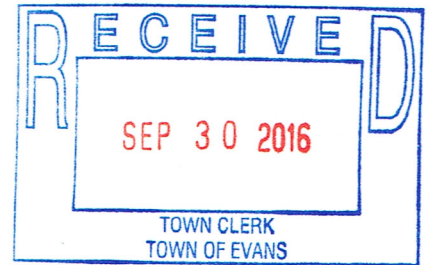


**Edward G. Schneider III**

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Thursday, September 29, 2016

Evans Town Board / Evans Planning Board / Evans Zoning Board  
8787 Erie Road  
Angola, NY 14006

NOTE TO TOWN CLERK: Please include this letter under communications on the next town board meeting agenda.

RE: Town of Evans Local Waterfront Revitalization Program (LWRP)(1987)

Link to the Town of Evans LWRP as posted on the NYS Department of State Website:  
[http://docs.dos.ny.gov/opd-lwrp/LWRP/Evans\\_T/Amendment1/Final/EvansSII.pdf](http://docs.dos.ny.gov/opd-lwrp/LWRP/Evans_T/Amendment1/Final/EvansSII.pdf)

New waterfront projects MUST be “consistent” with the Town’s Local Waterfront Waterfront Program (LWRP). Below are sections of the LWRP where the proposed restaurant project in Point Breeze is “inconsistent” with the Town’s LWRP.

**From The Evans LWRP - Section II - Page #30**

It is in the public interest that State and other governmental *ownership of public trust lands be maintained and, when possible, recovered from private ownership.*

Where full public ownership no longer exists, the application of the Public Trust Doctrine required that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment.

Attachments #1 and #2 are from the LWRP with important text highlighted.

Very truly yours,

Edward G. Schneider III

NOTE TO TOWN CLERK: Please Give A Copy Of This Letter To:

- All Members Of The Town Board
- The Town Attorney
- Planing Board
- Zoning Board
- Community Development
- Parks

FN: TOE\_2016\_10\_05\_LWRP.wpd

# ATTACHMENT #1

The proposed restaurant would block access to the playground and picnic area between the site and Lake Erie. This is “not consistent” with LWRP General Policy 18 which protects recreation uses.

## GENERAL POLICY

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**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.

### Explanation of Policy

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, cultural, economic and environmental interests of the State and their citizens in such matters that would affect natural resources, water levels and flows, shoreline damage, hydro-electric power generation, and recreation.

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Section III

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# ATTACHMENT #2

TOWN OF ENANS LWRP AS FILED WITH THE NYS DOS

## PUBLIC ACCESS POLICIES

### POLICY 19

**Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.**

### Explanation of Policy

Public access and recreation can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the waterfront. This policy calls for achieving balance among the following factors: the level of access to a water related recreational resource or facility; the capacity of the resource or facility; and the protection of natural resources. The imbalance among these factors is due to access related problems. Thus, priority must be given to improving physical access to existing and potential waterfront recreation sites. The water related recreation resources and facilities in the Town that should receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. In addition, because of the greater competition for waterfront locations, this policy encourages mixed use areas and multiple use of facilities to improve use and access.



## Town of Evans Local Waterfront Revitalization Program

### Section III

In the Evans LWRA, there are a variety of water related recreation resources that extend along the shoreline and are enjoyed by the public. These include the Hobuck Flats and Joel Harvey fishing access sites on Eighteen Mile Creek, Sturgeon Point Marina, Wendt Beach County Park, Bennett Beach County Park, Purvis Landing, Evans Town Park, ***Lake Erie Beach Park*** and Evangola State Park. The County and State Parks and the Sturgeon Point Marina are regional destinations, while the other parks provide recreation and public access opportunities to local residents. The Sturgeon Point Marina provides the only available public dockage or boat launching facilities between the City of Buffalo and Cattaraugus Creek / Sunset Bay. Access to the waterfront parks is adequate. Additional opportunities exist for improved public access at the terminus of Wendt Road. This is the former location of a boat launch ramp, but over time this facility fell into disrepair and was abandoned. However, the site is still utilized for informal access to the waterfront. This area is an excellent location for launching small, non motorized watercraft, such as canoes and small boats that can be carried to the water. Access opportunities of this type are lacking along the waterfront. There is a small area that can be improved for parking and lighting available for public safety purposes. The Town should pursue the improvement of this area for additional public access and recreation (See Policy 21).

The Town should continue to develop improved opportunities for access and recreation at Sturgeon Point Marina through the development of the upland area for additional parking and passive recreation. The public fishing areas along Eighteen Mile Creek are important recreational resources that should also be improved and protected. The Town should also take advantage of other opportunities that may come about in the future to improve and increase access to the shoreline. Although existing access to each individual facility is sufficient, there is a need to provide safe and effective access to, and between, the waterfront parks for those who travel by non vehicular means. The Town is currently working on developing a multi use pathway that would span the length of Lake Shore Road. This pathway would connect all the water related recreation facilities, as well as other cultural resources on the waterfront, providing safe and convenient access for pedestrian and bicyclists. To date, the Town has secured funding for portions of this amenity, but efforts must continue until the multi use pathway is fully constructed. Completion of all phases of this pathway, with future linkage to the Village of Angola, is essential to improving and increasing public access to the waterfront. This pathway would also provide improved opportunities for recreation and fitness for local residents who currently utilize Lake Shore Road.

### **When determining the consistency of a proposed action with this policy, the following guidelines and provisions should be considered:**

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.***

However, in the latter case, unless 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 Town of Evans Local Waterfront Revitalization Program to be necessary by the public body that has jurisdiction over such access as the result of a reasonable justification of the need to meet system wide objectives.

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



- Access the ability and right of the public to reach and use public coastal lands and waters.
- Public water related recreation resources of facilities all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or are enhanced by a waterfront location.

- Public lands or facilities lands or facilities held by the public sector in fee simple or less than fee simple ownership and to which the public has access or could have access, including access to underwater lands and the foreshore. **A reduction in the existing level of public access includes, but**

**is not limited to, the following:**

- The number of parking spaces at a public water related recreation resource or facility is significantly reduced.**
- 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 system wide objectives.
- 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.
- Pedestrian access is diminished or blocked completely by public or private development.**
- 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; and/or admission fees to such a resource or facility except where the public body having jurisdiction over such fares determines that such fare increases are necessary; and an analysis shows that such increases will significantly reduce usage by individuals or families and incomes below the State established poverty level. An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
  - Construction of public facilities that physically prevent the provision, except at great expense, of convenient public access to public water related recreation resources and facilities.
- Sale, lease, or other transfer of public lands that could provide public access to a public water related recreation resource or facility.**
- Construction of private facilities that physically prevent the provision of convenient public access to public water related recreation resources or facilities from 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:

- The level of access to be provided should correlate with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - The level of access to be provided shall not cause a degree of use that 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.
- Any action for improving or increasing public access to water related recreational facilities that involves State funding shall be open to all members of the public.

3. The Town should provide a level of public access and recreational use that takes into account the following factors:

- Proximity to business districts and adjacent residential areas,
- Public demand for access,**
- The type and sensitivity of natural resources that could be effected by increased access,
  - The needs of special groups, such as the elderly or persons with disabilities, and

- e. The potential for adverse impacts to adjacent land uses.
- 4. Where feasible, the Town should provide convenient, well defined physical access to and along the Lake for water related recreation.
- 5. Recognize and capitalize on the designation of Lake Shore Road as part of the New York State Seaway Trail.
- 6. Provide incentives for private development and redevelopment projects that provide public access and/or water related recreational facilities.

7. **Protect and maintain existing public access and recreational facilities by:**

a. **Preventing any on site or adjacent development project or activity from directly or indirectly impairing physical access and recreation or adversely affecting the quality of such access.**

b. Preventing physical deterioration of existing access and recreational facilities due to lack of maintenance or overuse.

c. Protecting and maintaining the supporting infrastructure for public access and recreational facilities.

d. **Improving existing pedestrian access to the waterfront.**