residents. The waterfront area encompasses the wide mouth of the Nissequogue River and follows it upland, including a marina, wetlands, and several small parks. The River and Sound are both popular



venues for bathing, recreating, fishing, kayaking, and boating. The River is generally shallow and silty, and must be dredged every three years or so to maintain navigability.

There are three NYSDOS-designated Significant Coastal Fish and Wildlife Habitats (SCFWHs) – the Nissequogue River, Nissequogue Inlet, and Stony Brook Harbor – within the waterfront area. Together, these SCFWHs contain many acres of undeveloped wetlands, woods, and river that serve as important habitats for several mammal fish, and bird species, including the endangered piping plover.

### **Collaborations with Department of State:**

The Town completed its LWRP in 1989 and received DOS and OCRM approval shortly thereafter. The Town has adopted many of the legal and planning tools identified as implementation measures in the LWRP. Because the Town is a mature community that is largely built-out, it has since used the LWRP less as a guide for new development and more as a means of maintaining the waterfront area's natural and recreational character. Between 1996 and 1999, DOS awarded the Town 8 grants, totaling approximately \$375,000, funded under Title 11 of the New York State Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP). These grants funded projects geared primarily toward preserving and enhancing the waterfront drainage infrastructure, as well a study examining hydrogeographic conditions and an LWRP amendment.

The Town began contemplating a new LWRP in 2010, when it was in the process of updating its comprehensive plan. In 2013, DOS awarded the Town an additional EPF grant to fund a new LWRP. That contract is presently in pre-execution.

### **LWRP Monitoring Process:**

The goal of the monitoring process is for the Department of State - Office of Planning and Development (OPD) to assess a community's consistency with its LWRP and to understand implementation activities and decision-making procedures related to the LWRP. Additionally, this process provides a forum for the community to highlight successes, and request technical and financial assistance for program implementation.

The OPD began the Town of Smithtown's LWRP monitoring process with an email to the Smithtown Planning Department, which included a letter describing the process and a list of survey questions. A conference call subsequently took place between OPD and two representatives of the Planning Department, Allyson Murray and Alex Wallach, to discuss the Town's responses to the survey questions and to arrange a follow-up site visit. That site visit took place in June of 2014 with Allyson Murray, Alex Wallach and Assistant Director Dave Flynn.

## Office of Planning and Development Findings:

### Overview

The [Town of Smithtown Local Waterfront Revitalization Program \(LWRP\)](#) has formed an important component of the Town's planning scheme. Despite the 25 years that have elapsed since its adoption in 1989, the Town often consults its LWRP when considering actions that may affect the waterfront area, and it is generally understood as a useful tool in preserving the waterfront's best features. The LWRP's age has not rendered it obsolete; however, because it has remained largely static since 1989, it may no longer represent the best possible picture of today's residents' priorities for the Town's waterfront area. The LWRP's ongoing overhaul therefore represents a timely opportunity to seek out and incorporate the Town's updated vision for the waterfront.



### LWRP Implementation

As noted above, neither the LWRP's text nor its program of implementation have emphasized new development; the LWRP instead focuses on preservation and enhancement of existing waterfront assets. Development related to projects identified in the LWRP includes:

- Town acquisition program: Per the LWRP, the Town has acquired property in flood hazard areas, particularly in the San Remo neighborhood, to prevent further development thereon. In addition, the Town has implemented a transfer of density flow rights system for managing septic system outflow credits, which has led to the preservation of less than an acre in the Local Waterfront Revitalization Area.
- Kings Park State Hospital: the LWRP contemplated acquiring this largely-vacant facility and converting a portion to a community park. The State Office of Parks, Recreation and Historic Preservation (OPRHP) has since acquired the site and is currently demolishing and removing many of the older structures. OPRHP has not yet determined the ultimate use of the site, but it is likely to become parkland. In 2004, the Town unveiled a new hike-and-bike trail through the property, which extends about 1.5 miles from the Kings Park neighborhood to the Nissequogue River State Park.

- Drainage Improvements: With assistance from EPF grants, the Town has conducted infrastructure improvements at St. Johnland Road, Old Dock Road, and Landing Avenue. These improvements have enhanced drainage and stormwater management, reducing runoff into the Nissequogue River and Long Island Sound.

The Town has also used the LWRP in developing:

- Screening measures for two monopole cell towers in the waterfront area.
- Retaining boat slips at the Nissequogue Marina and adding a new boat ramp.
- Mitigating the visual impact of new residential development on the waterfront area.



The LWRP primarily articulates a vision of maintaining the waterfront as a low-density residential and recreational area; and so it has remained. At the site visit, Town Planning Department officials expressed concern that this may no longer represent the Town’s most up-to-date consensus regarding its vision of the waterfront. The Town plans to undertake public education and outreach efforts as part of its LWRP revision in order to ensure its currency and relevance.

The site visit suggested some topics for an amended LWRP to address, including:

- Expanding waterfront area: The Town is considering expanding the waterfront area to include an undeveloped parcel on the south side of St. Johnland Road, adjacent to the former Kings Park Psychiatric Center. One goal of this expansion would be to facilitate a land swap between the State and the owner of a parcel in the expanded waterfront area in order to encourage the use of alternative sites for future development.

- Amending waterfront area map to reflect post-storm topography changes: The Town sustained less personal property damage than many of its neighbors in the storms of late 2012 (including Superstorm Sandy), but the bluffs around the river mouth were damaged. The storms also washed away dunes at the river mouth, redirecting the channel connecting Sunken Meadow Creek to the Sound.
- Addressing development restrictions in the Central Business District (CBD): At present, development in a portion of the CBD near the Nissequogue River is restricted by the River's designation as a Wild, Scenic and Recreational River. The LWRP development process may provide a useful venue to discuss with DEC modifications to the River's designation that may permit appropriate development within the river corridor.
- Reconcile LWRP policies and implementing zoning ordinances: The current LWRP conflicts with sections of the zoning ordinance, intended in part as an LWRP implementation measure, that governs buildings' maximum allowable floor area. The revised LWRP, and/or new zoning measures it recommends, should bring these into harmony.
- Provide guidance regarding Nissequogue River dredging: At its mouth, the River is shallow and silty, and requires frequent dredging. A revised LWRP might provide suggestions as to the Town's navigability goals regarding the River, or its priorities for disposal of dredge spoils.
- Address kayaking/boating priorities: Since the LWRP was adopted, kayaking has greatly increased in popularity in the Nissequogue River. Some other waterfront communities have experienced conflicts between kayakers and boaters, especially in popular or crowded waterways. The Town has fortunately not yet experienced such conflicts, but it may nevertheless wish to consider the respective roles of motorized and non-motorized boating in a revised LWRP.
- Update status of Harrison Pond Park: The water level of Harrison Pond has decreased since the LWRP's preparation; the pond is now a protected wetland. The updated LWRP should reflect this.

### **LWRP Document Accessibility**

Physical copies of the Town's LWRP are available at the Planning Department and Town Clerk's office, and an electronic copy is available on DOS's web site.

In general, local officials are familiar with the LWRP and consider it (particularly in the context of the Planning Department's consistency review) when carrying out their activities. The

Departments of Building and Engineering and the Town Board use the LWRP regularly and the Zoning Board of Appeals and Planning Board know of the LWRP, and are guided by the Planning Department's consistency review recommendations when making decisions on projects in the Local Waterfront Revitalization Area (LWRA).

### **Local Consistency Review**

The Town's Planning Department is responsible for conducting LWRP consistency reviews, which it does on a regular basis. The local consistency law offers the Planning Department relatively robust powers to evaluate a wide range of proposed private developments and public actions and issue recommendations of consistency. The Planning Department issues approximately one consistency recommendation per month.

The Town Engineering and Building Departments routinely refer applicants to the Planning Department for consistency review of activities in the waterfront area. The LWRP has also fostered a good working relationship between the Planning Department and the Army Corps of Engineers. Despite issuing permits for actions in the waterfront area, the State Department of Environmental Conservation has not referred actions to the Planning Department for consistency review in nearly a decade.

Applicants wishing to undertake a covered activity in the waterfront area must first submit a Coastal Assessment Form (along with a survey, building plans and photographs) to the Planning Department. The Planning Department then conducts an internal analysis, which may include working with the applicant to lessen the impacts of the proposed action to make it consistent with the LWRP, and submits a recommendation to the Town Board. The Town Board then acts upon the recommendation in the course of its public meetings. Over the history of the Planning Department's consistency reviews, the Town Board has only once declined to follow its recommendation.

In general, the consistency review process works well. The most common complaint arises when private citizens, who are often unaware of the LWRP's existence, receive State permits necessary for construction and only later discover that they also need to obtain a consistency determination. At times, residents receive permits for actions that are not consistent with the LWRP and later discover that they cannot receive a consistency determination until the project is modified. Better public awareness of the LWRP (which will likely come about as part of the revision process) and dialogue between permitting authorities should help to ameliorate this confusion.

**Grants Awarded****Title 11 Environmental Protection Fund Local Waterfront Revitalization Program****Town of Smithtown**

Year	Amount of Grant	Project Description	Status
2013	\$30,000.00	#T1000452 - Town of Smithtown Local Waterfront Revitalization Program Update The Town of Smithtown will update its Local Waterfront Revitalization Program adopted in 1989 with the goal of enhancing the preservation of natural assets, preserving fisheries through the control of pollutants to the Nissequogue River and Long Island Sound and improving public access to coastal areas. This contract is currently being drafted for execution.	Active
1999	\$125,000.00	# C006023: St. Johnland Road Drainage Improvements and Culvert Replacement: This project will result in the construction of drainage improvements including the installation of four sediment basins, catch basin improvements, swales, curbing, trap rock, and a gabion mat along St. Johnland Road, adjacent to the Harrison Pond Town Park located in Kings Park to decrease the amount of untreated stormwater runoff entering Nissequogue River, a Significant Coastal Fish and Wildlife Habitat. The amount of pathogens, sediment, and nutrients entering Nissequogue River and Long Island Sound via stormwater runoff will be significantly reduced. By reducing the introduction of pathogens, the primary pollutant causing closure of the Nissequogue River to shellfish harvesting, the project will complement ongoing efforts targeted to remediating shellfish bed closures, a priority of the Long Island Sound Comprehensive Conservation Management Plan.	Closed
1998	\$21,056.00	# C006007 - Old Dock Road Drainage Improvements: This project will result in the installation of three catch basins and ten leaching pools along Old Dock Road in Kings Park to reduce the amount of untreated stormwater runoff entering the Nissequogue River. The project will reduce the amount of pathogens, sediment, and nutrients entering Nissequogue River and Long Island Sound. By reducing the introduction of pathogens, the primary pollutant causing closure of Nissequogue River to shellfish harvesting, the project will complement ongoing efforts targeted to remediating shellfish bed closures, a priority of the Long Island Sound Comprehensive Conservation Management Plan.	Closed
1998	\$20,103.00	# C006008: Landing Avenue Drainage Improvement-Phase II: This project will result in the installation of two catch basins, five leaching pools, and	Closed

Grants Awarded			
Title 11 Environmental Protection Fund Local Waterfront Revitalization Program			
Town of Smithtown			
Year	Amount of Grant	Project Description	Status
		approximately 270 linear feet of curb and gutter along Landing Avenue, at the Landing Avenue Town Park, to reduce the amount of untreated stormwater runoff entering Nissequogue River. The project will reduce the amount of pathogens, sediment, and nutrients entering Nissequogue River and Long Island Sound.	
1998	\$72,000.00	#C005959 - Stony Brook Harbor Hydrographic Study, Year 2: The first year of study collected data, analyzed shoreline changes over time, and developed a two-dimensional tidal model. The second year of study will focus on using the collected data in the model, refining the model, and analyzing the tidal dynamics and sediment transport patterns within the harbor. The model will be used to understand the interactions between longshore sand transport in the Bay and shoaling within the harbor, to assess the impact of storm surges and wind waves on sand transport within the channel, and to evaluate changes in residence time and flushing inside the harbor with respect to changes in channel morphology.	Closed
1997	\$72,000.00	#C005810 - Stony Brook Hydrographic Study: Stony Brook Harbor has 1.2 square miles of surface waters and 5.3 miles of shoreline. The study will focus on about 11,000 linear feet of channels. The towns will determine the sediment transport and circulation dynamics of the harbor to identify the most efficient approach to channel dredging in terms of minimizing costs and environmental impacts and to design water quality and habitat restoration projects. A two dimensional tidal model will be developed. This is the first phase of a two phase project to develop specific recommendations for management of Stony Brook Harbor. The harbor is a Significant Coastal Fish and Wildlife Habitat.	Closed
1996	\$28,000.00	# C005744 - Old Dock Bluff Park: The project will reduce bluff erosion, create a safe walkway, and provide pedestrian access to the beach. The project consists adding approximately 42 cubic yards of clean fill to eroded areas at the top of the of the bluff, constructing a wooden walkway along the existing footpath at the top of the bluff; constructing three wooden stairways from the walkway to the beach; and placing benches along the walkway, and revegetating the bluff and replacing shade trees along the bluff top to stabilize eroded areas (switchgrass/Panicum virgatum, bayberry/ Myrica pensylvanica, seaside rose/Rosa rugosa) and improve shade and aesthetics (thornless honeylocust/ Glenditsia triacanthos	Closed

**Grants Awarded****Title 11 Environmental Protection Fund Local Waterfront Revitalization Program****Town of Smithtown**

Year	Amount of Grant	Project Description	Status
		inermis, golden raintree/Koelreuteria paniculata).	
1996	\$45,000.00	# C005737 - Amendment to LWRP: The Town will prepare an amendment to its approved LWRP which will incorporate new information relative to reuse of the Kings Park Psychiatric Center. The amendment will result in revisions and additional detail to the Town's coastal policies and refined implementation strategies.	Closed