

prosecution and penalty. The Town may also enforce this article by injunction or other civil proceeding.

§ 270-8. Applicability.

This article shall supersede and repeal any previous local regulations regarding consistency with LWRP. This article shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

§ 270-9. Severability.

The provisions of this article are severable. If any provision of this article is found invalid, such finding shall not affect the validity of this article as a whole or any part or provision hereof other than the provision so found to be invalid.

270 Attachment 1

**Town of Hamburg
Waterfront Assessment Form**

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, Town of Hamburg agencies, shall complete this WAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by the designated Town agency in making a determination of consistency with the Town of Hamburg Local Waterfront Revitalization Program.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any questions in Section C on this form are answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination regarding its consistency with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.
4. This form should be filled out by the applicant and submitted to the Town of Hamburg Planning Division

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of Town of Hamburg agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) _____
- (b) Financial assistance (e.g. grant, loan, subsidy) _____
- (c) Permit, approval, license, certification _____
- (d) Agency undertaking action _____
2. Describe nature and extent of action: Development of a +/-2.4 acre lot to be used as a 10,640 sq ft retail store for a single tenant. The project includes on-site parking, landscaping stormwater management per NYSDEC guidelines, and on-site septic per County guidelines. The project will also involve a minor 2-lot subdivision to be completed upon site plan approval.
3. Location of action (Street or Site Description. Please include the parcel(s) tax map number(s)): NE corner of the intersection at Lake Shore Road and the Big Tree Traffic Circle. Tax Map # 159.00-1-8.1
4. Size of site: +/- 2.4 acres
5. Present land use: Vacant commercial land (undeveloped)
6. Present zoning classification: C-2 General Commercial
7. Describe any unique or unusual landforms on the project site (i.e. bluffs, wetlands, ground depressions, other geological formations): Foster Brook runs along the eastern property boundary. There are 2 small area total 0.38 acres and appear to be unconnected depressional wetlands. The wetlands are Federal-Only and are under review by USACE. These wetlands are expected to be non-jurisdictional.
8. Percentage of site which contains slopes of 15% or greater: none
9. Streams, lakes, ponds or wetlands existing within or continuous to the project area?
- (a) Name Foster Brook and Wetlands
- (b) Size (in acres) Wetlands are 0.38 acres.
10. Is the property serviced by public water? Yes No _____
11. Is the property serviced by public sewer? Yes _____ No
12. If an application for the proposed action has been filed with the Town of Hamburg agency, the following information shall be provided:
- (a) Name of applicant: The Broadway Group, LLC
- (b) Mailing address: PO Box 18968, Huntsville, AL 35804

(c) Telephone number: Area Code (256) 533-7287

(d) Application number, if any: _____

(e) Property tax number: 159.00-1-8.1

(Please attach copy of tax map with parcel highlighted)

13. Will the action be directly undertaken, require funding, or approval by a State or federal agency? Yes X No _____

If yes, which State or federal agency? NYSDEC, USACE, and NYSDOT (tbd)

C WATERFRONT ASSESSMENT (Check either "Yes" or "No" for each of the following questions)

- | | | | |
|-----|--|------------|-----------|
| 1. | Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the waterfront area map? | <u>YES</u> | <u>NO</u> |
| | | ___ | <u>X</u> |
| (a) | Significant fish or wildlife habitats? | ___ | <u>X</u> |
| (b) | Scenic resources of local or statewide significance? | <u>X</u> | ___ |
| (c) | Important agricultural lands? | ___ | <u>X</u> |
| (d) | Natural protective features in an erosion hazard area | ___ | <u>X</u> |

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

- | | | | |
|-----|--|------------|-----------|
| 2. | Will the proposed action have a significant effect upon: | <u>YES</u> | <u>NO</u> |
| (a) | Commercial or recreational use of fish and wildlife resources? | ___ | <u>X</u> |
| (b) | Scenic quality of the waterfront environment? | ___ | <u>X</u> |
| (c) | Development of future, or existing water dependent uses? | ___ | <u>X</u> |
| (d) | Stability of the shoreline? | ___ | <u>X</u> |
| (e) | Surface or groundwater quality? | <u>X</u> | ___ |
| (f) | Existing or potential public recreation opportunities? | ___ | <u>X</u> |
| (g) | Structures, sites or districts of historic, archeological or cultural significance to the Town of Hamburg State or nation? | ___ | <u>X</u> |
| 3. | Will the proposed action involve or result in any of the following: | <u>YES</u> | <u>NO</u> |
| (a) | Physical alteration of land along the shoreline, land under water or coastal waters? | ___ | <u>X</u> |
| (b) | Physical alteration of two (2) acres or more of land | | |

	located elsewhere in the waterfront area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Expansion of existing public services or infrastructure in undeveloped or low density areas of the coastal area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Energy facility not subject to Article VII or VIII of the Public Service Law?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	Mining, excavation, filling or dredging in waterfront waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f)	Reduction of existing or potential public access to or along the shore?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g)	Sale or change in use of publicly-owned lands located on the shoreline or underwater?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h)	Development within a designated flood or erosion hazard area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(i)	Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(j)	Construction or reconstruction of erosion protective structures?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(k)	Diminished surface or groundwater quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(l)	Removal of ground cover from the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	PROJECT		
(a)	If a project is to be located adjacent to shore: <i>- n/a</i>	YES	NO
(1)	Will water-related recreation be provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	Will public access to the foreshore be provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3)	Does the project require a waterfront site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4)	Will it supplant a recreational or maritime use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5)	Do essential public services and facilities presently exist at or near the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6)	Is it located in a flood prone area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7)	Is it located in an area of high erosion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	If the project site is publicly owned: <i>- n/a</i>	YES	NO
(1)	Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	If located in the foreshore, will access to those and adjacent lands be provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3)	Will it involve the siting and construction of major energy		

	facilities?	—	<input checked="" type="checkbox"/>
(4)	Will it involve the discharge of effluents from major steam electric generating and industrial facilities into waterfront facilities?	—	<input checked="" type="checkbox"/>
(c)	Is the project site presently used by the community neighborhood as an open space or recreation area?	YES —	NO <input checked="" type="checkbox"/>
(d)	Does the present site offer or include scenic views or vistas known to be important to the community?	—	<input checked="" type="checkbox"/>
(e)	Is the project site presently used for commercial fishing or fish processing?	—	<input checked="" type="checkbox"/>
(f)	Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?	<input checked="" type="checkbox"/>	—
(g)	Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?	—	<input checked="" type="checkbox"/>
(h)	Will the project involve any waste discharges into coastal waters?	—	<input checked="" type="checkbox"/>
(i)	Does the project involve surface or subsurface liquid waste disposal?	<input checked="" type="checkbox"/>	—
(j)	Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	—	<input checked="" type="checkbox"/>
(k)	Does the project involve shipment or storage of petroleum products?	—	<input checked="" type="checkbox"/>
(l)	Does the project involve discharge of toxics, hazardous substances or other pollutants into coastal waters?	—	<input checked="" type="checkbox"/>
(m)	Does the project involve or change existing ice management practices?	—	<input checked="" type="checkbox"/>
(n)	Will the project affect any area designated as a tidal or freshwater wetland?	—	<input checked="" type="checkbox"/>
(o)	Will the project alter drainage flow, patterns or surface water runoff on or from the site?	<input checked="" type="checkbox"/>	—
(p)	Will best management practices be utilized to control storm water runoff into coastal waters?	<input checked="" type="checkbox"/>	—
(q)	Will the project utilize or affect the quality or quantity of sole source or surface water supplies?	—	<input checked="" type="checkbox"/>

(r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates?

D. **REMARKS OR ADDITIONAL INFORMATION** (Add any additional sheets necessary to complete this form)

Please see attached

Preparer's Name (Please print) : Tara Mathias

Title: Development Manager

Agency: The Broadway Group, LLC

Telephone Number: (256) 533-7287

Date: 09/30/2021

If assistance or further information is needed to complete this form, please contact Hamburg Engineering Department at (716) 649-6111.

Waterfront Assessment Form Attachment

Applicant: The Broadway Group, LLC

Part D. Remarks or Additional Information

Response to Section C

In section C.1.b., the applicant indicated a positive response to question (b) in that the project site is contiguous to a scenic resource of statewide significance. The resource is the Lake Erie Shore Front Trail which runs along Lake Shore Road. To mitigate any adverse effects, this site has been designed to be in compliance with the zoning requirements of the C-2 General Commercial District as well as the Local Waterfront Overlay District. More specifically, the building façade has been designed with a nautical theme using the Hamburg Clock Tower as the inspiration for the design. The façade includes a mixture of shake shingles and board and batten siding similar to the Clock Tower. The color palette was also chosen to mimic the structure. The longer walls of the building have been broken into smaller segments to create visual interest at the street level. Other details include decorative light fixtures and trim work at the entrance. This store was specifically designed with a corner entrance to provide a welcoming appearance along the road frontage. Additionally, the site plan will include landscaping using trees and shrubs that are indigenous to the area to soften the appearance of the development.

A conceptual rendering of the building design is provided for consideration.

Other Comments

The applicant has also considered the potential impact of other topics in the questionnaire in which the response was “yes.”

C.2.e Regarding surface or groundwater, the proposal includes an on-site septic system since this lot is not connected to the public sewer system. The applicant has consulted with Erie County Sewerage to confirm that a septic system would not be in conflict with the supply of public utilities. The applicant will design the septic system to be in compliance with the requirements of the Erie County Health Department. The site also includes on-site management of stormwater. The stormwater facilities will be designed in accordance with NYSDEC standards for water quality and discharges during significant storm events.

C.3.b The project will require alteration on a lot that is approximately 2.4 acres. The site has been designed to limit the area of disturbance as much as is practicable, including efforts to limit the amount of fill needed to grade the site by incorporating a low retaining wall at the rear of the building.

C.3.h The site is in a flood hazard zone AE. The building will be constructed above the base flood elevation. The site does not encroach into the regulatory floodway and the site design limits the amount of additional fill brought onto the site.

C.3.l The site will require temporary removal of ground cover during the construction phase. However, this will comply with NYSDEC guidelines for erosion and sediment control. Also, upon completion, the ground will be stabilized with sod as well as new landscape plantings.

4.f The site has a couple small areas of Federal Only wetlands and includes a segment of Foster Brook. These wetlands are depressional and not connected to a waterway. A wetland delineation report has been submitted to USACE for a jurisdictional determination and is enclosed for the consideration of the review committee. Even though we anticipate that the wetlands are non-jurisdictional, the site design aims to avoid disturbance of the larger wetland area. However, an area of 0.09 acres will be filled to accommodate the building pad. Foster Brook is Federally jurisdictional. A top of bank study was conducted and the regulatory floodway was mapped on the survey. The project will not encroach or disturb the Foster Brook.

4.i Considering the septic system discussed earlier, subsurface liquid waste disposal is required.

4.o The site design will alter the patten of stormwater management for the site. However, the changes will be reviewed by both the Town of Hamburg Engineering Department as well as NYSDEC to ensure compliance with design standards. Additionally, the developer will provide a stormwater maintenance agreement to the Town as required for an MS4 community.

4.p The stormwater control plan will include best practices per NYSDEC standards.