

# Town of Brant Local Waterfront Revitalization Program

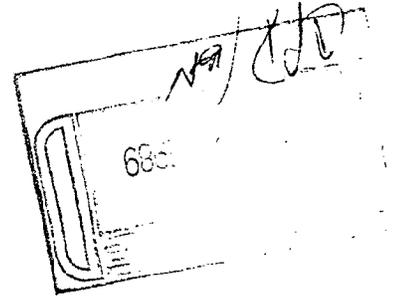
**Adopted:**  
Town of Brant Town Board, August 11, 1987

**Approved:**  
NYS Secretary of State Gail S. Shaffer, January 20, 1988

**Concurred:**  
U.S. Office of Ocean and Coastal Resource Management, July 26, 1988



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001



GAIL S. SHAFFER  
SECRETARY OF STATE

March 30, 1989

Mr. James Burgess, Chief  
Coastal Programs Division  
Office of Ocean and Coastal  
Resource Management  
1825 Connecticut Avenue, NW  
Washington, DC 20235

Dear Mr. Burgess:

Enclosed is the Town of Brant Local Waterfront Revitalization Program (LWRP). The LWRP has been adopted by the municipality and approved by the New York State Secretary of State. In addition, your office has concurred on its incorporation into the State's Coastal Management Program as a routine program implementation action. Copies of this document are also being transmitted to State agencies, as well as selected federal, county, and local agencies.

Should you have any questions or concerns regarding this document, feel free to contact either myself or Charles McCaffrey of this office at (518) 474-9201.

Sincerely,

  
George R. Stafford  
Director  
Division of Coastal Resource  
and Waterfront Revitalization

GRS:gn

Enclosure

# Town of Brant Local Waterfront Revitalization Program

U. S. DEPARTMENT OF COMMERCE NOAA  
COASTAL SERVICES CENTER  
2234 SOUTH HOESON AVENUE  
CHARLESTON, SC 29405-2413

Property of the Library

**Adopted:**

Town of Brant Town Board, August 11, 1987

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U.S. Office of Ocean and Coastal Resource Management, July 26, 1988

HT168. B73 T69 1988

FEB 1 1988

This Local Waterfront Revitalization Program has been adopted and approved in accordance with the provisions of the Waterfront Revitalization and Coastal Resources Act of 1981 (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Implementation has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, 162 Washington Avenue, New York 12231.

NYCRR 601-1.1



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER  
SECRETARY OF STATE

January 20, 1988

Honorable William Fricano  
Supervisor  
Town of Brant  
Town Hall  
Brant-North Collins Road  
Brant, New York 14027

Dear Supervisor Fricano:

It is with great pleasure that I inform you that, pursuant to the Waterfront Revitalization and Coastal Resources Act, I have approved the Town of Brant Local Waterfront Revitalization Program (LWRP). The Town is to be commended for its thoughtful and energetic response to opportunities presented along its waterfront.

I will notify State agencies shortly that I have approved the Town's LWRP and will provide them a list of their activities which must be undertaken in a manner consistent to the maximum extent practicable with the Brant LWRP. Also, in order to keep this approved LWRP current, please inform the Department's Division of Coastal Resources and Waterfront Revitalization of rezonings and major developments proposed within the Town's waterfront area.

Again, I would like to commend the Town of Brant on its efforts to develop the LWRP and look forward to working with you in the years to come as you endeavor to revitalize your waterfront.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gail S. Shaffer".

Gail S. Shaffer

GSS:lc



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Washington, D.C. 20235

JUL 26 1988

George Stafford  
Director  
Division of Coastal Resources  
and Waterfront Revitalization  
Department of State  
162 Washington Street  
Albany, N.Y. 12231

Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management concurs with your request to incorporate the Town of Brant Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a routine program implementation change. We received five comments from Federal agencies, none objecting to incorporating the LWRP as a routine program implementation.

In accordance with the Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the Town of Brant LWRP after you publish notice of our approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Blizzard".

James P. Blizzard  
Deputy Director



RESOLUTION

TOWN OF BRANT

At a regular meeting of the Town Board of the Town of Brant, County of Erie, New York, held in the said Town on the 11th day of August, 1987, at 8:00 p.m., there were:

PRESENT: William A. Fricano, Supervisor  
Leah Mirusso, Councilwoman  
John D. Arrigo, Councilman  
Robert L. Chiavetta, Councilman  
Daniel B. Kujawinski, Councilman

ABSENT: None

Councilman Arrigo offered the following resolution and moved its adoption:

WHEREAS, the Town of Brant has prepared a Final Local Waterfront Revitalization Program (LWRP) in cooperation with the Erie County Department of Environment and Planning and the New York State Department of State:  
and

NOW, THEREFORE BE IT

RESOLVED, that the Final Town of Brant Local Waterfront Revitalization Program is hereby adopted, and be it further

RESOLVED, that the Final LWRP be submitted to the New York State Secretary of State for review under provisions of the New York State Waterfront Revitalization and Coastal Resources Act of 1981.

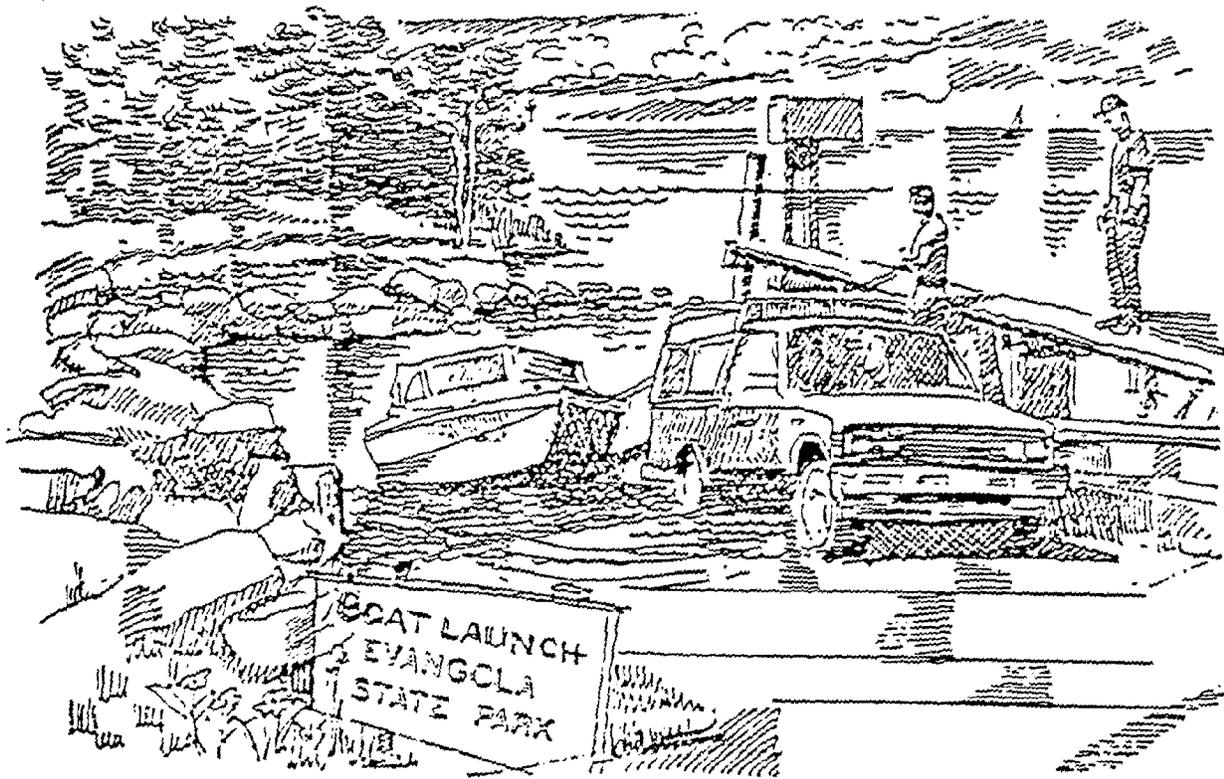
Seconded by Councilman Kujawinski and duly put to vote which resulted as follows:

AYES: Supervisor Fricano, Councilwoman Mirusso, Councilman Arrigo, Councilman Chiavetta, Councilman Kujawinski

Noes: None

# TOWN OF BRANT NEW YORK

## LOCAL WATERFRONT REVITALIZATION PROGRAM



*Prepared For the Town of Brant*

*By the*

*Erie County Department of Environment and Planning*

TOWN OF BRANT  
LOCAL WATERFRONT REVITALIZATION PROGRAM

Prepared by: Erie County Department of Environment  
and Planning

Prepared for: Town of Brant

This report was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

April, 1987

Federal Grant Number NA-82-AA-D-Cz068  
NYS Comptroller's Contract No. D-002941

TOWN OF BRANT  
 LOCAL WATERFRONT REVITALIZATION PROGRAM

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SECTION I

WATERFRONT REVITALIZATION AREA BOUNDARY

TOWN OF BRANT

SECTION I WATERFRONT REVITALIZATION AREA BOUNDARY  
(refer to Map 1 - page 9)

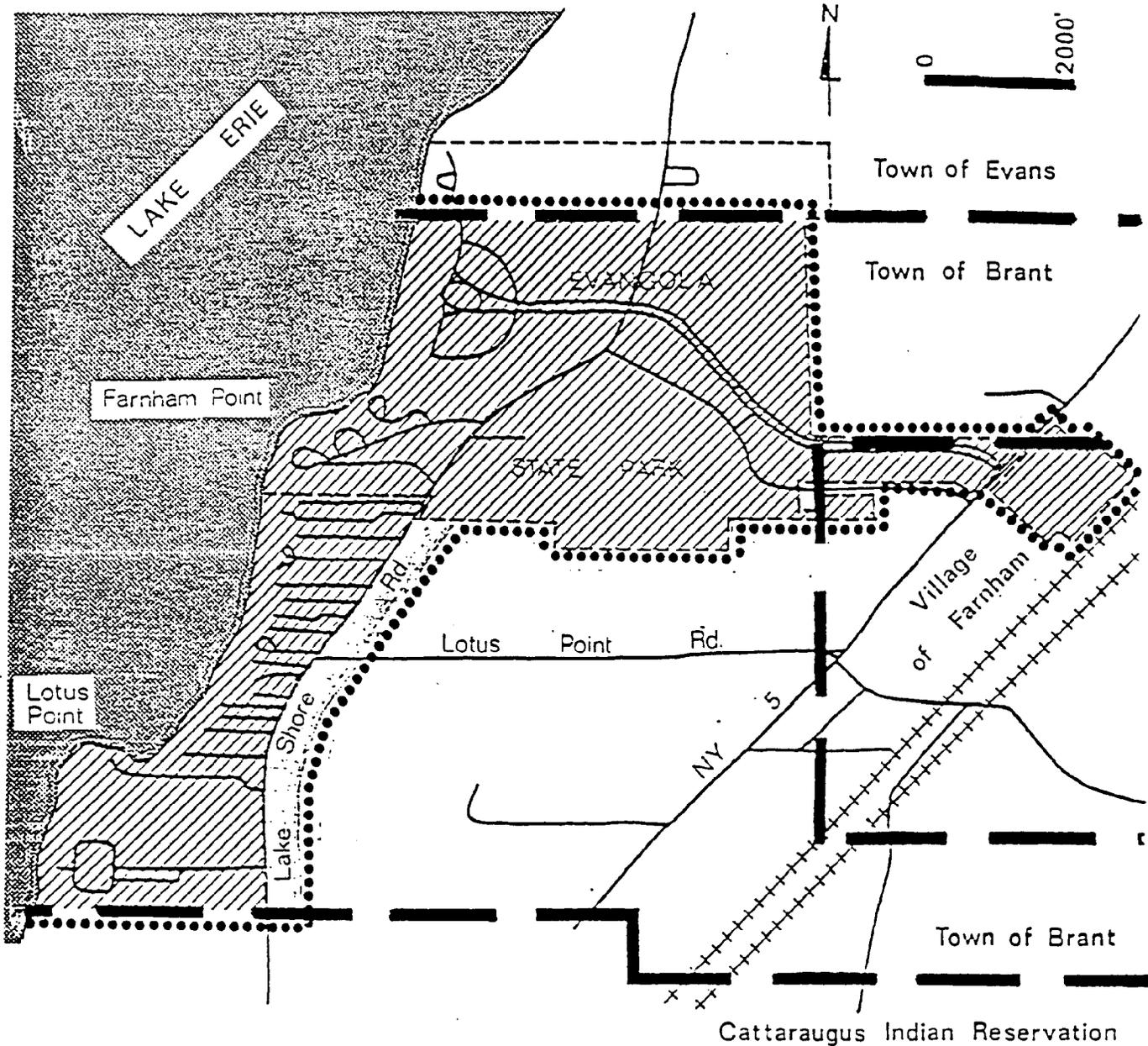
A. DESCRIPTION OF EXISTING BOUNDARY

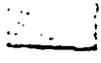
The Town of Brant Waterfront Revitalization Area (WRA) includes all lands and water encompassed within the following boundary:

Beginning at the junction of Old Lake Shore Road with the Town of Brant and the Cattaraugus Indian Reservation boundary, the waterfront revitalization area extends northward following a line 500 feet east of, and parallel to the eastern right-of-way of Old Lake Shore Road (a county highway) as it proceeds to the southern boundary of Evangola State Park. At this point, the boundary turns eastward extending along the state park boundary into the Village of Farnham, crossing New York State Highway Route 5, and then turns southeast following the state park boundary to a point about 1500 feet to the east of Route 5. The boundary turns north along the state park boundary and then turns west proceeding to its junction with the Village of Farnham - Town of Brant municipal boundaries. <sup>1</sup>The boundary then turns northward still following the state park boundary to its junction with the Town of Brant and Town of Evans municipal boundaries.

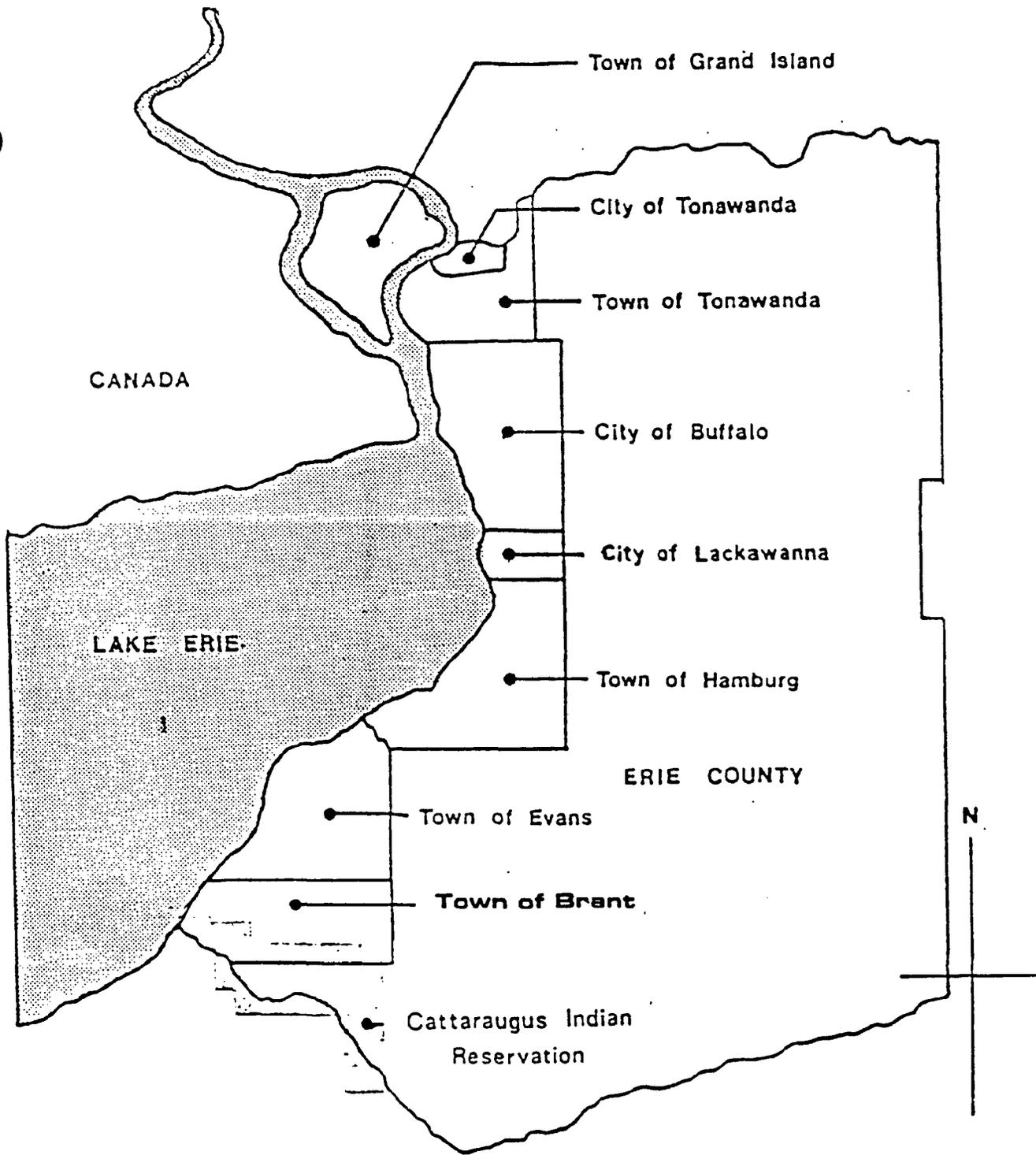
The WRA boundary then proceeds west along the Brant-Evans municipal boundary to the Lake Erie shoreline. The WRA boundary then proceeds south along the Lake Erie shoreline to the Town's boundary with the Cattaraugus Indian Reservation. The WRA boundary then proceeds east along the Town boundary to the point of origin.

<sup>1</sup> For that portion of the town's WRA which is also within the Village of Farnham, the LWRP applies to the extent of the town's jurisdiction over actions within the area.



- LEGEND**
-  Municipal Boundary
  -  Original Waterfront Revitalization Area
  -  Amended Waterfront Area
  -  Revised Waterfront Boundary

<p>LOCAL WATERFRONT REVITALIZATION PROGRAM</p> <p>ERIE COUNTY DEPARTMENT OF ENVIRONMENT &amp; PLANNING</p> <p>April, 1987</p>	<p>MAP 1</p> <p><b>WATERFRONT BOUNDARY</b></p> <p>TOWN OF BRANT</p>
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LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING  
 April, 1987

MAP 1A  
**REGIONAL SETTING**  
 TOWN OF BRANT

SECTION II

INVENTORY AND ANALYSIS

## TOWN OF BRANT

### SECTION II INVENTORY AND ANALYSIS

#### A. INTRODUCTION

The Town of Brant is located in Erie County approximately thirty five miles from downtown Buffalo. It is the southern-most municipality situated along the Erie County waterfront. To the south the town is adjacent to the Cattaraugus Indian Reservation and to the north it is adjacent to the Town of Evans. Brant has the lowest population (2437) of all Erie County towns, due to its small geographic size and rural location.

The Town of Brant waterfront revitalization area extends along approximately 2.2 miles of Lake Erie shoreline and comprises approximately five square miles. The inland boundary of the waterfront area is formed by an imaginary line which extends 500 feet east of the right-of-way of Old Lake Shore Road and by the Evangola State boundary. The boundary varies in width from a maximum of 2 miles at Evangola State Park to a minimum of 1200 feet in the lotus bay area. Reference should be made to Map 1 for a graphic description of the above noted information.

There are three predominant land uses along the waterfront: recreational, open space-brushland, and rural residential. Evangola State Park is located in the northern park of Brant's shoreline. The entire Park includes 733 acres and provides opportunities for swimming, picnicking, camping and other recreational pursuits. Two significant residential hamlets exist along the Brant shoreline - lotus point and wide beach. Most of the structures are permanent residential with some intermingling of seasonal cottages. The remaining shoreline is composed of brushland. Generally, both the waterfront area of the Town of Brant and the remaining areas of the town provide a calm, picturesque rural setting in comparison with the other municipalities that are more urbanized. Critical waterfront issues impacting the town have been identified in part C of this section.

#### B. PHYSICAL STATUS

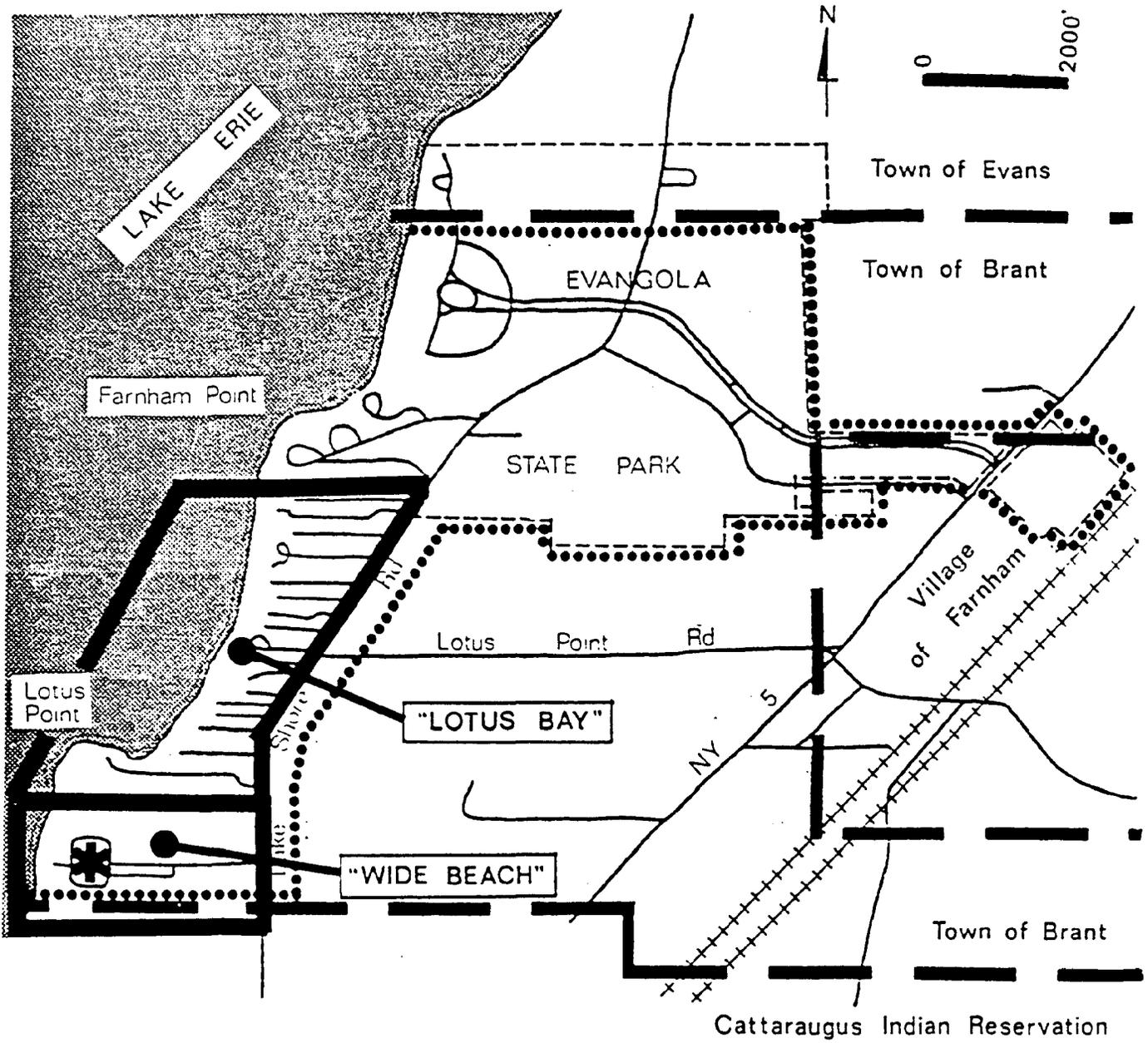
Land Use and Buildings: For the purpose of this narrative, the Town of Brant waterfront area can be divided into three specific zones. These include Evangola State Park, Lotus Bay and Wide Beach.

- a) **Evangola State Park:** The Evangola State Park area extends from the Brant-Evans municipal boundary south for about 4400 feet along the Brant waterfront. It should be noted, however, that Evangola State Park is located in three municipalities: the Town of Evans, the Town of Brant and the Village of Farnham. The entire Park encompasses 733 acres. The Town of Brant portion of the Park which encompasses 650 acres, is all included within the Town's WRA.

The Park is characterized by extensive open space. All recreation activities are located within approximate 245 acres. Almost all are located west of Old Lake Shore Road, the exception being the development of soccer fields to the east of Route 5 in the small portion of the Park located in the Village of Farnham. The remaining acres are used for transportation access to the beach and camp areas. The waterfront area in the Brant portion of the Park provides a 2000 foot long sandy beach which can be used for swimming and scenic viewing. Other scenic viewing areas in the Park are easily accessible from spots north and south of the beach area and are particularly impressive as viewing areas due to the 25-30 foot bluffs.

Few buildings have been constructed on the parkland. A main bathhouse near the beach provides snacks and restroom facilities. Two other buildings in the Park provide room for storage of maintenance equipment and a central point from which Park staff operate.

- b) **Lotus Bay:** The Lotus Bay area extends from the southern boundary of Evangola State Park at Farnham Point south to Lotus Point for a distance of about 5,000 feet. Between Farnham Point and Lotus Point a natural embayment is formed which, due to its attractive vistas onto the Lake has attracted residential development to the shoreline. Land uses include both seasonal and year round single family residential homes that are located along the shoreline (this area is called the Lotus Bay estates) and a small hamlet of residential urban types in the southern section of the area (Lotus Bay Colony). Remaining land in the Lotus Bay area is in private ownership and has been divided into large



LEGEND

- ..... Waterfront Revitalization Area Boundary: Revised
- \* Hazardous Waste Site (Inactive)
- █ Neighborhood Boundary

<p>LOCAL WATERFRONT REVITALIZATION PROGRAM</p> <p>ERIE COUNTY DEPARTMENT OF ENVIRONMENT &amp; PLANNING</p> <p>April, 1987</p>	<p>MAP 2</p> <p><b>CHARACTER/ NEIGHBORHOODS</b></p> <p>TOWN OF BRANT</p>
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privately-owned linear tracts of land some of which are 50 or more acres. These tracts extend as private driveways or roadways off of Old Lake Shore Road west to the Lake Erie shoreline.

A long sandy beach extends along a major portion of the Lotus Bay waterfront. The beach, however is only open to residents of Lotus Bay. In fact, residents of the Lotus Bay Colony are only allowed 200 feet of beachfront to use since landowners of homes along the shoreline have exclusive right to use of their beachfront. The Lotus Bay Community Association maintains the Colony's beach. Town accessibility to the beach in this area has not been an issue and residents do not even take advantage of a 4 foot easement to the beach which exists at the terminus of Surfside Drive, a Town road.

- c) Wide Beach: The Wide Beach area extends from Lotus Point south about 2000 feet to the town's boundary with the Cattaraugus Indian Reservation. The area is characterized by a residential hamlet called the Wide Beach Community, which is located in the southern portion of the area, and by brushlands to the east and north of this residential area. Residences also occur along the shoreline and along privately-owned large linear tracts starting at Old Lake Shore Road and terminating at the waterfront.

This area is not protected by an embayment, as is Lotus Bay, and bluffs which are about 25-30' high have been severely eroded by wind/wave action. In recent years a sandy beach located along this area is also subject to severe erosion. Use of this beach area is similar to that in Lotus Bay, whereby only area residents are allowed use. The Wide Beach Community Association maintains the Association Beach.

A major factor that has impacted existing land use in this area has been the discovery of polychlorinated biphenals (PCBs) contamination. This resulted from the residents' use, from 1968 through 1978, of waste oil for dust control of roadways. It was found that the waste oil was contaminated with PCB's in the early 1980's. The site was eventually listed on the National Priorities List of Hazardous Waste Sites, making it eligible for funding under the Comprehensive Environmental Response, Compensation Feasibility Act of 1980. The area has been under study for the last

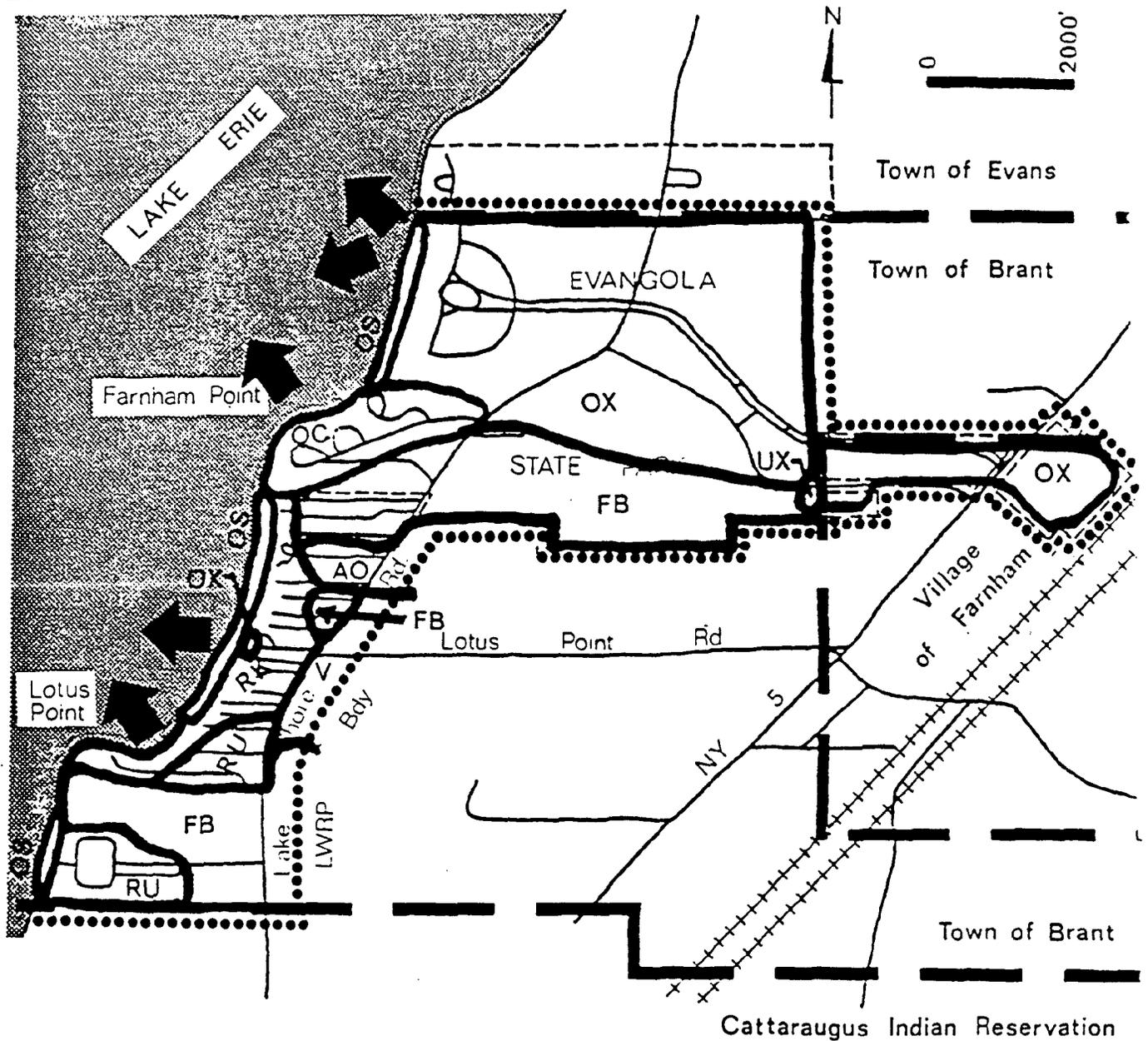
several years, and it appears that remedial actions will be successful in solving the contamination problem. Despite the contamination problem, it appears land use will remain stable.

2. Transportation and Utilities: The transportation network found in the Town of Brant WRA consists mainly of Old Lakeshore Road. This is owned and maintained by the County of Erie. The only Town road is Surfside Drive which extends west off of Old Lakeshore Road through the lotus bay area. Approximately twelve private drives extend in a finger - like fashion off of Old Lakeshore Road providing access into the wide beach area, as well as the lotus point area. The roads are in a variety of conditions ranging from paved to gravel topped surfaces. It is important to note that Old Lake Shore Road is marked by curves and is a two lane highway. Because of these road conditions, slower speeds must be maintained which provides for a picturesque ride through this area. Access into the waterfront area is also provided by the county owned Lotus Point Road. The latter, connects the Village of Farnham to the waterfront zone. As previously noted, public access to the beach is restricted.

A good road access system within Evangola State Park provides easy access to any area of the facility. This system includes a parkway extending from the bathhouse approximately 1.5 miles west of Route 5. Except during the summer months, the parkway is very underutilized. Access to the Park is also provided by two entrance points from Old Lake Shore Road; one of which intersects with the parkway. It should be noted there is no public transportation to Evangola State park.

The entire waterfront area is serviced by public sewers and is included as part of the Lotus Bay Sewer District. The system carries waste to Erie County Sewer District #2's Big Sister Creek Sewage Treatment Plant for disposal. Storm sewers are non-existent in the Brant waterfront area however, roadside ditches are prevalent within wide beach and along some of the private roads. The waterfront area is not serviced by public water, but relies on individual wells.

Existing infrastructure within the WRA adequately services existing development. The extensive reliance on private roads and the absence of public water and stormwater drainage services generally



LEGEND

- RU Residential - Urban
- RK Residential - Shoreline
- OX Recreation
- OC Campground

- OS Beach
- UX Radio Tower
- AO Agriculture
- FB Forest/Brush
- V Vacant

Vista

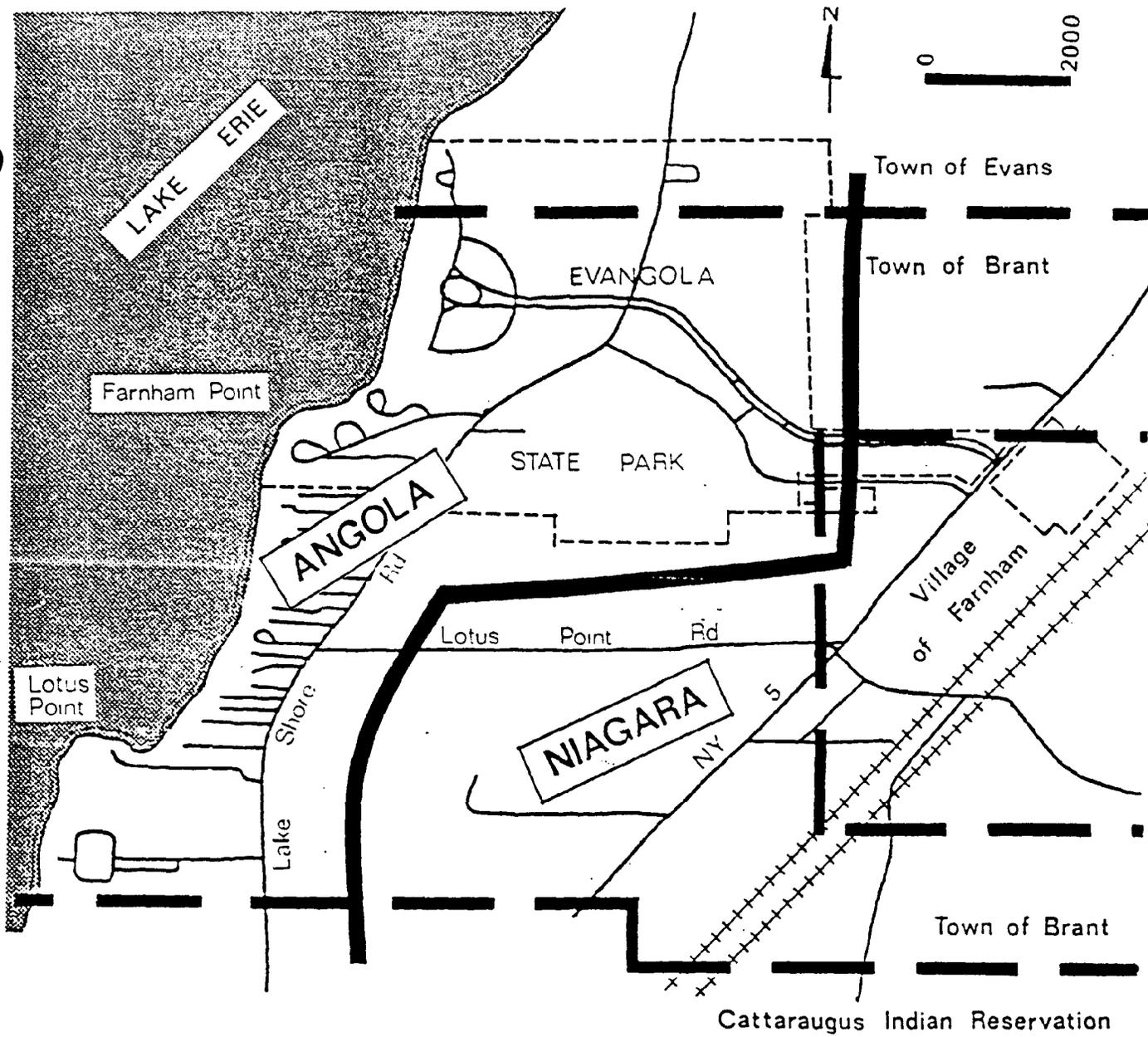


<p>LOCAL WATERFRONT REVITALIZATION PROGRAM</p> <p>ERIE COUNTY DEPARTMENT OF ENVIRONMENT &amp; PLANNING</p> <p>April, 1987</p>	<p>MAP 3</p> <p><b>EXISTING USES/ VISTAS</b></p> <p>TOWN OF BRANT</p>
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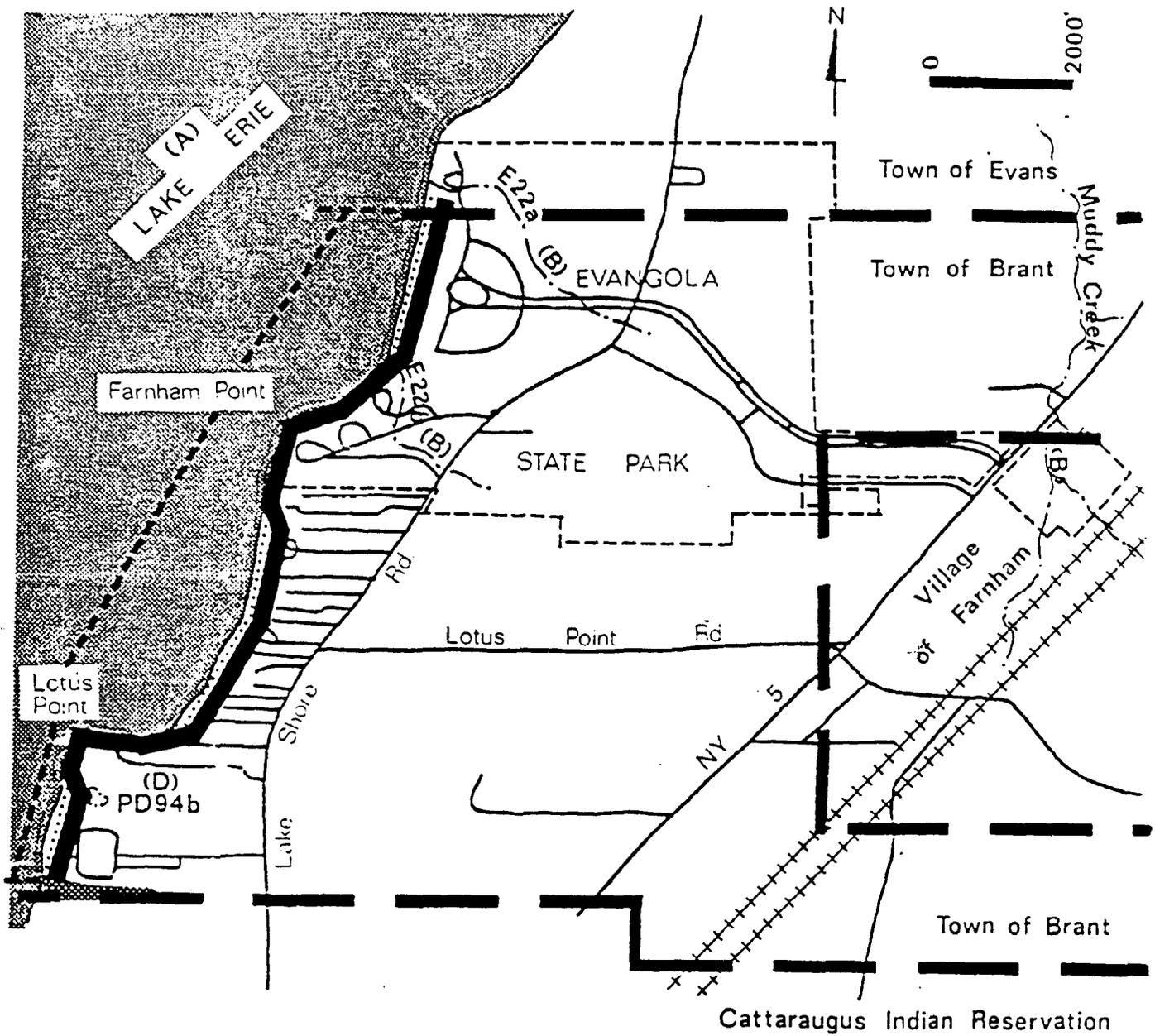
limits additional development densities and uses similar to existing development.

The Town has contracted with a firm which provides house-to-house solid waste pickup and disposal. Disposal occurs on approved sites outside of the town.

3. Topography (see Map 5) The Town of Brant shoreline includes two natural embayments at Lotus Bay and Evangola State Park. These are characterized by steep bluffs at either end featuring a 30 to 40 foot drop from the bluff to the water. The bluffs are located at the extreme northern end of Evangola State Park, as well as at Farnham Point and Lotus Point. In addition to providing unique topographic formations, they also provide excellent scenic vistas onto the lake. The bluffs continue in less degrees 25-30 feet north and south of the points.
4. Soils (see map 4): The soils are within the Angola classification as defined by United States, Department of Agriculture. This classification consists of nearly level to gently sloping soils and plateau foot slopes. The topography has a shelflike appearance because of the underlying bedrock influence. Brittle shale bedrock underlies the soil at a depth of 20 to 40 inches. These soils are somewhat poorly drained and have a seasonal high water table perched above bedrock during excessively wet periods. The rate of water movement through the soil is slow. Angola soils contain a low to moderate amount of small shale fragments. This soil category is considered to have poor development characteristics.
5. Hydrology (see Map 5): There are four streams and one pond which are located in or traverse the Town of Brant's waterfront area. Two unnamed streams identified as tributaries 22a and 22b of Lake Erie by NYSDEC flow in a northwesterly direction from Old Lake Shore Road to Lake Erie. Both are entirely within Evangola State Park and have a "B" water quality classification. Another "B" classified stream, a portion of Muddy Creek, flows through the town's waterfront area within Evangola State Park on the east side of Route 5. The "B" classification indicates that the streams can be used for bathing and any other use except for drinking or for culinary or food processing procedures. Another Class D stream which is unnamed flows into Lake Erie immediately south of each. It functions more



<p>LOCAL WATERFRONT REVITALIZATION PROGRAM</p> <p>ERIE COUNTY DEPARTMENT OF ENVIRONMENT &amp; PLANNING</p> <p>April, 1987</p>	<p>MAP 4</p> <p><b>SOILS</b></p> <p>TOWN OF BRANT</p>
---	---



**LEGEND**

- |  |            |     |  |
|--|------------|-----|--|
|  | Bluff      | (B) | Water Classification                     |
|  | Beach      |     | Protected Stream/Pond                    |
|  | Floodplain |     | Coastal Erosion Hazard Area: Preliminary |

LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF  
 ENVIRONMENT & PLANNING

April, 1987

MAP 5  
**HYDROLOGY/  
 EROSION/  
 WILDLIFE**  
 TOWN OF BRANT

as a drainageway than a free flowing stream. There is a NYSDEC classified "D" pond just north of the wide beach community. Water can be used only for agricultural purposes. Lake Erie as it flows off shore from the Town of Brant is classified as a drinking supply source, as well as for culinary and food processing purposes.

No wetlands are located within the waterfront area.

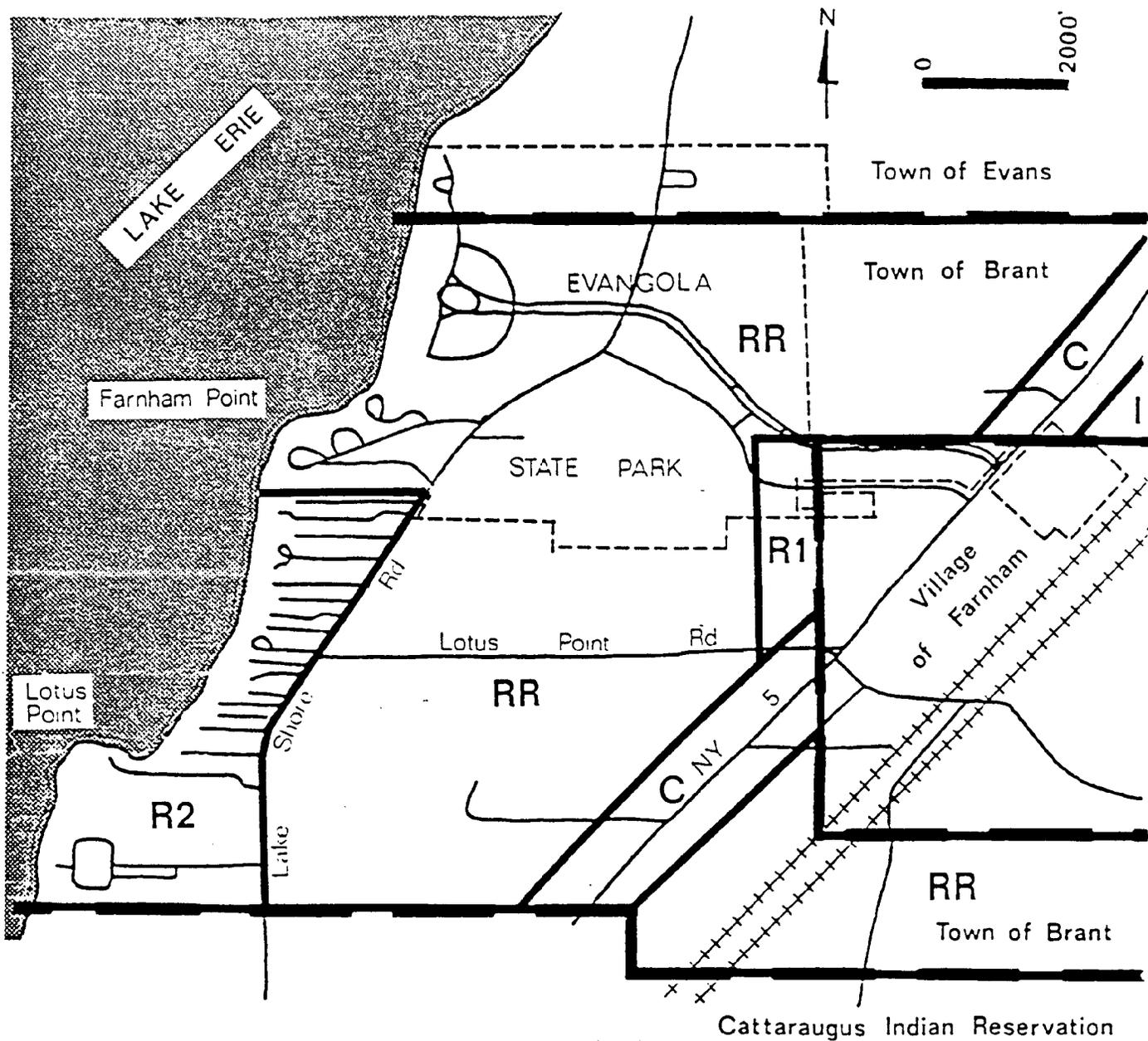
The Town's waterfront area is served by domestic water wells. These are supplied by a till aquifer which is capable of supporting domestic supplies as noted in the Erie Niagara Counties Regional Planning Board Report 13

"Groundwater Problem/Analysis". The latter was prepared in December, 1977 as part of the Board's 208 Areawide Waste Treatment Management and Water Quality Improvement Program.

6. Offshore Conditions: Lake Erie gradually increases in depth from 0' to 24' extending approximately 300' offshore. There are no sudden differences in depth. Since completion of the Cattaraugus Creek harbor project, the various beaches in Brant, especially at Evangola State Park, have experienced a sandy like bottom. It appears that the harbor breakwaters may have caused a change in littoral drift patterns to the advantage of bathing enthusiasts further upstream. A negative impact, however, apparently from the harbor improvement is the muddy nature of lake water following heavy storms and an unappealing odor which emanates from the lake. This would appear to be caused by the flow of surface runoff and creek bottom sediment downstream from the Creek. An increased amount of debris build up (uprooted trees, logs, etc.) along the Town's waterfront after strong winds and waves has also occurred in the last few years and could be a result of the project. The U.S. Army Corps of Engineers will be officially asked to monitor the impact the harbor project has had in relation to these issues.
7. Wildlife Habitats: No significant onshore wildlife habitats are known to be in the Town of Brant's waterfront area. It should be noted, however, that Cattaraugus Creek is located approximately one mile south of the Town of Brant. The harbor area and creek are emerging as one of the lake's greatest habitats for salmonid fish species. Therefore, Lake Erie offshore from Brant provides unique fishing

opportunities for the salmonid species as well as small mouth bass and walleye.

8. Flooding and Erosion (see Map 5): A key issue in the Town of Brant involves periodic flooding of a low lying area at the border of Town of Brant and Cattaraugus Indian Reservation. This is the location of the small stream previously described. The flooding has a serious impact on various residential dwellings in wide beach due to odor, and mosquito conditions particularly. It is a recurring problem and requires a remedial solution. The area has been identified as a flood hazard area by the Federal Emergency Management Agency (FEMA). The town will seek assistance from the NYSDEC, FEMA, and the Army Corps of Engineers to address this problem. Erosion along the town's shoreline, characterized by bluffs and beaches, is also a problem. The New York State Department of Environmental Conservation has preliminarily identified the entire Brant shoreline as a Natural Protective Feature Area, pursuant to the Coastal Erosion Hazard Areas Act. It is anticipated that this designation will be finalized during 1988. Erosion has been particularly severe in the wide beach area during the last few years, apparently due to the combination of Lake storms and high water levels.
  
9. Zoning (see Map 6): The entire waterfront area on the west side of Old Lake Shore Road, with the exception of Evangola State Park, is zoned R-2. This is a seasonal residential classification permitting one family and two-family dwellings, as well as religious and other public uses. Campgrounds are permitted by special permit as well as cluster residential development. Farms are also permitted having a minimum lot size of five acres. The minimum lot size for one family dwellings is 12,000 sq. ft. with a minimum width of 90' and a minimum depth of 100'. The minimum lot size for two family dwellings is 18,000 sq. ft. with a minimum width of 140' and a minimum depth of 100'. Minimum side yard requirements for a one family dwelling are 10' for one side and 25' for both sides. Similar requirements for a two family dwelling are 10' for one side and 30' for both sides. The area on the east side of Old Lake Shore Road is zoned R-R. This is a rural residential classification permitting one family dwellings having a minimum lot size of one acre. Permitted uses also include religious uses, as well as farms and nursing homes. In addition, campgrounds, outdoor commercial recreation, excavation operations, mobile home courts, business



**LEGEND**

- |                          |              |
|--------------------------|--------------|
| RR Rural Residential     | C Commercial |
| R1 Medium Density Resid. | I Industrial |
| R2 Seasonal Resid.       |              |

LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING

April, 1987

MAP 6  
**EXISTING ZONING**

TOWN OF BRANT

and professional offices, and animal kennels/hospitals are allowed by special permit. The Zoning Ordinance also includes provisions for sign control which would apply along Old Lake Shore Road.

10. Historic and Archaeological Resources: No structures within Brant's waterfront area have been listed, or are eligible for listing, on the National Register of Historic Places. There are also no structures designated locally as important historic resources, nor have any potentially significant structures been identified in the course of inventorying the WRA's resources. The New York State Office of Parks, Recreation and Historic Preservation has, however, identified a zone of archaeological sensitivity along the shoreline within Evangola State Park.
11. Public Access and Recreation: Public access to the waterfront is presently provided at Evangola State Park. There is an entrance fee during the summer months and there is no preferential treatment given to own residents. It should be noted, however, that the entrance fee is not charged during the spring or fall season nor during the winter months. Therefore, due to the location of the park in the Town of Brant, the area is easily accessible to own residents at no cost during the non-peak season. There is also a summer pass that is available for use all season which is very inexpensive.

Although there are no public recreational facilities along the remaining sections of the Town's shoreline, the Cattaraugus Creek small boat harbor is very close to the Town. This provides onshore fishing access to one of the major fish habitat areas in New York State. The creek is located approximately one mile south of the Town of Brant.

Furthermore, numerous public recreational facilities are provided in the Town of Evans immediately north of the Town of Brant, including the Erie County Wendt Beach and Bennett Beach Parks, as well as the Town of Evans Sturgeon Point Small Boat Harbor. The latter is presently under construction and will be open to area residents in the coming years. Finally, waterfront recreational opportunities are available to those residents living within the Brant areas of Lotus Bay and Wide Beach. The Wide Beach Community Association and Lotus Bay Community Association maintain small private beaches (each approximately 200' long) along the lake.

Furthermore, the numerous private residences situated along the waterfront have immediate access to the sandy beach in front of their residences.

It should be noted, however, that there are no public boat launch ramps within the Town shoreline nor are there any boat marinas. Furthermore, Evangola State Park provides the only public campground along the entire county shoreline. This is a tremendous asset which the park offers, however, due to the lack of boating access facilities the attractiveness of the campgrounds for the boating public is diminished. A private boat launch is located at point breeze in the southern part of the Town of Evans, but it is crowded and unable to accommodate increased use.

12. Water Dependent Uses: The only water-dependent uses within the Brant waterfront area are the swimming beach and other water-related recreational uses at Evangola State Park, and the two small private swimming beaches at Lotus Bay and Wide Beach. There is little demand or potential for development of additional water-dependent uses other than for a boat launching facility at Evangola State Park, as discussed above. The other major uses along the coast include year round and seasonal residential uses which can be considered as water-enhanced due to their shoreline location.

13. Aesthetics: The Town of Brant has a small waterfront area. The key feature of the shoreline is the aesthetic and country-like appearance of the Old Lake Shore Road corridor as it twists and turns in a north-south direction through the Town. An issue which has been raised by numerous residents is the need to preserve the aesthetic appearance of the corridor, as well as the natural setting which the bluffs at Lotus and Farnham Points create. This will be a key goal in the Brant waterfront program.

A problem which threatens the aesthetic appearance of the natural sandy beaches at Wide Beach, Lotus Bay and Evangola State Park pertains to the periodic buildup of debris along the beachfront. This may have occurred due to the Cattaraugus Creek harbor improvement project completed in 1983. Since debris from upstream areas can now flow freely through the creek mouth during periods of high flow, driftwood, brush, and general junk meanders into the lake and is then carried by the lake current onto the Wide, Lotus, and Evangola Beach waterfront which endangers the aesthetic quality of the shoreline.

C. SHORELINE ISSUES

Priority waterfront problems and opportunities for the Town of Brant were identified through a variety of sources. These included a comprehensive field survey of existing conditions; evaluation of questionnaire results distributed at the initiation of waterfront program development to shoreline residents (20% responded); an analysis of previous studies pertaining to the Brant waterfront (e.g. Town Zoning Ordinance, draft Master Plan, NYSDEC wide beach reports, U.S. Army Corps of Engineers Cattaraugus Creek Harbor Improvements -EIS, Erie County Sport Fishery Development Plan, Evangola State Park Master Plan) and information gathered from official meetings (eg. waterfront committee meetings, public meetings, technical consultations).

Critical issues are described in the following narrative and are arranged according to the geographic areas defined in (B1) of this section.

1. Evangola State Park Area -Critical Waterfront Issues
  - a. Water Oriented Recreation: The existence of a campground in the park makes the facility extremely attractive to area residents wishing to combine camping with lake fishing or boating activities. Unfortunately , the Park has no capacity to launch boats other than the car top variety. This is a major deficiency within the park. Reports and use figures concerning Erie County boating access points indicate a need for boat launching facilities.
  - b. Expansion of Recreational Opportunities on Underutilized Parkland: The park encompasses approximately 733 acres within the Towns of Evans and Brant, as well as the Village of Farnham. All recreation activities are located within approximately 245 acres. With the exception of a few soccer fields, these are all located west of Old Lake Shore Road. The remaining acres are used only for transportation access from Route 5 to the beach and camp area. A parkway extends roughly one mile between Route 5 and Old Lake Shore Road with an accompanying 400 ft. wide landscaped right-of-way. The parkway is heavily used in July and August when the beach is open, but very underutilized during the remaining ten months of the year. Consideration should be given to appropriate new uses that could best develop the potential of the Park for existing users, as well as increase the numbers of users on a County-wide basis.

Existing recreation activities are also primarily geared toward summer usage, especially the beach and play areas. The campgrounds are open during the spring and fall, as well. Presently, there are no winter time activities within the Park, nor are there many provided in the Town.

- c. Debris Build-up: During the spring months and after major storms a large accumulation of debris builds up along the beach. This has only occurred since completion of the Cattaraugus Creek harbor improvement project. The latter has opened up the stream mouth and permits unimpeded flow into Lake Erie. Thus, all the debris for miles upstream eventually finds its way to the lake and is then carried by the natural littoral drift to various beaches including evangola and wide beach. Truckloads of debris are removed each spring from Evangola prior to opening the Park for public use.

2. Lotus Bay Zone

- a. Maintain Aesthetic Quality of Old Lake Shore Road: Although this issue pertains to the entire Town waterfront area, it is of particular importance within the Lotus Bay area due to the pristine nature of the zone. The road is 17ft. wide and carries only 1,010 vehicles per day. The vehicles per day figure reflects volume during the summer north of and within the State Park. The road is owned and maintained by Erie County and thus subject to its design guidelines. It presently is considered in substandard condition due to poor road geometrics (ie. curviness of the highway). A key issue is to retain the country-like character of the road, preserve roadside landscaping, and prevent intrusion of unnecessary signage as part of future highway improvements or new shoreline development.
- b. Aesthetic Character of Lotus Bay Beach: As is happening at evangola beach, continuous debris buildup and foul odors degrade from the natural appearance of lotus bay beach. This may have been caused by water flowing out of Cattaraugus Creek during heavy storms or spring thaws. Furthermore, the Lotus Bay Colony Association owns a small beach access point at the west end of their private road. It consists of a concrete breakwall, a rest/viewing area above the breakwall, and a stairway leading down to the beach. The facility is in a state of disrepair and detracts somewhat from that section of the waterfront.

c. Erosion of Beach Area: A combination of severe storms and high lake levels have caused an increase of erosion in the lotus bay beach area, including the bluff area. Due to the embayed nature of the shoreline in this area, the problem is not as severe as in Wide Beach, however, high Lake levels have been identified as a key issue. For instance, the width of the beachfront in recent years has diminished severely.

3. Wide Beach Area

a. Hazardous Waste Remedial Action Program

(1) Background: For 10 years from 1968 through 1978 approximately 40,000 gallons of waste oil, was applied by local residents to the roadways for dust control. In July, 1981 after receiving a complaint from a Wide Beach resident concerning possible contamination from the oil, the Erie County Department of Environment and Planning investigated and found the roadways were contaminated with PCBs. Since then investigations have been performed by the U.S. Environmental Protection Agency (USEPA) and the site was listed on the National Priorities List of Inactive Hazardous Waste Sites, making it eligible for funding under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

Through a cooperative agreement, the New York State Department of Environmental Conservation has undertaken a Remedial Investigation and Feasibility Study (RI/FS) to determine the level of hazardous waste contamination. Findings of the RI/FS indicate the need for a remedial program for the site. The remedial investigation part of this study occurred from August through November 1984, and soil, sediment, groundwater, drinking water, vacuum cleaner dust, and air biological samples were collected to determine the presence of contamination.

The findings of the analyses were made public in April 1985 and indicate the following:

- o Contamination was found to be widespread in yards, driveways, roadways, and drainage areas next to roadways.
- o Contamination was found in samples from vacuum cleaner bags.
- o Samples from groundwater observation wells

indicate groundwater contamination is primarily in the sanitary sewer trench.

- o Drinking water well contamination was found to be sporadic and at low levels.
- o Wetland area sediment indicated low levels of contamination.
- o Drinking water on adjacent areas show no detectable levels of PCBs.

Based on these findings, an evaluation of the remedial measures needed to reduce the potential danger to the public health and environment was undertaken and was completed in the summer of 1985.

Implementation of a remedial action program is now pending. It has been delayed due to federal funding delays for program implementation and a need for liability coverage by the consultant being used by NYSDEC. The action program will include further study of areas north of Wide Beach and require removal of hazardous wastes from the yards and other land areas in wide beach by use of a chemical degradation process. This action program will not be completed for 2-3 years.

Residents of Wide Beach are not apprehensive about remaining as homeowners in this area and are willing to undergo whatever measures are required to deal with the PCB problem. It is important to them, however, that after site work has been completed the area is returned to an acceptable level of site improvement for residential living.

Finally, the New York State Department of Environmental Conservation has indicated that the final remedial activity will include continuous monitoring of offsite wells to determine the extent of any migration away from the PCB - contaminated area. In addition, the final remedial activity will include sampling the existing sanitary sewer system for the existence of hazardous wastes. Such sampling has yet to occur.

- b. Erosion of Beach and Bluff Area: A combination of severe storms and high lake levels has caused an increase in erosion along the shoreline, particularly in the Wide Beach area. The shoreline area between lotus point and the Cattaraugus Indian Reservation boundary in the Town of Brant is impacted most severely by Lake Erie wave action. Beachfronts have diminished greatly in recent years and bluff areas

have lost as much as forty feet inland from the top of the bluff.

- c. Aesthetic Appearance: The same debris build up and foul odor which occurs at Evangola State Park and lotus bay also occurs at wide beach.
- d. Flooding: A small two acre floodplain is located in the extreme southern section of the Town immediately east of Lake Erie and adjacent to the Cattaraugus Indian Reservation. This area has been identified as a flood hazard area by the Federal Emergency Management Agency. A further problem is the existence of a drainage ditch installed by the Wide Beach Association which carries drainage into the flood hazard area. This also caused a conflict with the Indian Reservation since confusion exists over the location of the drainage ditch. Numerous residences are impacted by this flooding.

Analysis of the flooding problem and the location and appropriateness of the drainage ditch must be discussed with the U.S. Army Corps, NYSDEC and the Indian Reservation.

- 4. General Issue: Coordination of Waterfront Programs: There will be a continuous need to coordinate waterfront programs particularly with the Indian Reservation and Town of Evans, but exchange of information on commonly shared concerns should occur among all waterfront municipalities in Erie County.

SECTION III

WATERFRONT REVITALIZATION PROGRAM  
POLICIES

TOWN OF BRANT

SECTION III WATERFRONT REVITALIZATION PROGRAM POLICIES

DEVELOPMENT POLICIES

Policy 1 THE STATE COASTAL POLICY REGARDING THE REVITALIZATION AND REDEVELOPMENT OF DETERIORATED AND UNDER-UTILIZED WATERFRONT AREAS IS NOT APPLICABLE TO THE TOWN OF BRANT.

This State Coastal Policy is not applicable to the Town of Brant because the Town's WRA does not contain a significant amount of deteriorated and/or underutilized sites. Although there are undeveloped areas in this area there are no facilities that have been underutilized, abandoned or deteriorated primarily as a result of a steady exodus of people, commerce and/or industry from the waterfront area.

Policy 2 FACILITATE THE SITING OF WATER DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a town-wide basis the only reasonable expectation is that long term demand for waterfront space will intensify. To ensure that such water-dependent uses can continue to be accommodated, public agencies will avoid undertaking, funding, or approving non-water-dependent uses when such uses would preempt the reasonably foreseeable development

of water-dependent uses; furthermore, such agencies will utilize appropriate existing programs to encourage water-dependent activities.

In general, the following water-dependent uses and facilities are appropriate to the Town of Brant waterfront area:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities);
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3. Structures needed for navigational purposes (for example: locks, dams, lighthouses);

4. Flood and erosion protection structures (for example: breakwaters, bulkheads);
5. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);
6. Support facilities which are necessary for the successful functioning of permitted water dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent use they should, as much as possible, be sited inland from the water dependent use rather than on the shore.

More specifically, in the foreseeable future water-dependent uses accommodated within the Town of Brant's waterfront area are

expected to be primarily a continuation of existing water-dependent recreation uses. These are Evangola State Park's swimming beach, as well as the restricted access swimming beaches at lotus point and wide beach. The only expansion of water-dependent uses anticipated within the foreseeable future is development of a boat launch at Evangola State Park.

In addition to water-dependent uses, uses which are enhanced by a waterfront location are encouraged to locate along the shore, though not at the expense of water-dependent uses. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to the waterfront.

If there is no immediate demand for water-dependent uses in a given area but a future demand is reasonably foreseeable, temporary non-water dependent uses are preferable to a non-water dependent use which involve an irreversible, or nearly irreversible, commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which are likely to be considered temporary non-water-dependent uses.

New water-dependent and water-enhanced uses (residential uses, particularly seasonal residences) to be developed within the Town of Brant waterfront areas are to be sited and designed, so that they enhance, or at least do not detract from, the surrounding area and avoid adverse impacts on significant coastal resources. Consideration should be given to such factors as the protection of nearby residential areas from odors, noise, and traffic and the preservation of natural erosion protective features. Affirmative approaches should be

employed so that water-dependent and water-enhanced uses and adjacent uses will complement one another. In addition, to help ensure the future availability of waterfront land for water-dependent uses, consideration should be given in the siting and design of any development on land adjacent to the water to the reservation of land suitable to accommodate the long-term space needs of water-dependent uses, for example, by devoting such land to open space or temporary non-water-dependent uses.

Policy 3 THE STATE COASTAL POLICY REGARDING MAJOR PORTS IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 4 THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF SMALL HARBORS IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 5 ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATES ITS LOCATION IN OTHER COASTAL AREAS.

The entire Town of Brant waterfront area is located within a public sewer district which provides sewer service to all residences. The transportation network which exists in the waterfront area consists of three public roads, as well as private roads and driveways. Although there is no public water supply or storm sewer system, ground wells and roadside ditches serve residents needs adequately. See Chapter B.2 - "Transportation and Utilities" of the Inventory and Analysis Section for more detailed information.

It is not anticipated that any major development will occur in the near future in the Brant waterfront area, due to the geographic location of the town and its rural nature. Should any development occur, it would be limited to the requirements of the zoning ordinance, which allows low density residential uses in the entire waterfront area.

In relation to the proposed boat launch in Evangola State Park, the availability of public services was a significant factor in locating the site where it is in the Park, particularly in regards to the existing road system within the Park.

For any action that would result in large-scale development or an action which would facilitate or serve future development, a determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development where infrastructure and public services are adequate. The following guidelines shall be used in making that determination.

1. A potential development site may be considered to be within, contiguous to, or in close proximity to an area of concentrated development, if three or more of the following conditions are met:
  - a) Population density of the area surrounding, or adjacent to, the proposed site exceeds 1,000 persons per square mile;
  - b) Fewer than 50% of the buildable sites (i.e., sites meeting lot area requirements under the town's zoning regulations) within one mile radius of the proposed site are vacant;
  - c) The proposed site is served by, or is near to, public or private sewer and water lines;
  - d) Public transportation service is available within one mile of the proposed site; and
  - e) A significant concentration of commercial and/or industrial activity is within one-half mile of the proposed site.
  
2. The following points shall be considered in assessing the adequacy of infrastructure and public services for a potential site:
  - a) Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
  - b) The proposed development's water needs (consumptive and fire fighting) can be met by the existing water supply system;
  - c) Public sewage disposal systems can accommodate the wastes generated by the proposed development;
  - d) Energy needs of the proposed development can be accommodated by the existing utility system;
  - e) Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
  - f) Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the areas as a result of the proposed development.

It is recognized that certain forms of development may and/or should occur at locations which are not within or near areas of concentrated development. Thus, this coastal development policy does not apply to the following types of development projects and activities:

1. Economic activities which depend upon sites at or near locations where natural resources are present.

2. Development which by its nature is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds.
3. Development which is designed to be a self-contained activity, e.g., a small college, religious retreat.
4. Water-dependent uses with site requirements not compatible with this policy, or when alternative sites are not available.
5. Development which because of its isolated location and small-scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which because of public safety considerations should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Development projects which are essential to the construction and/or operation of the above uses and activities.

Policy 6      EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE  
THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE  
LOCATIONS.

The Town of Brant will utilize existing laws to ensure policy compliance with the Town waterfront program. When new regulations may be necessary, the town will coordinate and combine review periods, as well as public hearing requirements as much as possible.

For specific types of development activities and in areas suitable for such development, Town, State, and Federal agencies will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives is not jeopardized. Efforts will be made to ensure that each agency's procedures and programs are synchronized with other agency procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development and will not jeopardize the integrity of the regulations' objectives.

FISH AND WILDLIFE POLICIES

Policy 7 THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 8 PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law Sec. 27-0901.3 as follows:

Hazardous waste means a waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- a) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

A list of hazardous wastes (6 NYCRR Part 371) has been adopted by the NYSDEC.

The handling (storage, transport, treatment and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the state's air, land and waters. Such controls should effectively minimize possible contamination of and bio-accumulation in the state's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders. The remedial actions being undertaken at Wide Beach will effectively neutralize any impacts from the PCB contamination in this regard.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other state's laws.

Policy 9

EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

Lake Erie provides high quality opportunities for recreational use of fish resources along the Town of Brant waterfront. Due to the town's close proximity to Cattaraugus Creek, fishing offshore from the Town of Brant offers unique fishing opportunities for salmonid species, as well as smallmouth bass and walleyes.

Recreational use of the high-quality, off-shore fishery is to be maintained and increased primarily through continuation of the state fish stocking programs and provision of increased access through development of a boat launch at Evangola State Park, as further described in Section IV.B. Proposed Project. Any efforts to increase recreational use of these resources, however, must be undertaken in a manner which ensures the protection of the fish and wildlife resources and which takes into consideration other activities dependent on these resources. Such efforts must also take into account sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs, and available technology.

The following additional guidelines should be considered by town, state, and federal agencies in determining the consistency of a proposed action with the above policy.

1. Consideration should be made as to whether an action will impede existing or future utilization of the town's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to over-utilization of that resource or cause impairment of the habitat. Sometimes, such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the habitat description, if appropriate, and/or conferring with a trained fish and wildlife biologist.

4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g. creating private fee-hunting or fee-fishing facilities) must comply with existing state law.

Policy 10 THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF COMMERCIAL FISHING IS NOT APPLICABLE TO THE TOWN OF BRANT.

#### FLOODING AND EROSION POLICIES

Policy 11 BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.

Public health and safety, as well as personal property is continuously threatened by flooding and erosion along the Town of Brant shoreline due to high wind and wave action. This has been particularly severe during the last few years due to high lake levels.

The most severe flooding problems within the town's waterfront are largely confined to an area adjacent to an unclassified stream immediately south of the Wide Beach area. This area has been identified as a Flood Hazard Area by the Federal Emergency Management Agency (see Section II, Map 5). Flooding within this area has resulted in property damage. The erosion aspects of this policy apply to the town's shoreline natural protective features, described in Section II (B)8.

The siting of buildings and structures within Flood Hazard Areas will conform to the Town's Flood Damage Prevention Law or the laws and regulations governing state and federal projects within Flood Hazard Areas, as appropriate. Development within Coastal Erosion Hazard Areas (Natural Protective Features) will conform to the State Coastal Erosion Hazards Area Act and the provisions of Policy 12.

Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures will be taken, including disaster preparedness planning.

Policy 12 ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.

Beaches, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of these landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are minimized.

This policy shall apply to the natural erosion protective features within the Town of Brant waterfront area. These include nearshore areas, bluffs, and beaches. Bluffs and/or beaches are found along virtually the entire Town shoreline, as previously described in the Inventory and Analysis, Section II.

The following guidelines shall be used in determining the consistency of proposed actions with this policy. In general, any activity or development in, or in proximity to, a natural protective feature that may be permitted under the following guidelines must be consistent with other applicable policies of the LWRP and must prevent, if possible, or minimize any adverse effects on natural protective features and their protective functions and values.

1. **NEARSHORE AREAS:** Those lands under water beginning at the mean low water line and extending waterward in a direction perpendicular to the shoreline to a point where mean low water depth is 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.
  - a) Excavating, mining or dredging which diminishes erosion protection afforded by a natural protective feature in a nearshore area is prohibited, except that dredging may be permitted for construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions, or artificial beach nourishment.
  - b) Clean sand or gravel of a compatible type and size is the only material which may be deposited within nearshore areas.
  
2. **BEACH AREAS:** The zone of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in a material or physiographic form, or to the line of permanent vegetation, whichever is most waterward, except where dune formations are present, the beach area shall extend to the landward toe of the dune formation.

- a) Excavation or mining which diminishes the erosion protection afforded by beaches is prohibited.
- b) Materials may be deposited on beaches only for the purpose of expanding or stabilizing the beaches. Clean sand or gravel of a compatible type and size is the only material which may be deposited within beach areas.
- c) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the NYSDEC.

3. **BLUFF:** Any bank or cliff with a precipitous drop or rounded face adjoining a beach or a body of water. The waterward limit of a bluff is the landward limit of its contiguous beach. Where no beach is present, the waterward limit is mean low water. The landward limit is 25 feet landward of the receding edge.

- a) The following activities are prohibited:
  - 1) Excavation or mining of bluffs, except to provide shoreline access and in accordance with the provisions of this policy.
  - 2) Any grading, excavation, or other soil disturbance conducted on a bluff that causes or directs surface water over the receding edge.
  - 3) All development unless specifically allowed by the provisions of this subsection of this policy.
- b) Subject to the general provisions of this policy and the specific conditions stated below, activities specifically allowed are:
  - 1) Minor alterations of a bluff for new construction, modification, or restoration of an erosion protection structure.
  - 2) Bluff cuts for the provision of shoreline access, where:
    - o the bluff cut is made in a direction perpendicular to the shoreline.
    - o ramp slope of the bluff cut does not exceed 1:6.

- o side slopes of the bluff cut do not exceed 1:3 unless terraced or otherwise structurally stabilized.
  - o side slopes and other disturbed non-roadway areas are stabilized with vegetation or other approved physical means.
  - o completed roadways are stabilized and drainage provided for.
- 3) New construction, modification, or restoration of walkways or stairways.
- c) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the NYSDEC.
4. MOTOR VEHICLE RESTRICTIONS: The use of motor vehicles is prohibited on beach vegetation, primary dunes, and bluffs.
5. Activities and development within natural erosion protective feature areas that have been designated by the NYSDEC as Erosion Hazard Areas must comply, as required, with the provisions of the Coastal Erosion Hazards Area Act (Environmental Conservation Law, Sec. 3-0301 & Sec. 34-0108) and its implementing regulations (6 NYCRR Part 505).

Policy 13

THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.

Erosion protection structures are not widely used throughout the town's coastal area, however, those that do exist because of improper design, construction and maintenance standards, fail to give the protection which they are presumed to provide. As a result, these properties are subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

This policy applies within identified Coastal Erosion Hazard Areas to the construction, reconstruction, or modification of any structures specifically designed to reduce or prevent erosion, such as a groin, jetty, seawall, revetment, breakwater, or artificial beach nourishment project.

Guidelines for evaluating an action's consistency with this provision are as follows:

1. The construction, modification, or restoration of erosion protection structures must:
  - a. Not be likely to cause a measurable increase in erosion at the development site or at other locations.
  - b. Minimize and, if possible, prevent adverse effects upon natural protective features, existing erosion protection structures, and natural resources such as significant fish habitats.
2. All erosion protection structures must be designed and constructed according to generally accepted engineering principals which have demonstrated success or, where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
3. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty years of erosion protection.

Policy 14      ACTIVITIES      AND      DEVELOPMENT      INCLUDING      THE  
CONSTRUCTION      OR      RECONSTRUCTION      OF      EROSION  
PROTECTION      STRUCTURES,      SHALL      BE      UNDERTAKEN      SO      THAT  
THERE      WILL      BE      NO      MEASURABLE      INCREASE      IN      EROSION      OR  
FLOODING      AT      THE      SITE      OF      SUCH      ACTIVITIES      OR  
DEVELOPMENT,      OR      AT      OTHER      LOCATIONS.

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and the placing of structures in identified floodways so that the base flood level is increased causing damage in otherwise hazard-free areas.

See also policies 13 and 33.

Policy 15 MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

Policy 16 PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

Public funds are used for a variety of purposes along the town's shoreline. This policy recognizes the public need for the protection of human life and existing investment in development or new development which requires a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long-term costs prior to expending public funds.

Policy 17 WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (i) THE SET BACK OF BUILDINGS AND STRUCTURES; (ii) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (iii) THE RESHAPING OF BLUFFS; AND (iv) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal area, as well as the costs of protection against those hazards which structural measures entail.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

Non-structural measures shall include, but not be limited to the following measures:

1. Within identified Coastal Erosion Hazard Areas:
  - a. Restrictions on the location of development as provided in Policy 12.
  - b. Strengthening of coastal landforms by such means as:
    - o planting of appropriate vegetation on dunes and bluffs,
    - o reshaping of bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilizing vegetation, and
    - o installing drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms.
2. Within identified Flood Hazard Areas:
  - a. Avoidance of risk or damage from flooding by the siting of buildings outside the hazard area.
  - b. Flood-proofing of buildings or their elevation above the base flood level.

See also Policy 11.

#### GENERAL POLICY

Policy 18 TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.

Proposed major actions may be undertaken in the coastal area if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the state has established to protect those waters and resources. Proposed actions must take into account the social, economic and environmental interests of the State and its citizens in such matters that would affect natural resources, water levels and flows, shoreline damage, hydro-electric power generation, and recreation.

#### PUBLIC ACCESS AND RECREATION POLICIES

Policy 19 PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED BY ALL THE PUBLIC IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.

As described in Section II.B.11, Public Access and Recreation, Evangola State Park is the only existing public water-related recreation facility located in the Town of Brant waterfront area and provides the only public access in the Town to public recreation resources of Lake Erie. It is essential that public access to this major regional facility be maintained and, as needed, improved. Furthermore, access to Lake Erie from Evangola State Park can be significantly improved by development within the Park of a boat launching facility, as further described under policy 21 and in Section IV.B, Proposed Project. In addition, as feasible and subject to the relevant guidelines given below, public transportation services to the Park should be increased, so as to improve access opportunities for the non-automobile-owning public and reduce traffic congestion, particularly in the summer, that may impair public access.

The following additional guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

The following is an explanation of the terms used in the above guidelines:

- a) Access - the ability and right of the public to reach and use public and coastal lands and waters.
- b) Public water-related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c) Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands.
- d) A reduction in the existing level of public access - includes but is not limited to the following:
  - 1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
  - 2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting systemwide objectives.
  - 3) Pedestrian access is diminished or eliminated because of hazardous crossings required at

new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

- 4) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State government established poverty level.
- e) An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
  - 1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
  - 2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.
  - 3) Construction of private facilities which physically prevent the provision of convenient public access to public lands and facilities.

2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:

- a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
- b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

3. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

Policy 20 ACCESS TO THE PUBLICLY-OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.

The only publicly owned land within the Town of Brant waterfront area is Evangola State Park. As described in Section II, these parklands are extensive (over 650 acres in the town) and provide a 2000 foot sandy beach along Lake Erie which is open to the general public. Adjacent lands lying under the waters of Lake Erie are generally owned by the State of New York.

While such publicly-owned lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

The following additional guidelines will be used in determining the consistency of a proposed action with this policy:

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or State-wide public benefit, or in the latter case, estimates of future use of these lands and waters are

too low to justify maintaining or providing increased access.

The following is an explanation of the terms used in the above guideline:

- a. (see definitions under first policy of "access", and "public lands or facilities").
  - b. A reduction in the existing level of public access -- includes, but is not limited to, the following:
    - 1) Pedestrian access is diminished or eliminated because of hazardous crossing required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
    - 2) Pedestrian access is diminished or blocked completely by public or private development.
  - c. An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
    - 1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
    - 2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
    - 3) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from lands and facilities.
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated. A reduction in the existing level of public access - includes, but is not limited to, the following:
- a. Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

- b. Access is reduced or blocked completely by any public developments.
3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of public safety, military security, or the protection of identified fragile coastal resources; or (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
4. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
5. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.
6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
  - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

Policy 21

WATER DEPENDENT AND WATER ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER RELATED USES ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE RESERVATION AND ENHANCEMENT OF OTHER COASTAL

RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.

Policy 21A EXPAND AND IMPROVE THE UTILIZATION OF EVANGOLA STATE PARK FOR WATER RELATED RECREATIONAL ACTIVITIES.

Policy 21B DEVELOP A BOAT LAUNCHING FACILITY AT EVANGOLA STATE PARK.

Water-related recreation includes such obvious water-dependent activities as boating, swimming, and fishing, as well as certain activities which are enhanced by a waterfront location and increase the general public's access to the waterfront, such as pedestrian and bicycle trails, picnic and camping areas, and passive recreation areas such as scenic overlooks.

Substantial opportunities exist for increasing water-related recreational resources for town, county, and regional residents by expanded and improved utilization of Evangola State Park. As described in more detail in Section II.C.1, the Park, which in total acreage is the largest waterfront park on Lake Erie, contains extensive undeveloped lands and is limited to largely seasonal, summertime use. As further described in Section IV.A.1.a., (Proposed Land and Water Uses--Evangola State Park), increased use of the Park for boating, off-season bicycling, cross-country skiing, picnicking, and athletics is proposed.

A particular need exists throughout the region for additional boat launching facilities to meet the growing demand for boating and fishing access. A boat launch ramp is encouraged within the Park, as further described in Section IV.B., (Proposed Project). Development of this facility would enhance fishing, since Evangola State Park contains the only public campground on the Lake Erie shore off Erie County.

Consistent with demand and the protection of other important coastal resources, water-related (dependent and enhanced) recreation uses shall have a higher priority than any non-water-related uses, including non-water-related recreation uses. Water-dependent recreation uses shall have a higher priority than water-enhanced uses, including water-enhanced recreation uses. Determining a priority among water-dependent uses will require a case-by-case analysis (See Policy 11 for definitions and additional provisions concerning water-dependent uses).

Any development of water-related recreational facilities or increase in recreation use must be consistent with the preservation and enhancement of other important coastal resources, such as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture lands, and significant mineral and fossil deposits and their capacity to accommodate anticipated use. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities.

Water-related off-road recreational vehicle use is an acceptable activity, provided no adverse environmental impacts occur. Where adverse environmental impacts will occur, mitigating measures will be implemented, where practicable to minimize such adverse impacts. If acceptable mitigation is not practicable, prohibition of the use of off-road recreational vehicles will be posted and enforced (See also Policy 12).

See also Policies 9, 19, and 20.

Policy 22 DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

Evangola State Park provides an excellent opportunity for developing an additional water-dependent use for this park as explained in detail in Section IV, page 75. Because of private ownership of the remaining lands adjacent to the Brant shoreline, there is limited probability of major development other than of a limited number of residences. In any case, whenever development may be located adjacent to the shore, the following guidelines will be followed:

- o Whenever a development is located adjacent to the shore, it should to the fullest extent permitted by existing law, provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.
- o Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.
- o In determining whether compelling reasons exist which would make inadvisable recreation as a multiple use, safety considerations should reflect a recognition that some risk is acceptable in the use of recreational facilities.

- o Whenever a proposed development would be consistent with waterfront policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore (this situation would generally only apply within the more developed portions of the waterfront area).

#### HISTORIC AND SCENIC RESOURCES POLICIES

Policy 23 PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

Policy 23A PROTECT ARCHAEOLOGICALLY SIGNIFICANT SITES IN EVANGOLA STATE PARK.

Among the most valuable of the State's man-made resources are those which are of historic, archaeological, or cultural significance. The protection of these resources must involve a recognition of their importance by all agencies. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites.

Within the Town of Brant waterfront area, areas of potential archaeological significance, as identified by the State Historic Preservation Office, exist within Evangola State Park (see Inventory and Analysis Section B.10, K for a further description). There are no other local, state, or federal designated historic resources in the local waterfront area to which the policy applies.

Prior to undertaking major construction activities in the identified areas of archaeological sensitivity, anyone proposing such activity shall consult with the State Historic Preservation Office to determine whether significant archaeological resources are present at the site and what measures are necessary to preserve these resources. All practicable means shall be used to preserve significant archaeological resources.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof which has been officially certified as being imminently dangerous to life or public health.

Policy 24 THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATE-WIDE SIGNIFICANCE IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 25 PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.

Policy 25A MAINTAIN AND ENHANCE THE OLD LAKE SHORE ROAD CORRIDOR AS A LOCALLY SIGNIFICANT SCENIC RESOURCE.

The major transportation route in the Town of Brant waterfront area is Old Lakeshore Road, a County road which carries a small amount of traffic throughout the year. It has a width of 17 feet with 2 foot shoulders. Motorists using the road experience excellent views of adjacent lands including large-lot residential areas, as well as developed and open parkland. The road winds through this setting and is bounded by picket fences, landscaped vegetative cover, and periodic views out into Lake Erie. The preservation of the atmosphere created by Old Lake Shore Road (and the low traffic volume it presently serves) was stated as a key waterfront issue in the Town of Brant. In order to carry out this policy the Town shall insure that appropriate regulatory tools are utilized in preventing unnecessary signs, unsightly buildings, and over development of certain areas.

Furthermore, the Town of Brant shall work with the Erie County Department of Public Works to insure that any road rehabilitation work done to Old Lake Shore Road does not infringe upon the present country-like atmosphere of the road.

The following guidelines will be followed concerning any proposed actions impacting the road.

When considering a proposed action, county, town, state and federal agencies shall ensure that the action will be undertaken so as to protect, restore, or enhance the overall scenic quality of the waterfront area and, in particular, those elements cited above. The following siting and development-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly.

1. Structures and other development, such as highways, power lines, and signs, should be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.

2. Structures should be clustered or oriented to retain views, save open space, and provide visual organization to a development.
3. Sound existing structures should be incorporated into the overall development scheme.
4. Deteriorating and/or degrading elements should be removed.
5. The original land form should be maintained or restored, except when changes screen unattractive elements and/or add appropriate interest.
6. Vegetation should be maintained or added to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing creates views of coastal waters.
7. Appropriate materials, in addition to vegetation, should be used to screen unattractive elements.
8. The scale, form and materials of buildings and other structures should be compatible with and add interest to the landscape.

#### AGRICULTURAL LANDS POLICY

Policy 26 THE STATE COASTAL POLICY REGARDING THE CONSERVATION OF SIGNIFICANT AGRICULTURAL LANDS IS NOT APPLICABLE TO THE TOWN OF BRANT.

#### ENERGY AND ICE MANAGEMENT POLICIES

Policy 27 DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.

Demand for energy in New York will increase, although at a rate slower than previously predicted. The state expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels including coal in greater proportion.

A determination of public need for energy is the first step in the process for siting any new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines and steam electric

generating facilities, Articles VII and VIII of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. The policies derived from the siting regulations under these Articles are entirely consistent with the coastal policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization and Coastal Resources Act. That Act is used for the purpose of ensuring consistency with the State Coastal Management Program and this LWRP.

In consultation with the Town of Brant, the Department of State will comment on the State Energy Office Policies and Planning reports as may exist; present testimony for the record during relevant certification proceedings under Articles VII and VIII of the PSL; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than transmission facilities and steam electric generating plants) which would impact the waterfront area are made consistent with the policies and purposes of the LWRP.

Policy 28 ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydroelectric power, fish and wildlife and their habitats, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

Policy 29 ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.

The State recognizes the need to develop new indigenous energy sources. It also recognizes that such development may endanger the environment. Among the various energy sources being examined are those which may be found on the Outer Continental Shelf (OCS) or in Lake Erie. The State encourages the wise development of off-shore energy resources in a manner that will ensure the environmental safety of such activities, protect important coastal resources, and, in Lake Erie, protect public water supplies.

State law currently prohibits development of wells nearer than one-half mile from the shoreline, two miles from public water supply intakes, and one thousand feet from any other structure or installation in or on Lake Erie. Further, State law prohibits production of liquid hydrocarbons in Lake Erie, either alone or in association with natural gas. Additional guidelines may be promulgated by the New York State Department of Environmental Conservation, which has primary responsibility for regulating off-shore development of energy resources.

#### WATER AND AIR RESOURCES POLICIES

Policy 30 MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the town's waterways.

Policy 31 STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

The water quality classifications for Lake Erie and streams flowing through the Town of Brant waterfront area, as identified in the Inventory and Analysis (Section II, Hydrology), are appropriate to the policies and the proposed land and water uses for the town's waterfront area and should be maintained. There are no waters overburdened with contaminants within the town's waterfront area.

Policy 32 THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE SANITARY WASTE SYSTEMS IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 33 BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

Combined stormwater/sewer collection systems do not exist within Brant. Sewage collection is a function of the Lotus Bay Sewer District and storm sewers are non-existent in the Brant

waterfront area. Roadside ditches are prevalent within Wide Beach and other private roads, however, and collect drainage and stormwater runoff.

Because it does not seem likely this water runoff collector system will change in the near future, management practices that are non-structural in nature that prevent or mitigate pollution of any discharge of stormwater that might occur will be encouraged for use by Town residents (eg. reduced use of road salt).

Policy 34 DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the state's waters is regulated. Priority will be given to the enforcement of this law in such areas as the significant habitats, and beaches which need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657).

Policy 35 DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.

Dredging often proves to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. State dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy dredging standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25 and 34), and are consistent with policies pertaining to the protection of coastal resources (policies 12, 15, 25, and 25A).

Policy 36 ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE

THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.

All activities within the Town of Brant waterfront area which are subject to this policy shall comply with all applicable state and federal regulations. See Policy 39 for definition of hazardous waste.

Policy 37 BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANIC AND ERODED SOILS INTO COASTAL WATERS.

Best management practices to reduce these sources of pollution include, but are not limited to, soil erosion control practices and surface drainage control techniques. Also, refer to Policy 33.

Policy 38 THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.

Groundwells are the major sources of drinking water in the Town of Brant and therefore must be protected. All of the Town of Brant's waterfront area is serviced by a sanitary sewer system and all discharges are regulated by state and federal law. See also policies 5, 32, and 33. Groundwells are regulated by New York State Law which is administered by Erie County and monitored by the Town.

Policy 39 THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES.

Policy 39A A REMEDIAL ACTION PROGRAM WILL BE COMPLETED TO MITIGATE PCB CONTAMINATION IN WIDE BEACH.

The definitions of terms "solid waste" and "solid waste management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law (Section 27-0901(3) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: 1) cause, or significantly contribute to an increase in serious, irreversible, or incapacitating reversible illness; or 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or otherwise managed."

A list of hazardous wastes (NYCRR Part 371) has been adopted by New York State Department of Environmental Conservation.

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

As has been previously discussed in Sections II and IV, the wide beach community is now undergoing a remedial action program for PCB contamination. The potential environmental and physical dangers resulting from the use of PCB contaminated oil for dust control is now well known to all Town of Brant residents. It is important that as part of this state program, however, that wide beach remain as, prior to the contamination issue, a quality residential community located in the Brant waterfront area and that all negative physical and environmental impacts be minimized as much as possible.

Policy 40 THE STATE COASTAL POLICY REGARDING EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING FACILITIES IS NOT APPLICABLE TO THE TOWN OF BRANT.

Policy 41 LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.

The Town's LWRP incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State Laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the waterfront area.

To the extent possible, the State Implementation Plan will be consistent with the land and water use policies of this LWRP and any recommendations with regard to specific sites for major new or expanded energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

Since there are no tidal or freshwater wetlands located in the WRA, this policy is not applicable.

Policy 42 COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

The policies of this program concerning proposed land and water uses and the protection and preservation of coastal resources will be taken into account prior to any action to change prevention of significant deterioration land classifications in the coastal region or adjacent areas.

Policy 43      LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.

The Town's LWRP incorporates the state's policies on acid rain. As such, the local program will assist in the state's efforts to control acid rain. These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

Policy 44      THE STATE COASTAL POLICY REGARDING THE PROTECTION OF WETLANDS IS NOT APPLICABLE TO THE TOWN OF BRANT.

SECTION IV

PROPOSED LAND AND WATER USES  
AND  
PROPOSED PROJECT

## A. PROPOSED LAND AND WATER USES

1. Description of Proposed Land Uses (See map 7 on page 79)  
As was described in Section II (Inventory and Analysis), the Town of Brant WRA is characterized by recreational and residential uses, both seasonal and year-round, that are located in a rural community setting. It is the intent of the town that the existing land use pattern remain relatively unchanged. Any proposed development in the waterfront area would be encouraged only if the rural nature of the waterfront not be changed.

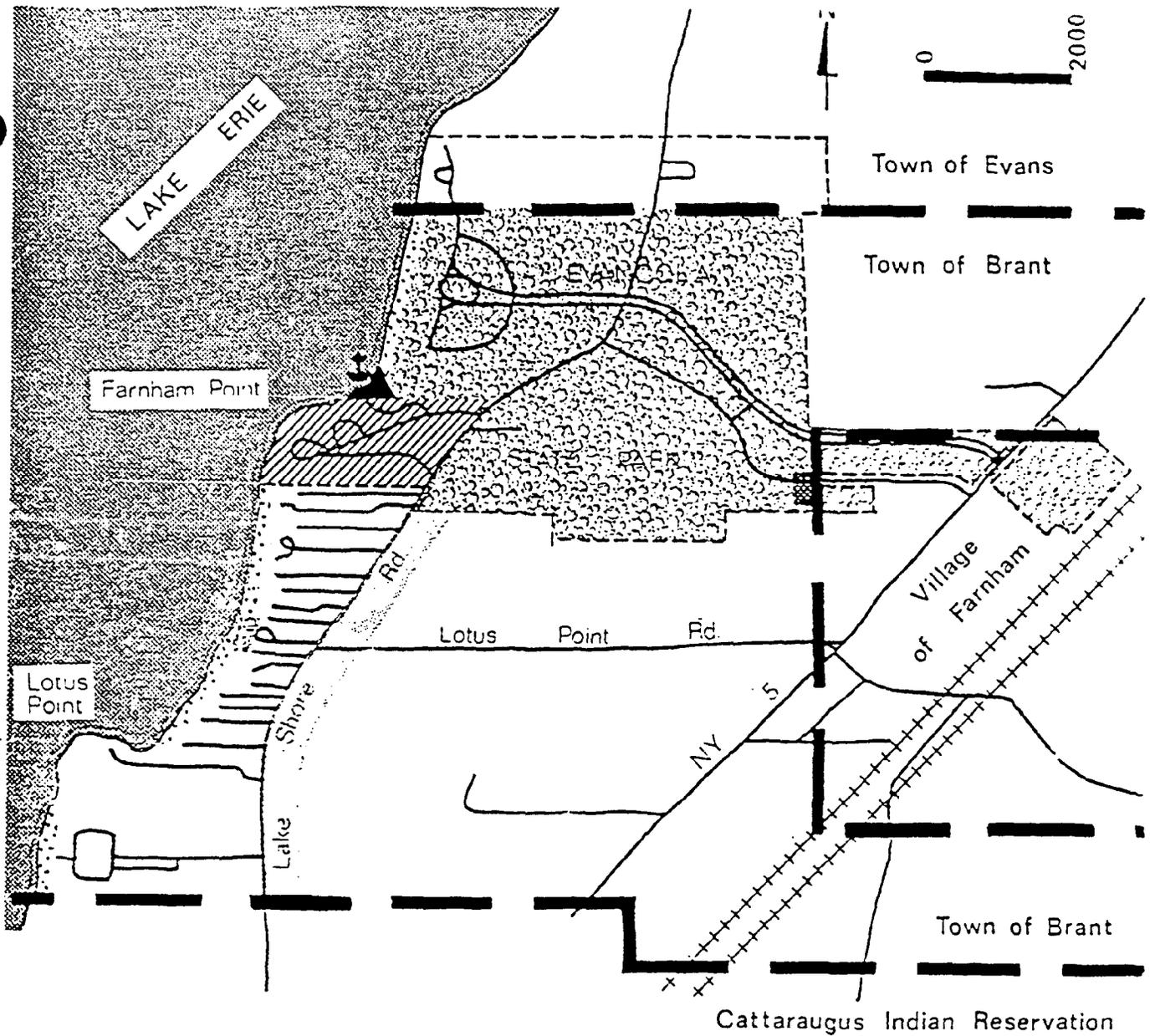
It is important, however, that Evangola State Park provide expanded or new recreational opportunities which meet the needs of the Town of Brant, as well as visitors from other areas. Of particular importance is the development of boat launching facilities. Because of this interest, a boat launch ramp feasibility study was initiated by the Town as part of the Local Waterfront Revitalization Program. This project is more fully described in Part B of this section.

The following describes the proposed land and water uses for the Town of Brant WRA. The area has been divided, from north to south, into three geographic sub-areas.

- a. **Evangola State Park:** Regardless of the fact that Evangola State Park is owned by New York State and is under the administration of the New York State Office of Parks and Recreation, the Town of Brant from the beginning of its involvement with the development of its waterfront program has demonstrated a commitment and advocacy role regarding the future development of Evangola State Park.

The following provides some background concerning this relationship:

- (1) The Park encompasses about a third of the town's waterfront area. The remainder of the WRA is privately owned. Public access to the waterfront is provided only to those that own property in either the wide beach or lotus bay areas. Rather than pursuing waterfront public access in these areas, the Town of Brant chose to focus on access to the waterfront for town residents by using Evangola State Park.



LEGEND

-  Residential
-  Recreation
-  Campground
-  Beach

-  Boat Launch
-  Radio Tower
-  Agriculture

LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF  
ENVIRONMENT & PLANNING

MAP 7

LAND USE PLAN

TOWN OF BRANT

- (2) Evangola State Park occupies a major portion of the WRA and provides no taxes. The Town feels that its advocacy role for increasing the recreational opportunities for local residents at Evangola State Park is justifiable because of this situation. The Superintendent of Evangola State Park, Town of Brant officials, and citizens agree that Evangola State Park has the potential for increased use because of its available open space.

The Park provides opportunities for access to Lake Erie for boating and fishing. As noted, the Town's waterfront program includes a boat launch feasibility study.

The following uses are proposed for Evangola State Park:

- o Expansion of athletic fields, particularly soccer fields, in the easterly portion of the Park. At present four soccer fields are completed and two are proposed.
- o Increased promotion of bicycling and cross-country skiing throughout the Park.
- o Expansion of picnic areas.
- o Location of a boat launch facility next to the campground area. The feasibility study for this facility was completed in October, 1985 and is summarized in Part B of this section.

The following outcomes are expected from implementing the recommended use proposals:

- o Increased opportunity for recreational activities throughout the year.
- o Increased access to Lake Erie for recreational boating and fishing.

- b. Lotus Bay: This area extends inland as described in Section II and is characterized by low-density residential development both seasonal and year round. Such development occurs on large lots of extensive linear tracts which extend from Old Lake Shore Road to the waterfront. A residential cluster, however, is located in the southern part

of the area which is called the Lotus Bay Colony. Beach use is limited to residents of the lotus bay area.

It is not anticipated that significant change will occur in the existing use patterns for this area. Proposed uses are those which conform to the town's existing zoning for the area, as described in more detail in Section II.B.9. (Zoning). Although it might appear that development could occur due to the relatively large amount of land available, should owners decide to split up existing land parcels, it is unlikely development will happen for two reasons. First, the location of the town is beyond the reasonable commuting distance for year round use if someone is employed in the City of Buffalo or northtowns. Secondly, seasonal residential use is not competitive with other shoreline areas north of Brant or in Canada. This is due to the travel time from other areas in the county but more due to the beach conditions which are not high quality in comparison to Canadian beaches (ie: sandier bottoms, dunes, wider beach fronts). There is no interest in changing the existing use situation by area officials and residents.

As noted in Section V (Implementation Techniques), all regulatory mechanisms support the status quo land use. Despite an opportunity (4 foot public beach easement at the termination of Surfside Road) for beach use for town residents, there is no interest in taking advantage it.

The Town should not be faulted for this attitude of status quo since this policy does work towards preserving what is now one of the loveliest waterfront areas in Erie County. New development is not prohibited but must be within the parameters of the Zoning Ordinance and undergo both site plan and coastal assessment review.

- c. Wide Beach: Because a Remedial Action Program is now underway, the hamlet will remain a stable residential area. Other land uses are expected to remain unchanged for the same reasons which pertain to lotus bay. Proposed uses conform to the town's existing zoning as described in Section II.B.9 (Zoning).

**B. PROPOSED PROJECT: - BOAT LAUNCH RAMP IN EVANGOLA STATE PARK:**

1. Background Concerning Project: As far back as the development of a master plan for the Evangola State Park in 1976, a boat launch for the Park has been suggested. Until development of the Town's LWRP, however, there had been little incentive to undertake a feasibility study. Factors providing this incentive included the availability of funding from the New York State Department of State's Coastal Management Program, and the need for additional boat launching facilities within Erie County. In addition, the Town of Brant has been an enthusiastic advocate for such a project. As a result of the feasibility study, which was undertaken in close cooperation with Town and park officials, a concept plan for a ramp was developed which is consistent with the recreation and public access policies of the LWRP.

A summary description of the major elements comprising the "Evangola State Park Boat Launch Ramp Feasibility Study and Conceptual Plan" is provided below.

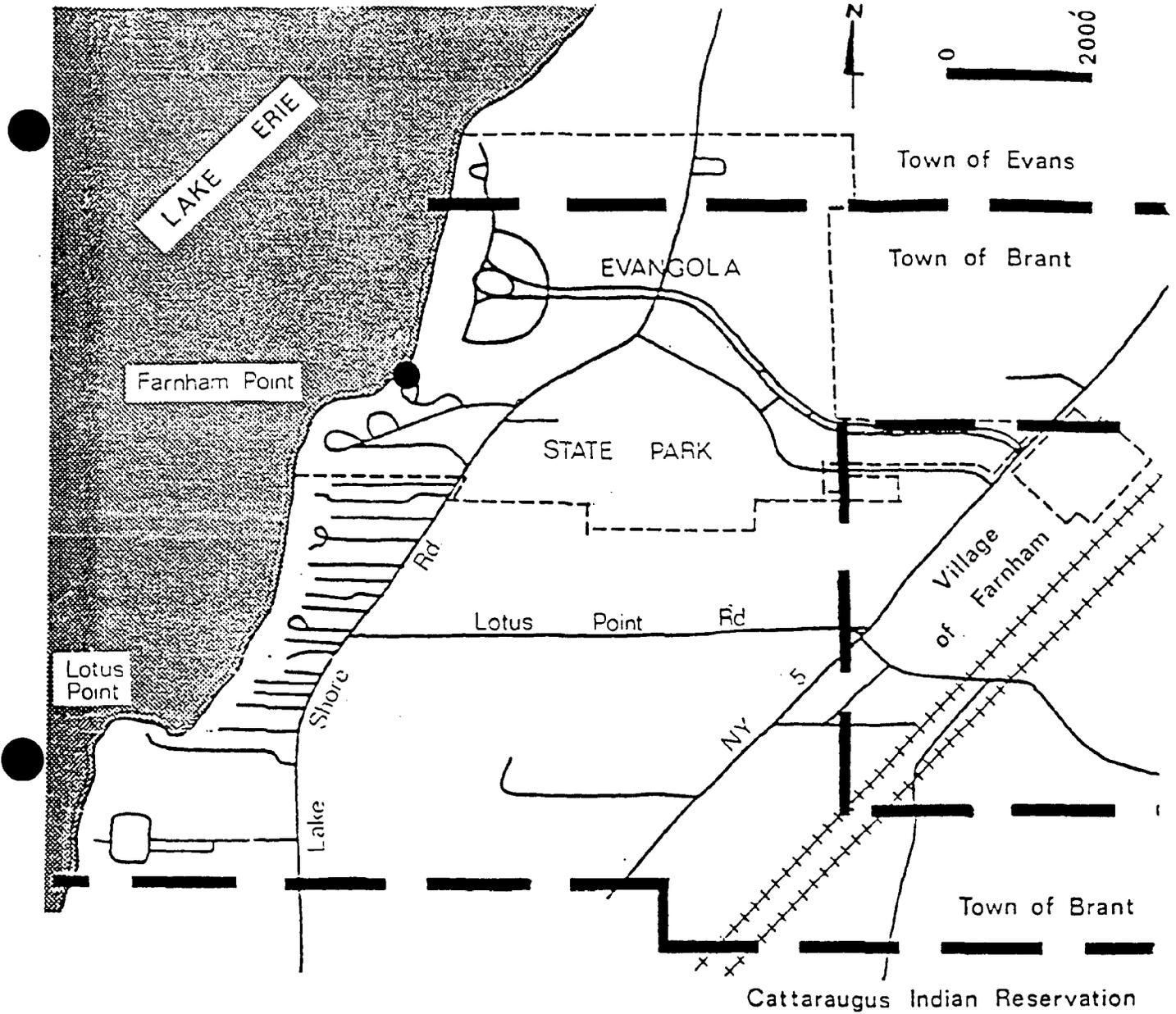
2. Summary Description of Project (see Map 8, page 85 )

- a. Site Selection

After consideration of alternative sites the boat launch project was sited next to the campground area in the southerly portion of the Park. Primary reasons for the selected site were the protected nature of the shoreline from wave/wind action and the adjacent park support capabilities, (ie. parking, access, egress). The site also offered aesthetic views of the Lake, as well as of wooded areas surrounding portions of the site.

- b. Regulatory Impacts Analysis: All regulatory agencies impacted by the proposed project provided comments, concerns and recommendations. These included the New York State Office of Parks and Recreation, Town of Brant, New York State Department of Environmental Conservation, United States Army Corps of Engineers and the New York State Department of State. This information which is detailed in the complete report provides a solid base from which to develop subsequent design phases for the project.

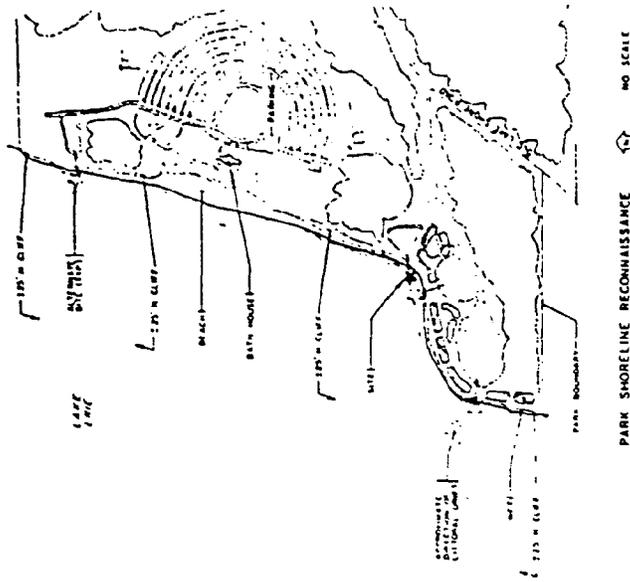
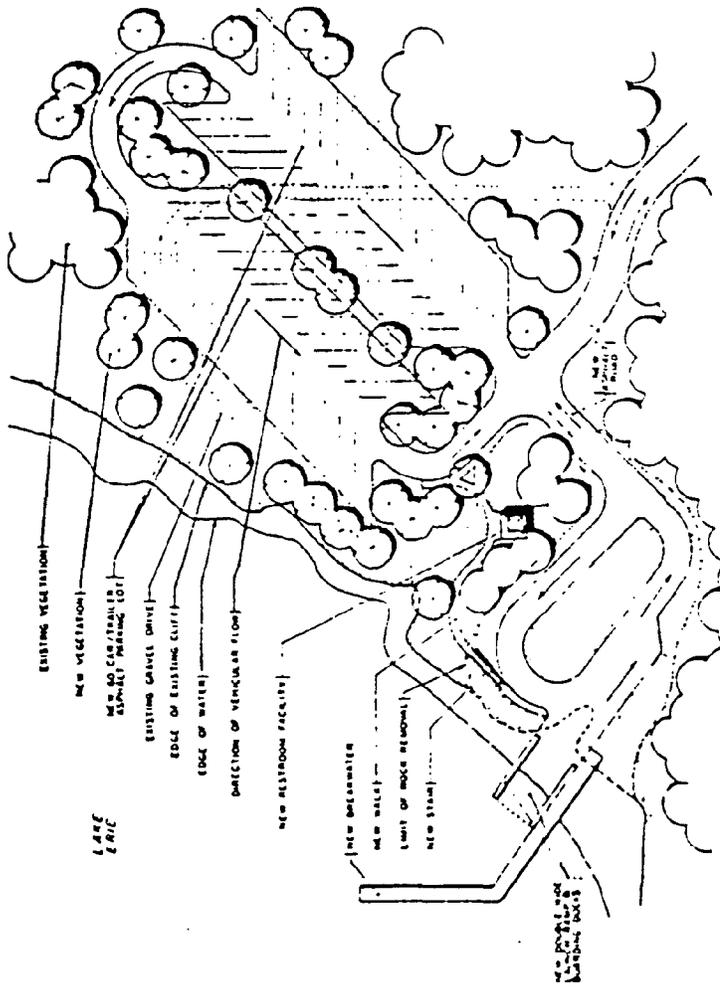
- c. Feasibility of Proposed Boat Launch Site: The information gathered through the site analysis and the regulatory impacts analysis were prioritized by means of economic, land use and environmental opportunities and constraints. These findings are summarized as follows:



LEGEND

● Project Site

<p>LOCAL WATERFRONT REVITALIZATION PROGRAM          ERIE COUNTY DEPARTMENT OF          ENVIRONMENT &amp; PLANNING</p>	<p>MAP 8  <b>PROJECT          LOCATION</b>          TOWN OF BRANT</p>
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EVANGOLA STATE PARK  
TOWN OF BRANT, NEW YORK  
BOAT LAUNCH FACILITY CONCEPTUAL PLAN

WENDEL  
INCORPORATED  
ARCHITECTS  
PLANNERS  
ENGINEERS  
LANDSCAPE ARCHITECTS  
100 N. WASHINGTON ST.  
SARASOTA, FL 34236  
SEPTEMBER 1, 1983

LOCAL WATERFRONT REVITALIZATION PROGRAM  
ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING  
MAP 8A  
PROJECT CONCEPT PLAN  
TOWN OF BRANT  
April, 1987

- o Evangola State Park offers the required support facilities (i.e. - overnight camping) to enhance a launch facility. Boat launching is consistent with land use and past park planning documents.
  - o Waterside protection (wave action, shoaling, etc.) of in-water facilities will be required.
  - o The facility promotes public access to the Great Lakes fishery, adds needed launch capability along the Lake Erie shoreline, and may provide a retrieval point in the event of storm.
  - o The facility expands the Town of Brant's public access/use of the waterfront in an area already in public ownership.
  - o Significant uplands issues must be resolved - rock/bank removal, drainage, vegetation removal, etc..
- d. Boat Launch Conceptual Plan: (See Map 8A) The boat launch ramp is sited on an area of the shoreline where minimal sand deposition is evident. Extensive earthwork will be required - both topsoil and subsoil, as well as rock excavation. Ample space is provided beyond the top of the ramp with sixty parking spaces designed for use. The ramp is designed at the optimum slope range of 13% to 15% with a bumper constructed at the downhill end of the ramp to prevent backing of trailers off the ramp. Ramp elevations are to be set to facilitate launching at low and high water levels. Boarding docks will also be provided.

Alternatives were discussed in the document that provide some protection for the ramp from wind/wave action. The preferred alternative is a "broken back" breakwater which would be constructed from the shore out to the lake.

Other site improvements include a public restroom facility, lighting and signage and a pedestrian walk which consists of a combination of concrete walk and wood stairs. General landscaping will also be provided with special focus placed on plantings which serve erosion control, wind buffering and scenic viewing.

Prior to project construction, however, more detailed studies will be undertaken to determine, and subsequently avoid, any negative impacts. In

this regard, an evaluation of the protection necessary for boat launching and retrieval will be made, as well as a determination of the project's impact on the adjacent beach. It is understood that adverse impacts to the beach are unacceptable. In addition, the final engineering phase will analyze the feasibility of utilizing the proposed breakwall as a multiple use structure. This would insure its use, not only for protection from wave action, but also an on-shore fishing access point with handicapped accessible features.

- e. Project Implementation: Phasing is not a viable alternative for the construction of this project after additional design work has been completed. All construction work should be completed simultaneously.

A total cost of \$950,000 has been projected based on 1985 cost estimates. Contingencies are computed at 10% of estimated construction costs. Soft costs (legal, administrative costs) are estimated at 20%.

SECTION V

IDENTIFYING TECHNIQUES  
FOR LOCAL IMPLEMENTATION

The Town of Brant currently has in place a number of statutory and administrative mechanisms to assist in the implementation of its Local Waterfront Revitalization Program. These are listed below with brief descriptions of each mechanism and its relevance to policies that are included in Section III.

A. LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

1. Existing Local Laws and Regulations

a. Zoning Ordinance of the Town of Brant (October 1983)

- (1) Description: The Town of Brant's zoning ordinance establishes six zoning districts although only three have relevance to the Town's WRA; rural residential (RR); medium density residential (R1); seasonal residential (R2).

The ordinance regulates uses, densities, open space, signs and parking requirements in these districts. The Planning Board is responsible for reviewing site plans and special use permits.

(2) Relevance to Policies

- (a) Policy 2 - Re: Water-dependent/water enhanced uses: The town's existing zoning in the waterfront area is supportive of such uses.
- (b) Policy 5 - Re: Location of development in areas where public services are available. The entire Town of Brant waterfront area is located within a public sewer district. Although development in the Town's waterfront has not been and is not projected to be significant, the Town's Zoning Ordinance (specifically re: zoning districts and review powers) provides control over the type and density of development.
- (c) Policy 11 - Re: Location of buildings and structures within areas that flood and erode. Section 30-24a of the Town's Zoning Ordinance recognizes the importance of this policy and in conjunction with the Town's Flood Hazard Law prohibits building in such areas.

- (d) Policy 12 - Re: Minimizing damage to natural resources. Section 30-24 of the Town's Zoning Ordinance in conjunction with the New York State Coastal Erosion Hazard Act will provide such protection to natural resources.
- (e) Policy 25 - Re: Protect, restore, enhance natural or man made resources that contribute to overall scenic quality. The zoning districts provided by the Zoning Ordinance, as well as site plan review powers and signage requirements will provide the necessary parameters to promote the enhancement of Old Lake Shore Road.
- (f) Policy 33 - Re: Control of stormwater run-off and sewer overflows. Although a primary responsibility of the Erie County Health Department, the town's ability to review such issues is provided by its site plan review powers. (Section 30-68)
- (g) Policy 36 - Re: Petroleum and Hazardous Materials. The permitted uses in the waterfront area protects storage.
- (h) Policy 38 - Re: Quality and quantity of surface and ground water. Although a primary responsibility of the Erie County Health Department, the Town's ability to review such issues is provided by its site plan review powers. (Section 30-68)
- (i) Policy 39 - Re: Transport Storage of Solid Wastes Prohibited as a permitted use in waterfront area.

b. Town of Brant Land Subdivision Regulations (1972)

- (1) Description: These regulations address procedures standards for review of subdivision plats. The regulations address such things as roadways, lot configurations, drainage and utility easements that are proposed for subdivisions. The Planning Board provides the major source of review and recommendation concerning these plats and make the final decision concerning approval.
- (2) Relevance to Policies: Provisions contained in

Articles 4 and 5 of regulations aid in implementing the following policies.

- (a) Policy 5 - Re: Location of developments in areas where public services are available. See Article 4 & 5 Re: Standards and Required Improvements.
- (b) Policy 11 - Re: Location of buildings to minimize damage caused by flooding and erosion. Article 4 - Section F which prohibits platting of land subject to flooding for residential or other uses.
- (c) Policy 25 - Re: Protect, restore, enhance resources contributing to scenic quality Article 4 - Section 2 which enumerates requirements concerning streets, landscaping and buffering.
- (d) Policy 33 - Re: Stormwater runoff control. The regulations require easements where a subdivision is traversed by a watercourse, drainageway or channel. The easement must conform to the lines of the watercourse or wider, depending on drainage requirements. (Article 4 - Section 2)

c. Flood Damage Prevention Law (1983)

- (1) Description: This local law restricts development within Flood Hazard Areas as identified by the Federal Emergency Management Agency. The law minimizes the likelihood of property damage due to flooding.
- (2) Relevance to Policies
  - (a) Policy 11 - Re: Flooding in special floodhazard areas. Restrictions are placed on building construction techniques to protect property and human safety in certain areas subject to flooding. Uses permitted within special flood hazard areas are limited to parks and small scale municipal uses (e.g. parking lots). Uses permitted within special flood hazard areas are limited to parks and small scale municipal uses (e.g. parking lots). Reference should be made to the Town's Flood Damage Prevention Law for a complete list of permitted uses.

(b) Policy 17 - Re: Use of Non-structural measures to minimize flooding and erosion damage. The law includes requirements for flood proofing buildings such as construction above the base flood level. Uses permitted within special flood hazard areas are limited to parks and small scale municipal uses (e.g. parking lots). Uses permitted within special flood hazard areas are limited to parks and small scale municipal uses (e.g. parking lots). Reference should be made to the Town's Flood Damage Prevention Law for a complete list of permitted uses.

2. Additional Local Laws and Regulations (see Appendix A): Minor revisions to the Zoning Ordinance were made to assist in waterfront policy implementation. In addition a local law known as the LWRP Consistency Law which requires that direct and indirect Town actions be undertaken in a manner consistent with the provisions of the LWRP was enacted as a needed addition to the local codes.

a. Revisions to the Town's Zoning Ordinance

(1) Description

(a) General Compliance: A revision was made requiring that all development and actions within the WRA comply with the policies and provisions of the LWRP. Specifically the "Legislative Intent" section (30-2, Article I) of the ordinance, which declares that these regulations are made "in accordance with the comprehensive plan" and "Procedures for Special Use Permits" (Article VI - 30-67) was amended to require consistency with the LWRP.

(2) Relevant Policies: See A 1.a (2) for relevance of ordinance to policies.

b. LWRP Consistency Law

(1) Description: A local law was adopted which requires the Town Board to review all Type I and unlisted actions that are directly undertaken, approved, or funded by the Town within the WRA for consistency with LWRP policies.

- (2) Relevance to Policies: The Town Board will use appropriate guidelines in the Coastal Assessment Form and policy statements when evaluating actions against the following policies.
- (a) Policy 2 - Re: Water-dependent uses.
  - (b) Policy 5 - Re: Location of development in areas where public services are available.
  - (c) Policy 11 - Re: Location of buildings and structures within areas that flood and erode.
  - (d) Policy 12 - Re: Minimizing damage to natural resources.
  - (e) Policy 13 - Re: Construction and reconstruction of erosion protection measures.
  - (f) Policy 14 - Re: Regulation of activities in order to not increase erosion and flooding.
  - (g) Policy 25 - Re: Protect, restore, enhance natural or man made resources that contribute to overall scenic quality.
  - (h) Policy 33 - Re: Stormwater drainage

B. OTHER PUBLIC ACTIONS NECESSARY TO IMPLEMENT THE LWRP.

1. Other Town Actions Necessary to Implement the LWRP

- a. Public Property Retention/Maximizing Potential: Since a major portion of the Town of Brant shoreline is occupied by Evangola State Park which is under public ownership by New York State, the town will maintain an advocacy role in expanding the recreational potential of the park for Brant residents (ie: boat launch, bicycling, cross-country skiing, etc.) at the lowest possible price for town residents.
- b. Municipal Budgeting: The Town will continue to reserve funds for the maintenance of drainage channels and other infrastructure in the waterfront revitalization area. When appropriate, the Town will utilize a capital bonding policy

which specifies that funds can only be expended for projects in the waterfront area that are consistent with the Town's waterfront program.

- c. Non-local funding: The Town will maintain an awareness of State and Federal programs and other funding sources which may be available and appropriate to implement policies in the waterfront program. Relevant funding programs are listed under "Federal and State Programs Likely to Affect Implementation" (see Section VI). Town personnel will assist in the preparation of specific grant applications to secure any such funding.

2. Other Government Actions Necessary to Implement the LWRP: Refer to Section VI-B (ie. Federal and State Actions and Programs Necessary to Further the LWRP).

C. MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP.

1. Overall Program Coordination: Successful implementation of the town's LWRP will require the participation of the Supervisor, Town Board, Planning Board, Zoning Board of Appeals, and Building Inspector.

The supervisor's office will serve as the lead local contact for the LWRP. The supervisor will be responsible for ensuring that all waterfront related actions are properly reviewed by the Planning Board for consistency with waterfront policies. This office will also be the contact point for all correspondence with NYSDOS regarding the waterfront program.

The Town will also be represented on the Erie County Waterfront Task Force which serves as a vehicle for intermunicipal coordination among the County's waterfront municipalities.

2. Management Responsibilities:

- a. Town Board: The Town Board will enact and amend local laws affecting the implementation of waterfront policy objectives including the adoption of the municipal budget.
- b. Planning Board: The Planning Board will review all type I and unlisted proposed public and private actions within the WRA to ensure compatibility with adopted waterfront policies.

The Planning Board will also determine the necessity for various technical studies and initiate efforts to identify and implement various

public and private projects that further enhance waterfront revitalization.

- c. Board of Appeals: The Board of Appeals will exercise authority over the granting of variances from the provisions included in the Zoning Ordinance.
- d. Building Inspector: The Building Inspector will provide necessary technical support to the Planning Board as requested. Such support will include responsibilities as defined in the Zoning Ordinance and environmental reviews.
- e. Procedures for Local Consistency Reviews and Determinations: All type I and unlisted actions to be directly undertaken, funded, or approved within the local waterfront area by the Town will be subject to review by the Planning Board for consistency with the policies and purposes of the LWRP. The Planning Board will present its recommendations to the lead agency which will determine the consistency of the proposed action.
- f. Local Procedures for Review of Proposed Actions Involving State and Federal Actions: Any proposed action subject to a State and/or federal consistency determination which is referred to the Town Supervisor by a State or federal agency will be submitted to the Town Planning Board for review against the LWRP. The Town Supervisor will also distribute, if appropriate, the description or notification of the proposed action to other Town departments (e.g., law) for review. Such reviews will be undertaken in accordance with the procedures established by the New York State Department of State for coordinating State and Federal consistency determinations (see Appendix B for a detailed description of such procedures).

## IMPLEMENTATION BLUEPRINT

ACTION	IMPLEMENTOR	TIMEFRAME
<b>1. <u>Regulatory Change</u></b>		
o Revisions to Zoning Ordinance	Town of Brant	1987
o Coastal Erosion Hazard Area Law	Town or State	1988
<b>2. <u>Major Actions Impacting Town's Waterfront Revitalization Area</u></b>		
o Wide Beach Remedial Action Program	USEPA	1987-1989
o Evangola State Park Boat Launch	New York State	
- Final Design		1987-1988
- Construction (if Feasible)		1989-1991
Expansion of Recreational Opportunities		1987-1989
<b>3. <u>Other Actions Impacting Town's Waterfront Revitalization Area</u></b>		
o Study of Cattaraugus Creek Harbor Project Impacts on Town of Brant Shoreline	U.S.Army Corps of Engineers	1987-1988
o Study of Wide Beach Indian Reservation Flood Hazard Area re: flooding and drainage in Wide Beach area	NYSDEC U.S.Army Corps of Engineers	1987-1988

Section VI

FEDERAL AND STATE PROGRAMS  
LIKELY TO AFFECT IMPLEMENTATION

FEDERAL AND STATE PROGRAMS  
LIKELY TO AFFECT IMPLEMENTATION

State and federal actions will affect and be affected by implementation of the LWRP. Under State law and the Federal Coastal Zone Management Act, certain State and Federal actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions. While consistency requirements primarily help prevent detrimental actions from occurring and help ensure that future options are not foreclosed needlessly, active participation on the part of state and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of state and federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected state agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRP's. Similarly, federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of state and federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to state and federal consistency requirements may be obtained from the NYS Department of State.

The second part of this section is a listing of specific key actions and projects necessary to implement the LWRP. The third part of this section is a general list of state and federal agency actions which are necessary to further the implementation of the LWRP. It is recognized that a state or Federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency requirements cannot be used to require a state or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section V, which also discusses state and federal assistance needed to implement the LWRP.

A. FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE CARRIED OUT IN A MANNER CONSISTENT WITH THE LWRP.

The following is a list of Federal actions and programs which are to be undertaken in a manner consistent with the LWRP. The actions and programs are listed under three categories: (1) Direct Federal activities and development projects, (2) Federal licenses and permits, and (3) Federal assistance.

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plan

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorization for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations, (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of Federal surplus lands and structures.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

National Park Service

- 3.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak, Conrail

- 1.00 Expansions, curtailments, new construction, upgradings or abandonments of railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- 4.00 Expansion, abandonment, designation of anchorage, lightering areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

- 5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

6.00 Highway construction.

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401,403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404,405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 4.00 Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S. pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).

- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.

- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

INTERSTATE COMMERCE COMMISSION

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

DEPARTMENT OF TRANSPORTATION

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

FEDERAL ASSISTANCE\*

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program  
10.409 Irrigation, Drainage, and other Soil and Water Conservation Loans  
10.410 Low to Moderate Income Housing Loans  
10.411 Rural Housing Site Loans  
10.413 Recreation Facility Loans  
10.414 Resource Conservation and Development Loans  
10.415 Rural Rental Housing Loans  
10.416 Soil and Water Loans

- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V activities.
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks

- 14.218 Community Development Block Grant/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-In-Aid
- 15.417 Urban Parks and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement -Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

SMALL BUSINESS ADMINISTRATION

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 50.031 Small Business Pollution Control Financing Guarantee

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

\* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

B. STATE ACTIONS AND PROGRAMS WHICH SHOULD BE CARRIED OUT IN A MANNER CONSISTENT WITH THE LWRP.

The following is a generic list of State agency programs and activities, as identified by the NYS Department of State, which should be undertaken in a manner consistent with approved LWRP's. It should be noted that some of these programs and activities may not be relevant to the Village of Youngstown waterfront revitalization area.

Pursuant to Article 42 of the Executive Law, the Secretary of State individually and separately notifies affected State agencies in those agency programs and activities which are to be undertaken in a manner consistent with approved LWRP's. The following list is informational only and does not represent or substitute for the notification required by Article 42.

DEPARTMENT OF COMMERCE

- 1.00 Preparation or revision of statewide or specific plans to address economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

DEPARTMENT OF CORRECTIONAL SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or funding of such activities.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
- 2.01 Certificate of Incorporation (Regents Charter)
  - 2.02 Private business school registration
  - 2.03 Private school license
  - 2.04 Registered manufacturer of drugs and/or devices
  - 2.05 Registered pharmacy certificate
  - 2.06 Registered wholesaler of drugs and/or devices
  - 2.07 Registered wholesaler-repacker of drugs and/or devices
  - 2.08 Storekeeper's certificate

ENERGY PLANNING BOARD AND ENERGY OFFICE

- 1.00 Preparation and revision of the State Energy Master Plan.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
  
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
  
- 7.00 Marine Finfish and Shellfish Programs.
  
- 8.00 New York Harbor Drift Removal Project.
  
- 9.00 Permit and approval programs:
  - Air Resources
  - 9.01 Certificate of Approval for Air Pollution Episode Action Plan
  - 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility.
  - 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
  - 9.04 Permit for Burial of Radioactive Material
  - 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
  - 9.06 Permit for Restricted Burning
  - 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities.

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
  
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
  
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License

Lands and Forest

- 9.21 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.22 Floating Object Permit
- 9.23 Marine Regatta Permit
- 9.24 Mining Permit
- 9.25 Navigation Aid Permit
- 9.26 Permit to Plug and Abandon (a non-commercial oil, gas or solution mining well)
- 9.27 Permit to use chemicals for the control or elimination of aquatic insects.
- 9.28 Permit to use chemicals for the control or elimination of aquatic vegetation
- 9.29 Permit to use chemicals for the control or extermination of undesirable fish
- 9.30 Underground storage permit (gas)
- 9.31 Well drilling permit (oil, gas, and solution salt mining)

Marine Resources

- 9.32 Digger's Permit (shellfish)
- 9.33 License of Menhaden Fishing Vessel
- 9.34 License for Non-Resident food fishing vessel
- 9.35 Non-resident lobster permit

- 9.36 Marine Hatchery and/or off-bottom culture shellfish permits
- 9.37 Permits to take blue-claw crabs
- 9.38 Permits to use pond or trap net
- 9.39 Resident commercial lobster permit
- 9.40 Shellfish bed permit
- 9.41 Shellfish shipper's permit
- 9.42 Special permit to take surf clams from waters other than the Atlantic Ocean

Regulatory Affairs

- 9.43 Approval - Drainage Improvement District
- 9.44 Approval - Water (Diversion for) Power
- 9.45 Approval of Well System and Permit to Operate
- 9.46 Permit - Article 15, (Protection of Water) - Dam
- 9.47 Permit - Article 15, (Protection of Water) - Dock, pier or wharf
- 9.48 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.49 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.50 Permit - Article 15, Title 15 (Water Supply)
- 9.51 Permit - Article 24, (Freshwater Wetlands)
- 9.52 Permit - Article 25, (Tidal Wetlands)
- 9.53 River Improvement District approvals
- 9.54 River Regulatory District approvals
- 9.55 Well drilling certificate of registration

Solid Wastes

- 9.56 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.57 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.58 Approval of plans for wastewater disposal systems
- 9.59 Certificate of Approval of Realty Subdivision Plans
- 9.60 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.61 Letters of Certification for major onshore petroleum facility oil spill prevention and control plan
- 9.62 Permit - Article 36, (Construction in Flood Hazard Areas)

- 9.63 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.64 Permit Granted (for use of state maintained flood control land)
- 9.65 State pollutant discharge elimination system (SPDES) permit
- 9.66 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan
- 12.00 Preparation and revision of Statewide Environmental Plan.
- 13.00 Protection of natural and man-made beauty program.
- 14.00 Urban Fisheries Program
- 15.00 Urban Forestry Program
- 16.00 Urban Wildlife Program

ENVIRONMENTAL FACILITIES CORPORATION

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

FACILITIES DEVELOPMENT CORPORATION

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses and buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.

DEPARTMENT OF HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Approval of completed works for public water supply improvements
  - 2.02 Approval of plans for public water supply improvements
  - 2.03 Certificate of need (health related facility - except hospitals)
  - 2.04 Certificate of need (hospitals)
  - 2.05 Operating certificate (Diagnostic and Treatment Center)
  - 2.06 Operating certificate (Health Related Facility)
  - 2.07 Operating certificate (Hospice)
  - 2.08 Operating certificate (Hospital)
  - 2.09 Operating certificate (Nursing Home)
  - 2.10 Permit to operate a Children's Overnight or Day Camp
  - 2.11 Permit to operate a migrant labor camp
  - 2.12 Permit to operate as a retail frozen dessert manufacturer
  - 2.13 Permit to operate a service food establishment
  - 2.14 Permit to operate a temporary residence/mass gathering
  - 2.15 Permit to operate or maintain a swimming pool or public bathing beach
  - 2.16 Permit to operate sanitary facilities for realty subdivisions
  - 2.17 Shared health facility registration certificate

DIVISION OF HOUSING AND COMMUNITY RENEWAL and its subsidiaries and affiliates

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance payments programs (Section 8 Programs)
  - 2.02 Housing Development Fund programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing programs

- 2.05 Rural Initiative Grant Program
- 2.06 Rural Preservation Companies Program
- 2.07 Rural Rental Assistance Program
- 2.08 Special Needs Demonstration Projects
- 2.09 Urban Initiatives Grant Program
- 2.10 Urban Renewal Programs

3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.

JOB DEVELOPEMENT AUTHORITY

1.00 Financing asssttance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

1.00 Financing of medical care facilities

OFFICE OF MENTAL HEALTH

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs:

- 2.01 Operating Certificate (Community Residence)
- 2.02 Operating Certificate (Family Care Homes)
- 2.03 Operating Certificate (Inpatient Facility)
- 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs

NIAGARA FRONTIER TRANSPORTATION AUTHORITY (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.

2.00 Facilities construction, rehabilitation, expansion, or demolition.

3.00 Increases in special fares for transportation services to public water-related recreation resources.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commissions)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding programs for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
  - 7.01 Floating objects permit
  - 7.02 Marine Regatta Permit
  - 7.03 Navigation Aide Permit
  - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services programs
- 10.00 Urban Cultural Parks Program

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

DEPARTMENT OF SOCIAL SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential

- Care Facilities)
- 3.02 Operating Certificate (Children's Services)
- 3.03 Operating Certificate (Enriched Housing Program)
- 3.04 Operating Certificate (Home for Adults)
- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to operate a Day Care Center

DEPARTMENT OF STATE

- 2.00 Coastal Management Program
- 3.00 Community Services Block Grant Program
- 4.00 Permits and Approval Programs
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator
  - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

- 11.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

DIVISION OF SUBSTANCE ABUSE SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of Approval (Substances Abuse Services Program)

NEW YORK STATE THRUWAY AUTHORITY

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.
- 3.00 Permit and approval programs:

- 3.01 Advertising Device Permit
- 3.02 Approval to Transport Radioactive Waste
- 3.03 Occupancy Permit

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
  - (a) Highways and parkways
  - (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Barge Canal
  - (e) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning /preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
  - 4.01 Approval of application for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities.
  - 4.04 Approval of municipal or regional transportation authority application for funds for design and construction of rapid transit facilities
  - 4.05 Certificate of Convenience and Necessity to operate a railroad
  - 4.06 Highway Work permits
  - 4.07 License to operate major petroleum facilities

- 4.08 Outdoor advertising permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 Permits for use and occupancy of N.Y. State Canal Lands (except regional permits (snow dumping))
- 4.10 Real property division permit for use of state-owned property
- 5.00 Preparation or revision of the Statewide Master Plan for transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water operation and maintenance program activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Construction, rehabilitation, expansion, or demolition of residential, commercial, industrial, and civic facilities and the funding of such activities, including but not limited to actions under the following programs:
  - (a) Tax exempt financing program
  - (b) Lease collateral program
  - (c) Lease financial program
  - (d) Targeted investment program
  - (e) Industrial buildings recycling program

DIVISION OF YOUTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition and the funding or approval of such activities.

B. FEDERAL AND STATE ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP

1. Federal Actions and Programs

a. U.S. Army Corps of Engineers

1. Re: Cattaraugus Creek Harbor Project Impacts

- furnish technical input concerning water quality and littoral drift as well as shoaling as it relates to Creek project and any environmental impacts resulting from the project impacting the Town of Brant waterfront.

2. Re: Proposed Boat Launch in Evangola State Park

- furnish technical/design input on coastal engineering issues - shoaling, littoral drift, wave action.  
Review and approve breakwater design and siting (if appropriate).  
Review, authorize and issue joint permits for waterside work.  
Potential funding agency to cost share breakwater construction.

b. U.S. Environmental Protection Agency

1. Re: Wide Beach Remedial Action Program Continuation of funding assistance to NYSDEC for implementation of remedial program in Wide Beach (as provided by proposed new Superfund Act)

2. State Actions and Programs

a. New York State Department of Environmental Conservation (NYSDEC)\_

1. Re: Proposed Boat Launch in Evangola State Park

- o NYSDEC will be requested to review SEQR actions for uplands and waterside improvements.
- o NYSDEC will be requested to review authorize and issue permits for waterside construction.
- o NYSDEC will be requested to provide technical assistance in the area of design review and impact on fisheries.
- o NYSDEC Lake Access Program is a potential funding source for implementation of the project.

2. Re: Wide Beach Remedial Action Program NYSDEC will continue to administer the Wide Beach Remedial Action Program on behalf of the U.S.

Environmental Protection Agency.

3. Re: Flooding in Wide Beach along southern border with Indian Reservation.

4. Re: Coastal Erosion

Finalize erosion hazard areas to assist the Town in determining the severity of their shoreline erosion problems and the need to impose a regulatory program as outlined in the NYS Coastal Erosion Management Act.

b. New York State Department of State

1. Re: Proposed Launch in Evangola State Park

- Provide financial assistance through the Local Waterfront Revitalization Program for planning and design for next phase of boat launch.

c. New York State Department of Transportation

- Maintain Seaway Trail signs along Old Lake Shore Road.

d. Office of Parks, Recreation and Historic Preservation

1. Re: Proposed Boat Launch in Evangola State Park

- Project owner and sponsor
- Potential funding source for project (ie: Land and Water Conservation Fund)

2. Re: Expansion of recreational opportunities at Park

- Provide increased opportunity as appropriate

SECTION VII

CONSULTATION WITH OTHER AFFECTED  
FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES

## A. DESCRIPTION OF CONSULTATION ACTIVITIES

1. **Method:** The Town of Brant has used a variety of approaches for consulting federal, state, regional and local agencies and municipalities that are affected by/or impact the development of the Town of Brant Local LWRP. These approaches were selected to facilitate understanding of the town's waterfront program, promote information sharing, coordinate related agency efforts and coordinate efforts to resolve conflicts between the LWRP and the policies/or programs of governmental agencies. The approaches used include technical consultations and written communications.

### 2. Description of Procedures

a. **Technical Consultations:** Issue-focused meetings and discussions have been held with numerous government officials and agencies as noted below on a needs basis concerning the development of the Town of Brant Local Waterfront Revitalization Program.

(1) New York State Department of Environmental Conservation (NYSDEC): Discussion, both as part of meetings and phone conversations, have been held with staff from the regional NYSDEC Office concerning the following waterfront issues in the Town of Brant: the proposed boat launch in Evangola State Park,

flooding problems between the wide beach area and Inactive Hazardous Waste Site Remedial Action Study and its implementation.

(2) New York State Office of Parks and Recreation (NYSOPR): Close coordination has occurred among Town of Brant officials. County staff and the regional office of NYSOPR which is located in Niagara Falls, New York. This has occurred due to the proposed boat launch at Evangola State Park, as well as in relationship to existing and proposed uses in the Park. A meeting with Regional Director Mario Pirastru in December 1984 provided the incentive to pursue the Boat Launch Feasibility Study for Evangola State Park. James Manning, Superintendent of Evangola State Park, has attended most planning board meetings concerning the waterfront program, was a representative on the town's waterfront consultant selection committee, and participated in all technical meetings with

the consultant as the boat launch study progressed. He continues to work with county staff in this regard.

- (3) United States Army Corps of Engineers: Two waterfront program issues for the Town of Brant have necessitated discussion with the U.S. Army Corps of Engineers District Office in Buffalo, New York. The first issue concerned the impact of the recently completed (1983) Cattaraugus Creek harbor project on the Town of Brant shoreline. The second issue is the possible need for an off-shore breakwall in relation to the proposed boat launch and what the design requirements might be, given off-shore Lake conditions. In addition to informal discussions by consultant staff concerning the proposed boat launch, a meeting was held at the Corps offices in August 1985 which discussed both of these concerns. Concerning the former issue, a letter will be sent at an appropriate time by the Town to the Corps to document its understanding of the Corps' intent to monitor the harbor impacts in relation to littoral drift and water quality along the Town's waterfront.
- (4) Coordination with LWRP's in Adjacent Waterfront Municipalities (Town of Evans, Cattaraugus Indian Reservation, Village of Farnham): All of the above noted adjacent municipalities were invited to meetings as work on the Town of Brant waterfront program progressed. The Mayor of the Village of Farnham has had a particular interest in being made aware of waterfront program progress. The consultants who are preparing the Cattaraugus Indian Reservation's waterfront program elements were contacted and sent a summary of the Town's waterfront program. Particular emphasis was placed on resolving the flooding problem occurring at the Town of Brant-Indian Reservation boundary at Wide Beach. No information concerning any aspects of the reservation's program has been provided by its consultant and no comments were provided to the County by the consultant concerning the Town's program.

(5) Coordination with elected Federal, State, Local Officials Representing Town of Brant Waterfront: There has been very little direct participation in waterfront program development by government officials except that provided by the Town Supervisor. State Assemblymen have, however, indicated particular interest in the boat launch project and have been forwarded pertinent information on a regular basis.

(6) Coordination with Erie County Department of Environment and Planning. Erie County's Division of Environmental Control has continuously monitored the Wide Beach studies in the Town of Brant and has participated actively in the discussions and meetings that have been held in that regard. County staff working on the Town of Brant waterfront program have discussed the elements of the Town of Brant waterfront program in relation to the Wide Beach issue with the Environmental Control Division. The Erie County Planning Division has had responsibility for working with the County Highway Division in developing highway design guidelines. In discussing the future plans for Old Lakeshore Road, there was agreement that no changes would need to be made in the design of that road without it providing consistency with the Town's waterfront program.

b. Written Communications: In order to insure that relevant waterfront agencies and government officials have been kept informed of progress being made in the development of the Town's waterfront program two methods of written communication were used.

(1) Transmittal of Technical Memorandum: A technical memorandum was sent to appropriate federal, State, regional and local agencies and officials in January 1986. The memorandum reviewed all aspects of the Local Waterfront Revitalization Program.

(2) Transmittal of Draft Task Products. Both government officials in the Town of Brant as well as in the Village of Farnham, Town of Evans and related governmental agencies have been sent draft products developed as part of the waterfront program.

3. Accomplishments Resulting from the Use of Consultation Procedures: Both techniques, technical consultations and written communications, have been an effective way to transmit information on the development of the Local Waterfront Revitalization Program. Consultation on the technical aspects of the program with all agencies has been necessary as few were aware of the interests and concerns of the Town. Both these techniques helped to provide the basis for consistency with agency programs and secure the support needed for program implementation.

B. CONFLICT RESOLUTION METHODS

1. Method: The consultation methods noted previously also provide a mechanism to resolve conflicts both general and locally oriented concerning the Local Waterfront Revitalization Program. In addition to those previously mentioned two other conflict resolution methods have been utilized: (1) Erie County Waterfront Policy Plan and (2) SEQR Coastal Assessment.

(a) Erie County Waterfront Policy Plan: This plan was prepared by the Erie County Department of Environment and Planning in 1983. The plan provides policies pertaining to waterfront management that focus on insuring consistent and up to date approaches to waterfront issues facing the area. The plan has been used as a reference resource throughout the development of all the municipal waterfront revitalization programs that the county has been involved in preparing. The plan will also be used as a reference by which the county through its integrated review process reviews appropriate local waterfront actions for consistency and impacts. This type of review enables the early identification of potential conflicts and recommends alternative actions or means to resolve the conflicts.

(b) SEQR Coastal Assessments: It is anticipated that as part of the SEQR process the evaluation required by the coastal assessment procedures will provide a major means to identify and resolve conflicts between federal, State and local agencies.

2. Accomplishments Resulting From Use of Conflict Resolution Measures: Use of Erie County's Waterfront Policy Plan has demonstrated its ability to provide a comprehensive coordinated approach to waterfront planning both in the Town of Brant and the other waterfront municipalities. Appropriate elements of this plan have been incorporated

into the Town's program. Use of the County plan in reference to waterfront program development diminishes the probability of major conflicts as waterfront programs are implemented.

SECTION VIII  
LOCAL COMMITMENT

## TOWN OF BRANT

### SECTION VIII. LOCAL COMMITMENT

The Town of Brant has established and carried out, in conjunction with Erie County and the other waterfront municipalities in Erie County, procedures for obtaining local commitment to its Local Waterfront Revitalization Program. A two tier method was selected to facilitate understanding and commitment at the municipal level and also promote information sharing and coordination of LWRP's among all participating Erie County municipalities as well as with related waterfront.

Two types of advisory committees comprise this two tier approach in the Town of Brant including (1) an intermunicipal Erie County Waterfront Task Force and (2) designation of the Town Planning Board as the LWRP advisory committee.

These groups met throughout the LWRP preparation process and provided valuable guidance to Town and County officials. Two public meetings were also held to obtain citizen feedback.

APPENDIX A

ADDITIONAL LOCAL LAWS ADOPTED TO IMPLEMENT  
THE LWRP

LOCAL LAW NO. 2 FOR THE YEAR 1987  
TOWN OF BRANT

LOCAL CONSISTENCY LAW FOR THE TOWN OF BRANT

BE IT ENACTED, BY THE TOWN BOARD OF THE TOWN OF BRANT AS FOLLOWS:

This Local Waterfront Revitalization Program (LWRP) consistency law for the Town of Brant requires all Type 1 and Unlisted actions (as defined by the State Environmental Quality Review Act (SEQRA) implementing regulations) that would be directly undertaken, approved, or funded by the Town to be reviewed by the Town Board for consistency with the Town of Brant LWRP. The law further prohibits such actions from being carried out, unless the Town Board finds and certifies that the action is consistent with the policies and purposes of LWRP. This applies equally to actions involving the Town Board and Town agencies. By adoption of this local law, the Town Board is legally committing itself and its agents to comply with the provisions of the LWRP.

ARTICLE I - GENERAL PROVISIONS

Section 1.1 - TITLE

This local law shall be known and may be cited as the Town of Brant LWRP Consistency Law.

Section 1.2 - PURPOSE

The purpose of this local law is to 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.

**Section 1.3 - AUTHORITY**

This law is adopted under the authority of Town Board, Town of Brant

**Section 1.4 - APPLICABILITY**

All agencies of the Town of Brant must comply with this local law, 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.

**Section 1.5 - SEVERABILITY**

The provisions of this local law are severable. If any part of this local law is found invalid, such findings will apply only to the particular provision and circumstances in question. The remainder of this local law, and the application of the disputed provision to other circumstances, will remain valid.

**Section 1.6 - DEFINITIONS**

- (a) "Action" means either a "Type I" or "Unlisted" action as defined in SEQR regulations at 6NYCRR 617.2.
- (b) "EAF" means Environmental Assessment Form as defined at 6NYCRR 617.2 (1).
- (c) "EIS" means Environmental Impact Statement as defined at 6NYCRR 617.2 (m).
- (d) "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the NYS Coastal Management Program within the Town of Brant as approved by the

Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State).

- (e) "Part 617" means the State Environmental Quality Review Regulations. (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).
- (f) "SEQR" means the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).
- (g) "Town" means the Town of Brant.
- (h) "Town Agency" means any board, department, office, other bodies or officers of the Town of Brant.
- (i) "Town Board" means the Town Board of the Town of Brant.
- (j) "CAF" means Coastal Assessment Form as adopted by the Town.
- (k) "Waterfront Area" means that portion of the NYS Coastal Area within the Town of Brant as delineated in the Town of Brant Local Waterfront Revitalization Program.
- (l) All other terms for which definitions are given in SEQR and/or Part 617 shall have the same meanings in this local law.
- (m) "Planning Board" means the Town of Brant Planning Board.

ARTICLE II - CONSISTENCY REVIEW PROCEDURES

Section 2.1 - INITIAL REVIEW

- 2.1.1 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.

Section 2.2 - CERTIFICATION OF CONSISTENCY.

- 2.2.1 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 pursuant to section 2.1, the Town Board shall either:
- (a) 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
  - (b) 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:
    - (i) 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;
    - (ii) the action will minimize all adverse effects on

such policy to the maximum extent practicable; and  
(iii) the action will result in an overriding regional or state-wide public benefit. Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with the LWRP; or

(c) Find and certify in writing 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 in (b) just above.

2.2.2. The Town Board shall complete its review of the proposed action's consistency and prepare a written finding to the referring Town agency within thirty (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.

2.2.3 The written findings and certification of the Town Board shall be filed with the Town Clerk before the action is undertaken, approved, or funded.

2.2.4. No action shall be undertaken, approved, or funded unless the Town Board, certifies its consistency with the policies and purposes of the LWRP by a finding pursuant to either 2.2.1(a) or 2.2.1(b) above.

Section 3.1 EFFECTIVE DATE

This local law shall take effect immediately upon approval of the Town of Brant Local Waterfront Revitalization Program by the NYS Secretary of State.

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LOCAL LAW NO. 3 FOR THE YEAR 1987  
AMENDING THE  
"ZONING ORDINANCE OF THE  
TOWN OF BRANT, ERIE COUNTY, NEW YORK"

TOWN OF BRANT

A local law for the year 1987 amending the "Zoning Ordinance of the Town of Brant, Erie County, New York"

BE IT ENACTED, BY THE TOWN BOARD OF THE TOWN OF BRANT, as follows:

SECTION I

Amending Article II; Section 30-4 of the "Zoning Ordinance of the Town of Brant, Erie County, New York" (Zoning Ordinance).

That Article II; Section 30-4 is hereby amended to include the following:

Local Waterfront Revitalization Program (LWRP): The local program to implement the New York State Coastal Management Program within the Town of Brant as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of N.Y.S.)

SECTION II

Amending Article IV; Section 30-13 (C) of the "Zoning Ordinance."

That Article IV; Section 30-13 (C) is hereby amended to include the following:

9. Those uses allowed in Section 30-13(A) and situated in the Waterfront area as defined in the Town's L.W.R.P. which exceeds one (1) or more of the following thresholds:

- (a) The use requires ten (10) or more parking spaces or loading docks, or any combination thereof which totals ten (10) or more spaces or docks.
- (b) The use results in the improvements to, or changes in use of land totalling 1.5 acres or more.

SECTION III

Amending Article IV; Section 30-15 (C) of the "Zoning Ordinance."

That Article IV; Section 30-15 (C) be amended to include the following:

4. Those uses allowed in Section 30-15(A) and situated in the Town's Waterfront Area as defined in the Town's L.W.R.P. which exceed one (1) or more of the following thresholds:

- (a) The use requires ten (10) or more parking spaces or loading docks, or any combination thereof which totals ten (10) or more spaces or docks.
- (b) The use results in the improvements to, or changes in the use of land totalling 1.5 acres or more.

SECTION IV

Amending Article X; Section 30-67(B) of the "Zoning Ordinance."

That Article X; Section 30-67(B) is hereby amended to read as follows:

B. Procedures For Special Use Permits. All applications for Special Use Permits shall be made to the Town Clerk as specified in 30-68. The Clerk, after determining that an application is in the proper form, shall transmit one (1) copy of the application and all supporting documents to the Town Board for action thereon. At the same time, the Town Clerk shall transmit one (1) copy of the application and all supporting documents to the Planning Board for review of the site plan, and for an evaluation of the proposed use and its relationship and conformity to the goals and objectives and policies established by the Town Comprehensive Master Plan and the Town's L.W.R.P.

SECTION VI

This Local Law shall take effect immediately upon approval of the Town of Brant Local Waterfront Revitalization Program by the New York State Secretary of State.

APPENDIX B  
GUIDELINES FOR LOCAL REVIEW OF  
FEDERAL AND STATE ACTIONS

NEW YORK STATE DEPARTMENT OF STATE  
COASTAL MANAGEMENT PROGRAM

Guidelines for Notification and Review of State Agency Actions  
Where Local Waterfront Revitalization Programs Are in Effect

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization and Coastal Resources Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

A. Action means:

- 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQR);
- 2. Occurring within the boundaries of an approved LWRP; and
- 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
  2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
  3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

### III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
  1. Shall fully describe the nature and location of the action;
  2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and local government;
  3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

### IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should

promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.

- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

#### V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP.
  - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
  - 2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

2/1/85

Procedural Guidelines for Coordinating NYS DOS & LWRP  
Consistency Review of Federal Agency Actions

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.

5. After that notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant will be forwarded to the program coordinator.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

#### FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. the review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

