

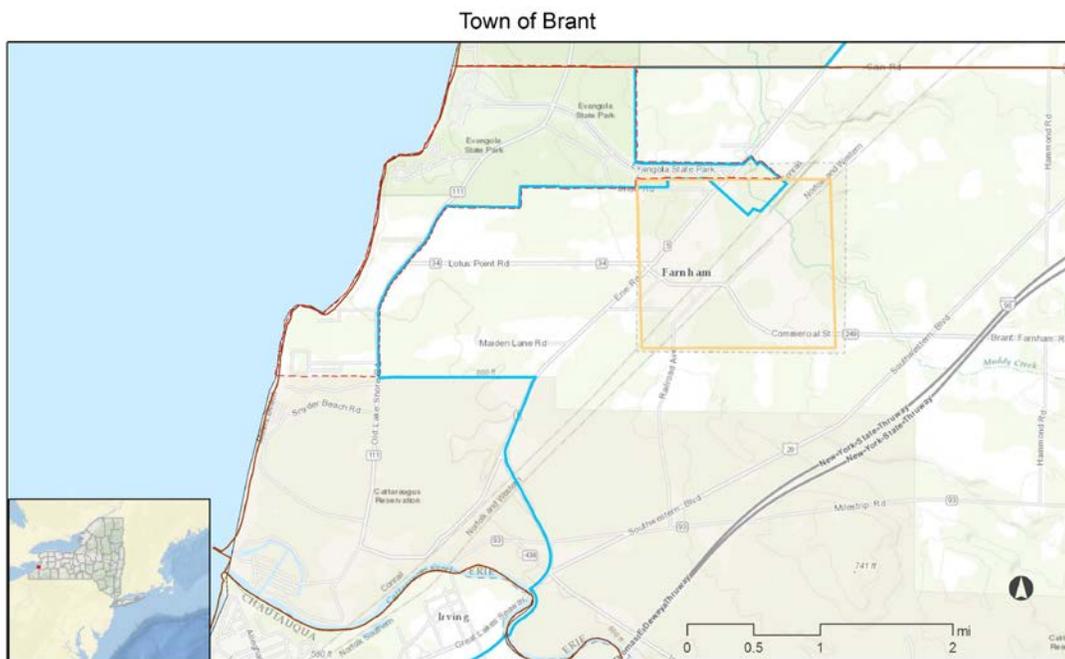
# Town of Brant LWRP Monitoring Report December 2016

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## Community Background:

The Town of Brant is located in the southwest corner of Erie County, approximately thirty five miles south of downtown Buffalo and adjacent to the Town of Evans. The incorporated Village of Farnham and the Cattaraugus Indian Reservation are located within the Town. According to the US Census, 2,065 people reside in Brant in 2014. The general character of the Town is rural.

The Town of Brant Local Waterfront Revitalization Program (LWRP) was locally adopted and approved by the NYS Secretary of State in 1987. The town's local waterfront revitalization area, delineated by the dotted red line in the map below, extends along approximately 2.2 miles of Lake Erie shoreline and comprises approximately five square miles.



The upland boundary of the waterfront revitalization area is delineated by an imaginary line that starts at the shoreline and continues along the boundary with the Cattaraugus Indian Reservation until it turns into a northerly direction 500 feet east of the right-of-way of Old Lake Shore Road, then continues along a line parallel with the Old Lake Shore Road to the intersection with the Evangola State Park boundary, then turns in a general easterly direction and continues along the park's boundary to the intersection with the Village of Farnham boundary, from here continues along the Village boundary to the second point of intersection with the park's boundary, then follows the park's boundary to the intersection with Town of Evans municipal boundary, where the waterfront revitalization boundary turns west and



continues along the towns municipal boundary, back to the intersection with the Lake Erie shoreline. The boundary varies in width from a maximum of 2 miles at Evangola State Park to a minimum of 1,200 feet in the Lotus Bay area.

The northern portion of the waterfront area is occupied by Evangola State Park while the southern half is occupied by two residential hamlets with private beaches, Lotus Bay and Wide Beach. Consequently, the land use within the waterfront revitalization area is predominately parkland, open space, and residential. Most of the seasonal or year-round single family residential homes within the residential area are concentrated along the shoreline. Within the residential area, the streets are actually private driveways used by home owners for circulation and access to the public roads outside the Lotus Bay and Wide Beach communities.



Public waterfront access is provided at Evangola State Park and a small land easement that allows access to the beach from the terminus of Surfside Drive located within the residential area. Evangola State Park includes approximately 0.9 miles of shoreline and offers recreational amenities, 80 campsites, and a nature center in the campground area.

The LWRP identifies Evangola State Park as the town's primary point for public access to Lake Erie, and most of the proposed projects described in the LWRP focus on expansion of the park's recreational

opportunities. The Evengola State Park is one of the important local employers and it also supports local recreation-related businesses.

The Town of Brant LWRP was incorporated into the Coastal Management Program in 1987. That original document is still used today for consistency reviews. An updated document would reflect the original conditions of the local waterfront and how it evolved through the implementation of the LWRP policies and those projects proposed in the original document.

The Town feels that an LWRP update is not a priority. However, the process of updating the original document will reeducate local agencies about the importance of the Town of Brant LWRP and produce a document that reflect current local conditions and include clearer and more detailed maps.

## **Collaborations with Department of State**

The Town of Brant has not received any grant awards from the Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) managed by the NYS Department of State (DOS). This is due to the nature of the local waterfront area that is partially in private ownership while the remaining portion is part of the Evengola State Park managed by NYS Office of Parks Recreation and Historic Preservation (OPRHP).

The projects proposed in the LWRP were focused on improving the recreational amenities and public waterfront access within the Evengola State Park, designating the shoreline within Brant as a Natural Protective Features Area to better control the development in this area impacted by erosion and flooding, and cleaning of polychlorinated biphenals (PCBs) contamination in Wide Beach community area. Concurrent with the approval of the LWRP, the Wide Beach was listed on the National Priorities List of Hazardous Waste Sites and made eligible for funding under the Comprehensive Environmental Response, Compensation, and Liability Feasibility Act (CERCLA) of 1980. The remedial action for this area was coordinated by NYS DEC. The area is currently clean.

Since 1987, State agencies actions are guided by and consistent with the approved Brant LWRP. As mentioned above, the proposed projects and actions described in the LWRP involved just State or federal agencies actions. The proposed improvements to the Evengola State Park were completed and managed by NYS OPRHP and the shoreline was designated a Natural Protective Features Area under the jurisdiction of the State's Coastal Erosion Hazard Area Program managed by the NYS Department of Environmental Conservation (DEC).

During the past decade DOS staff had a few conversations with the Town Supervisor about the implementation of the Brant LWRP and the need for an updated document.

## **LWRP Monitoring Process:**

The goal of the monitoring process is for DOS to assess the consistency of the community's actions with its approved LWRP, and to understand local implementation activities and decision-making procedures related to the LWRP. Additionally, this process provides a forum for the community to highlight successes and discuss current and future technical and financial assistance for program implementation.

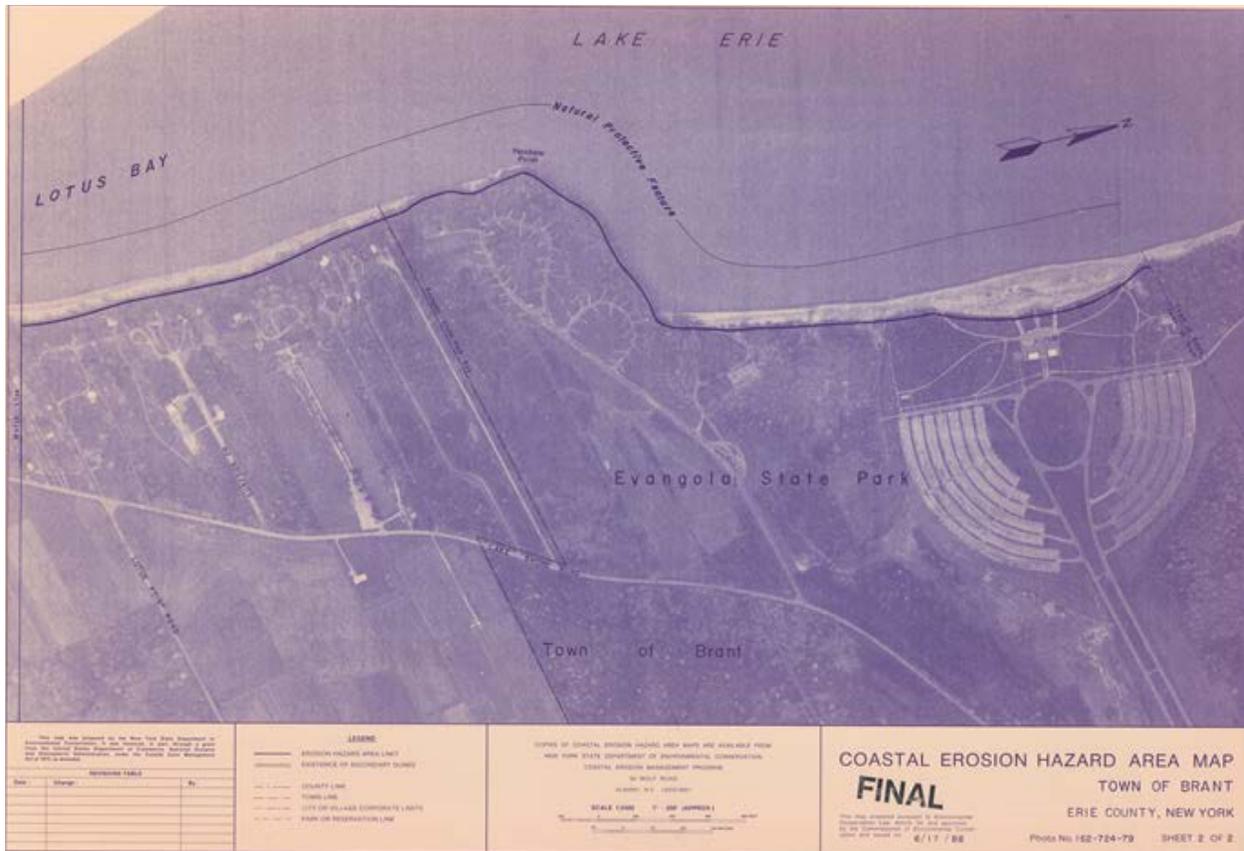
DOS began the process with correspondence announcing the Town that its program was selected to be part of the LWRP monitoring and evaluation process. The correspondence outlined the monitoring process and provided a list of survey questions. Subsequently, DOS held an interview and a site visit with Town staff to respond to the survey questions and discuss recent local actions implementing the LWRP. Finally, DOS prepared the written assessment of findings to identify areas of improvement, training, and the need for an LWRP update.

## **DOS Findings:**

### **Overview**

When initially drafted and locally adopted, the LWRP served the town to assess the local conditions and initiate a collaboration with State agencies to improve the Evangola State Park. The local program was implemented mostly through the consistent actions of State agencies, rather than through direct local actions. The waterfront revitalization area covered by the LWRP includes just upland areas that follow the Lake Erie shoreline, without including any portion of the lake's waters.

The LWRP highlights the designated flood hazard area within the residential area of the waterfront revitalization area. In 1988, as part of a larger effort to reduce flooding and erosion, the shoreline within Brant was designated as a Natural Protective Feature Area. Any proposed activity within this area requires the approval of the NYS DEC.



### LWRP Implementation

An LWRP is implemented through the actions of local, State and federal agencies. In this very particular case, most of the goals and proposed projects described into the LWRP were implemented by State and federal agencies. Most of the current local regulations regarding subdivision of land and zoning, flood damage prevention, protection of freshwater wetlands, beach use, and environmental quality review of proposed actions were already created, adopted and used by the Town when the LWRP was locally adopted, and they continued to be used and guide the review of town’s actions within the waterfront revitalization area.

In 1998, to ensure the supervision and control of drinking water quality and to provide for the operation and maintenance of the Brant Water District the Town adopted Chapter 153: Water. Then, in 2006, the Town adopted Chapter 120: Property Maintenance, to protect the value of real property, and to promote and perpetuate the attractive appearance of neighborhoods in the community. Also, a town-wide Master Plan was prepared in 2013.

### LWRP Document Accessibility

The approved Brant LWRP is posted online, on the website of the NYS DOS. Also, during the monitoring and evaluation process, DOS provided the Town with additional paper copies of the LWRP.

### Local Consistency Review

The Town of Brant LWRP Consistency Law, or Chapter 155: Waterfront Revitalization of the Town Code, was adopted in September 1987 to provide for provide for the protection and beneficial use of the natural and man-made resources within the Town of Brant waterfront area by ensuring that certain actions to be undertaken, approved or funded by town agencies will be undertaken in a manner consistent with the policies and purposes of the Town of Brant Local Waterfront Revitalization Program.

All agencies of the Town of Brant must comply with this chapter prior to directly undertaking, approving, or funding any action within the waterfront area when such action is classified as Type I or unlisted under Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The Town Board or a town agency, when proposing to undertake, approve, or fund a Type I or unlisted action in the waterfront area, shall prepare or cause to be prepared a waterfront assessment form (WAF) for the proposed action. Following the preparation of an environmental impact statement or the issuance of a negative declaration pursuant to SEQR, a town agency shall refer the WAF, any environmental impact statement (EIS), or other pertinent information for that action to the Town Board for review and determination regarding the action's consistency with the policies and purposes of the LWRP.

Prior to its undertaking, approving, or funding of a proposed Type I or unlisted action in the waterfront area, and for each action referred by a town agency after its initial review and completion of WAF, the Town Board shall either find and certify in writing that the action will not substantially hinder the achievement of any of the policies and purposes of the LWRP, or, if the action will substantially hinder the achievement of any policy of the LWRP, find and certify in writing that the following three requirements are satisfied: 1) no reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy; 2) the action will minimize all adverse effects on such policy to the maximum extent practicable; and 3) the action will result in an overriding regional or statewide public benefit.

The Town Board certification shall constitute a determination that the proposed action is consistent to the maximum extent practicable with the LWRP or that the action is not consistent with the policies and purposes of the LWRP, since it would substantially hinder the achievement of one or more policies and would not satisfy all of the requirements identified above. No action shall be undertaken, approved, or funded unless the Town Board certifies its consistency with the policies and purposes of the LWRP.

The Town Board shall complete its review of the proposed action's consistency and prepare a written finding to the referring town agency within 30 days of the referral date. The Town Board may refer such actions for review to any municipal agency. Such agencies include but are not limited to the Town Attorney, Department of Public Works and Planning Board. The written findings and certification of the Town Board shall be filed with the Town Clerk before the action is undertaken, approved or funded.

The Town staff and Planning Board intend to become more familiar with the LWRP and associated LWRP consistency review requirements. The Town did not receive consistency applications in the past few year.