

# Town of Cairo Site Plan Review Law Version 6 (April 2008)

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### A. Intent and Purpose, Title and Enactment

1. It is the intent of this local law to ensure optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town as described in the Town of Cairo Comprehensive Plan and any of its amendments, through review and approval of site plans. Specifically, it is the intent of this local law to ensure that new development is consistent with the following goals established in the comprehensive plan:
  - a. Protect the Town's natural beauty and rural character;
  - b. New commercial and residential growth will be consistent with the small town and rural character of Cairo. It is not the intent of this Law to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures. The standards below are intended to provide a framework within which the designer of the development is free to exercise creativity, invention and innovation while recognizing the Town's small, rural and historic qualities. When applying such standards and guidelines, the Planning Board shall carefully weigh the specific circumstances surrounding each application, and strive for development solutions that promote development that protects and enhances the character and architectural heritage of the Town and that is consistent with the adopted Town of Cairo Comprehensive Plan.
  - c. Main Street in Cairo will be a distinctive and attractive location and central to the Town's cultural life and economy;
  - d. Scenic views of the Catskill Mountains will be maintained;
  - e. A safe and efficient transportation infrastructure will exist;
  - f. Sensitive environmental areas, active farms, and open spaces will be protected and maintained and remain vital components to the distinctive character of Cairo; and
  - g. Historic elements and character will be protected.
2. Toward this end, these regulations establish a review process and development standards to ensure that the following general conditions have been met:
  - a. That the site plan, to the extent practicable, is compatible with the goals, policies and standards set forth in the Town of Cairo Comprehensive Plan and the Greenway Compact Program;
  - b. Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful odor, fumes and glare of lights.
  - c. Significant natural, cultural, and historical features on a site are preserved as much as possible (i.e. hills, water bodies, wetlands, trees, tree groves, wooded

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areas, rock outcrops, native plants, wildlife habitats, scenic locations, historical locations, and other areas of aesthetic and ecological interest.

- d. Adequate facilities for off street parking and loading, drainage, snow removal, fire protection and methods of solid waste disposal are provided on site.
  - e. Roads, pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility, public safety, and for consistency with rural road standards and desired aesthetic character.
  - f. Pollution of air, streams, ponds, lakes and groundwater supplies is minimized.
  - g. Development will be compatible with its surroundings and in keeping with the character of the Town of Cairo.
3. This law shall be known and may be cited as “The Site Plan Review Law” of the Town of Cairo, New York.
  4. The Town Board of the Town of Cairo in the County of Greene, pursuant to Section 274-a of the Town Law, hereby enacts this law.

## **B. Planning Board Authority to Review Site Plans**

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town as hereinafter designated pursuant to, and in accordance with, the standards and procedures set forth in this local law.

### **1. Uses Requiring Site Plan Approval**

- a. Except those specifically exempted in Section 2 below, all new land use activities regardless of square footage shall require site plan review and approval before being undertaken including:
  1. all construction;
  2. reconstruction;
  3. expansion;
  4. demolition;
  5. relocations;
  6. filling, excavation, grading or tree removal that disturbs an area greater than 20,000 square feet except the construction, installation or maintenance of public roads and public and private utilities;
  7. all earth moving activities on slopes of 15% or greater;

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8. change of uses within the town shall require site plan review and approval before being undertaken. Site plan approval shall also be required for the construction, reconstruction, installation, expansion, contraction, alteration or relocation of any sign associated with a use that is subject to this law.
- b. Any change in the use, other than a single or two family residence, to a use which there is any site plan modification including but not limited to an increased or different requirements for parking, an increase or change in impervious surface area, proposed erection of a new sign, proposed establishment of additional exterior lighting, proposed structural enlargement, proposed additional site plan improvements, or if the exterior façade is changed shall require site plan approval.
- c. Additions which are less than 520 square feet in size to multiple family residential dwellings and/or commercial buildings shall be referred to the Planning Board which shall have the discretion to waive the applicability of this law to such improvements.

## 2. Exempted Uses.

The following land use activities are exempted from the requirements of this Section:

- a. Construction of one or two family dwellings, ordinary accessory structures (except when added to existing commercial use on lot), and related land use activities when grading or excavation of less than 20,000 square feet occurs, or if construction occurs on slopes less than 15%.
- b. Ordinary repair or maintenance of existing structures or uses.
- c. Agricultural structures as defined under the N.Y. State Building and Fire Code Regulations and agricultural land uses, with the exception of roadside stands for the sale of agricultural products from a permanent structure. Temporary roadside stands smaller than 100 square feet are exempt.
- d. Clearing or grading not intended to be used in connection with a use reviewable under this local law and that disturbs less than 20,000 square feet, or in the aggregate, when combined with land previously disturbed, equals 20,000 square feet, or if landscaping or grading occurs on slopes less than 15%.
- e. Exterior alterations or additions to an existing residential structure which do not substantially change its nature or use.
- f. Interior alterations that do not substantially change the nature or use of an existing commercial structure.
- g. Any change in use which does not require the issuance of a certificate of occupancy pursuant to the New York State Building and Fire Code.
- h. Residential garden uses and residential, non-commercial timber cutting.
- i. Garage and lawn sales.

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- j. Uses and structures which have already initiated construction prior to the enactment of this local law.

### **3. Existing Uses, Structures, and Applications.**

This law does not apply to uses and structures that are lawfully in existence as of the date this law becomes effective. Any use that would otherwise be subject to this law, which has been discontinued for a period of one (1) year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. This law does apply to all changes in existing uses unless specifically exempted by section 2, above. Uses and structures which have already initiated construction are exempt from this law. Proposed uses and structures which have site plan applications before the Planning Board but which have not yet received any site plan approvals from the Town of Cairo shall be subject to this law.

### **4. Uncertain Applicability.**

Any person uncertain of the applicability of this law to a given land use shall apply in writing to the Planning Board for a written jurisdictional determination.

## **C. Definitions**

**Access:** Entrance way for vehicles to leave or enter a property or lot from a public highway or private road.

**Access Drive:** See “Driveway”

**Accessory Structure or Use:** A secondary structure or use on the same lot or on a contiguous lot in the same ownership which is associated with principle use or structure, and which is incidental and subordinate to the principle use or structure.

**Agricultural data statement:** an identification of farm operations located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board is proposed, as provided in section three hundred five-a of Article 25-AA of the New York State Agriculture and Markets law.

**Alteration, Structural:** To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; the exit facilities of a structure; or the relocation of a building from one location to another.

**Applicant:** The person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

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**Average Daily Traffic:** The average number of vehicles per day that enter and leave the premises or travel over a specific section of road.

**Buffer Area:** An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

**Build-To Line:** An alignment which dictates the front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting on it. The build-to line does not apply to building projections or recesses such as porches.

**Building:** A structure designed to be used as a place of occupancy, business, storage, or shelter. The term “building” shall include the term “structure” as well as receiving and transmitting commercial, radio, television, cellular and other utility communication towers, mobile homes, and modular homes.

**Building Materials:** Any substance used in the creation of a structure including, but not limited to wood, metal, glass, concrete, or plastic.

**Building Principal:** The building on a lot that houses the primary use on a parcel of land.

**Change of Use:** The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code. Any use that substantially differs from the previous use of a building or land. Chapter 3 (Use and Occupancy Classification) of the Building Code of New York State shall be used to define uses that are not specifically defined in this local law. Change of occupancy or change of ownership shall not be construed as a change of use.

**Colors (dark, natural or earth tones):** Any color scheme that draws from a color palette of browns, tans, greys, greens and some reds. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt and rocks.

**Commercial Logging:** The logging of forest products for commercial purposes including site assessments, road construction, harvesting, reclamation or reforestation but does not include the cutting of wood by the owner of the property for:

- a) Personal use;
- b) The routine maintenance of roads, and rights-of-way;
- c) The clearing of a home site for which a building permit has been obtained;
- d) Christmas tree culture;
- e) Clearing of approved subdivision roads and public utility easements.

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- f) Tree clearing for farm purposes within agricultural districts established pursuant to New York State Agriculture and Markets Law;
- g) Severe natural disturbances, which include fire, insect infestation, disease, ice and wind;
- h) Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State Department of Environmental Conservation Forester, a member of the New York Institute of Consulting Foresters, or a Cooperating Consultant Forester

**Commercial Use:** Any activity involving the sale of goods or services carried out for profit; and other economic activities including mining, construction, manufacturing, transportation, communication, electric, gas, and sanitary services; wholesale trade; and any activity involving an office for conducting the affairs of a business, profession, service, industry or government.

**Curb-cut:** A defined opening to provide vehicular access from a public highway to a lot or property.

**Decibel (dB)-** A unit for measuring the volume of a sound, as determined by a sound testing instrument.

**Drainage:** A system of swales, ditches, and culverts, catch-basins, and piping to convey storm-water runoff to retention areas and stabilized discharge points.

**Driveway:** Private entrance drive privately owned and maintained.

**Dwelling:** A complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

**Dwelling, Mobile Home:** See “Mobile Home”.

**Dwelling, Multiple Family:** A building, portion of a building, or group of buildings on one lot each containing three (3) or more dwelling units and designed or used for occupancy by three (3) or more families living independently of each other. A multiple family dwelling includes townhouses.

**Dwelling, Single - Family Detached:** A residential dwelling unit, other than a mobile home, designed for occupancy by one family and having no party wall in common with another building or unit.

**Dwelling, Two-Family:** A building on a single lot designed exclusively for two dwelling units, each of which is totally separated from the other by a wall, ceiling, or floor, except for a common stairwell and occupied exclusively as a home or residence for only two (2)

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families. Two-family dwelling units shall not be considered townhouses or multi-family dwellings.

**Easement:** The right to use the land of another, obtained through the purchase or other acquisition of use rights from a landowner, for a special purpose consistent with the property's current use.

**Egress:** A one-way access from a property leading onto a public highway or private road.

**Environmental Impact Statement (EIS):** A document prepared pursuant to SEQRA, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

**Erosion:** The wearing away of surface soils by action of wind or water.

**Erosion Control:** Use of re-seeding, re-vegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.

**Family:** One or more persons living together as a single housekeeping unit with common use and access to all living and eating and living areas and maintaining a common household.

**Farm Operation:** the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this Article 25-AA of the Agricultural Districts Law and "timber processing" as defined in subdivision fourteen of Article 25-AA. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**Frontage:** That part of a property bounded by either a public or private road.

**Flood Hazard, Area of:** Land within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also commonly referred to as base floodplain or 100 year floodplain.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

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**Footprint:** The amount of space, measured in square feet, taken up on the ground by a structure. A building footprint measurement does not include the square footage of multiple floors of a structure.

**Grading:** The leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

**Hazardous Materials:** Any material which constitutes a danger to the environment or public safety, health or general welfare.

**Hill:** A landform that extends above the surrounding terrain, in a limited area. A hill is generally lower and less steep than a mountain.

**Hudson River Valley Greenway:** In May 2003, the Town of Cairo passed a resolution requesting designation as a Greenway Community. The Hudson River Valley Greenway Act establishes the Greenway Compact. This compact creates a process for voluntary regional cooperation and decision making among the communities in the Hudson River valley. As such, the Town has formally documented its support for the criteria contained in the Greenway Act within its adopted Comprehensive Plan. As a Greenway Community, Cairo has agreed to plan for consistency between the Greenway criteria and Town actions. These criteria are:

Natural and Cultural Resource Protection – Protect, preserve, and enhance natural resources, including natural communities, open spaces, cultural and historic resources, scenic roads and scenic areas.

Regional Planning – Develop mutually beneficial regional strategies for natural and cultural resource protection, economic development, public access and heritage and environmental education.

Economic Development – Encourage economic development compatible with the preservation and enhancement of natural and cultural resources including agriculture, tourism, and the revitalization of established community centers and waterfronts.

Public Access – Promote increased public access to the Hudson River through the creation of riverside parks and the development of the Hudson River Valley Greenway Trail System.

Heritage and Environmental Education – Promote awareness among residents and visitors about the Valley’s natural, cultural, scenic and historic resources.

**Impervious Surface:** Any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

**Ingress:** A one-way access from a public highway or private road leading into a lot or property.

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**Land Use Activity:** The occupation, use and/ or maintenance of land or any building, structure or other improvement on land.

**Lot:** A parcel of land whose boundaries are established by some legal instrument, such as recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

**Lot Coverage:** The percentage of the lot area covered by the combined area of all buildings, structures, parking areas, or other impervious surfaces on the lot.

**Mobile Home:** A moveable or portable dwelling unit manufactured in one or more sections, designed for long-term occupancy, containing sleeping, kitchen and bathroom facilities, with plumbing and electrical connections provided for attachment to outside systems, and designed to be transported after fabrication on its own permanent chassis, arriving at the site where it is to be occupied as a complete dwelling and able to be again moved for repeated towing. A recreational vehicle is not included in this definition.

**Mobile Home Park:** A residential use in which three (3) or more mobile homes are located on a single property.

**Modular Home:** A dwelling unit constructed and composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.

**Noise, Nuisance:** An undesired audible sound that interferes with the enjoyment and use of property. For purposes of this law a decibel level exceeding 70 dB measured at the property boundary shall be a nuisance noise.

**Non-reflective or low reflective building materials:** A product or material included in a building that is designed to absorb light rather than to reflect it.

**Off Street Parking:** Area provided for parking not in any public or private road.

**Outdoor Storage:** The holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

**Phased Development:** Development that occurs in defined stages (e.g. a 20-unit townhouse project built in two separate 10-unit stages).

**Principal Use:** The main use of a lot or structure.

**Ridge Top or Ridgeline:** The long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

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**Road, Primary:** Where the subject property has frontage on two or more roads, this refers to the road that is used most intensively (e.g. has the greater volume of vehicular traffic). This usually corresponds to the public road classification and size, assuming county roads receive greater traffic than local roads, and that State highways have greater traffic volumes than county roads.

**Road, Private:** An access drive or roadway, privately owned and maintained, and not meant for use by the general public and that accesses two or more principal uses.

**Road:** A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal, means of access to abutting property.

**Road, Right-of-Way:** An area defined by a boundary which provides for road construction, maintenance, improvement, and/or widening.

**Road, Secondary:** Where the subject property has frontage on two or more roads, this refers to the second (or least) most intensively used road (See Road, Primary).

**Roof Line:** The highest portion of the outside top covering of a building or structure. Flat roofs also have a roof line even when there is no pitch and the surface of the roof is generally parallel to the ground.

**Runoff:** Surface water that flows onto, within, and/or off of the site area.

**Screening:** Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lesson noise impacts from a particular site or from adjacent land uses.

**Sediment:** Soils or other surficial materials transported by surface water as a product of erosion.

**Sedimentation (Siltation):** The deposition of sediment and silt in drainage-ways, watercourses and water bodies which may result in pollution, murkiness, accumulation, and blockage.

**Septic System:** A on-site sewage disposal system (designed as a simple gravity or alternative system), which consists of a septic tank and septic field, in which waste material is distributed through a network of title fields following a process in the septic tank where solids are settled out of the waste.

**SEQRA Review (State Environmental Quality Review):** Review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law , Section 8-0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

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**Setback:** A minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted.

**Sign:** A name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices or any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, municipality, school, or religious group.

**Site Plan:** A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

**Sketch Map:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

**Sketch Plan Conference or Meeting:** Initial optional Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements will be prior to submitting the site plan.

**Slope:** The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff.

**Start of Construction:** The initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling, installation of roads, excavation for a basement, footings, foundations, or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

**Structure:** Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc., excepting outdoor areas such as paved areas and walkways.

**Sufficient Performance Guarantee:** Funds submitted by the applicant to an Escrow Account established by the Town of Cairo pursuant to Section E(2) of this local law, and determined by the Planning Board to be of a dollar amount large enough to assure that improvements required as part of an application for development will be satisfactorily completed.

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Temporary Roadside Stand: A non-permanent structure for the display and sale of products.

Townhouse: A multiple-family dwelling containing at least three individual one-family units in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Use, Accessory: A use or structure which is incidental but associated with the principal use such as a separate garage or shed, fencing, and recreational facilities (e.g. pool, tennis court, etc.).

Use, Principal: The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

Vegetation: Indigenous or introduced trees, shrubs, vines, ground covers, and herbaceous materials.

Wetlands: Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation. The U.S. Fish and Wildlife Service (FWS) defines wetlands as: lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: 1) at least periodically the land supports predominantly hydrophytes; 2) the substrate is predominantly undrained hydric soil; and 3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. The Army Corps of Engineers (Corps) defines wetlands in the Section 404 wetlands permit program as those areas that are inundated or saturated at a frequency and duration sufficient to support, and that under normal circumstances to support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The major difference between the FWS definition (used for inventory purposes) and the Corps (used for regulatory purposes) is that the FWS definition requires only one major parameter while the Corps definition requires both wetness and vegetation.

## **D. Procedures**

### **1. General Application. Procedures**

Any person, before undertaking any new land use activity at any location within the Town for which this law requires a site plan, shall submit a site plan together with appropriate supporting data for review and approval in accordance with the standards and procedures set forth in this law.

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### **2. Sketch Plan.**

An informal sketch plan conference between the applicant and the Planning Board shall be conducted prior to submission of a site plan application to review the proposed development and to generally determine the information to be required in the site plan. The Planning Board shall schedule a site visit by at least two of its representatives to familiarize itself with the parcel and project.

In order to accomplish these objectives, the applicant shall provide eight copies of the following information to the Planning Board for the Sketch Plan conference at least ten days prior to the regularly scheduled Planning Board meeting:

- a. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions, existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- b. An area map showing the parcel under consideration for site plan review.
- c. A topographic or contour map of adequate scale and detail to show site topography. The Planning Board shall have the discretion to waive the provision of a topographical map in the event that the applicant shall show that the contour of the subject matter parcel(s) does not impact in the project in any manner.
- d. A sketch map showing locations of natural features such as wetlands, streams, or lakes.

### **3. Sketch Plan Review.**

The intent of the sketch plan conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns, and to generally determine the information to be required on the site plan. At the sketch plan conference the Planning Board will review and determine if the proposal is in conformity with the Comprehensive Plan of the Town of Cairo. The Planning Board shall also review with the applicant submission requirements to determine what specific information is to be presented with the site plan application.

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### **4. Application for Preliminary Site Plan Approval.**

The applicant shall forward eight copies of a completed Preliminary Site Plan Application and eight copies of a site plan together with appropriate supporting data contained in (C) (5) and an application fee that has been established by the Cairo Town Board to the Planning Board. All applications for site plan review must be submitted to the Planning Board at least 10 days prior to the Planning Board's regular meeting.

### **5. Preliminary Site Plan Submission Requirements.**

The site plan submitted for preliminary approval and supporting documentation shall include all applicable information contained in the sketch map in addition to the following information, unless waived by the Planning Board pursuant to (C) (7). All submitted maps shall be drawn at a scale of 50 foot to one inch or larger and designed by a licensed qualified professional.

- a. Title of site plan, including name and address of applicant, and person responsible for preparing such drawing.
- b. North arrow, scale and date.
- c. Boundaries of property plotted to scale.
- d. Location, size, and existing use of buildings on premises, if any.
- e. Location and ownership identification and address for all adjacent lands as shown on the latest tax records.
- f. Location, name and width of all existing public streets, easements, other reservations of land or areas dedicated to public use within 500 feet of the applicant's property.
- g. Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, reservations, and areas dedicated to public use on or adjoining the property.
- h. Grading and drainage plans showing existing and proposed contours and water courses within, and extending 50 feet beyond applicant's property, and soil erosion and sediment control plan if required by DEC or other local statues or regulations.
- i. Location, design, type of construction, and exterior dimensions of all proposed buildings and structures.
- j. Identification of the amount of gross floor area, proposed division of building into units of separate occupancy and hours of operation for retail sales and services offices and other commercial facilities.
- k. Location, design, type of construction, and area of all parking and truck loading areas (including number of parking spaces. showing access and egress).
- l. Provision for pedestrian access, including public and private sidewalks, if applicable.

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- m. Location of outdoor storage and solid waste disposal, and location and description of any hazardous materials to be used or stored on site.
- n. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- o. Description of the method of sewage disposal and the location of such facilities, including the location of the collection system.
- p. Description of the method of securing water, location of such facilities, design and construction materials, approximate quantity of water required and location of distribution system.
- q. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
- r. Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas, solar energy, and all power and communication facilities, including towers and satellite dish antennas.
- s. Location, size, design and type of construction of all proposed signs.
- t. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
- u. Location and design of existing and proposed outdoor lighting facilities.
- v. General landscaping plan and planting schedule.
- w. Location and identification of all structures and uses on adjacent lands within 100 feet of the property line.
- x. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.
- y. Estimated project construction schedule and cost.
- z. Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference.
- aa. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.)
- bb. Elevation and façade treatment plans of all proposed structures.
- cc. Any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, steep slopes (more than 15%), areas of frequent outcrops, etc.
- dd. Vicinity Map. A map, drawn at a scale of two-thousand (2000) feet to the inch, or larger showing the proposed site in relation to existing community facilities that may affect or serve it, such as roads, shopping areas, schools.

### **6. Additional Requirements.**

If, in the opinion of the Planning Board, projects could have traffic, visual, or stormwater impacts, the applicant shall submit, at their expense, traffic impact and drainage design reports, visual impact assessment, and proposed grading plans as

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follows. Costs for all reports, assessments, or plans required by the Planning Board shall be born by the applicant pursuant to Section C (18).

- a. Traffic Report. Traffic Reports shall include the following for the study area:
  1. Internal traffic flow analysis.
  2. Existing average daily traffic and peak hour levels.
  3. Analysis of average daily traffic and peak hour levels resulting from the project.
  4. An analysis of existing and resulting intersection levels of service (LOS).
  5. Directional vehicular flows resulting from the proposed project.
  6. Proposed methods to mitigate the estimated traffic impact.
  7. Identification of any pedestrian crossing issues.
  8. The methodology and sources used to derive existing data and estimations.
  
- b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:
  1. Visually illustrate and evaluate the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
  2. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes;
  3. A site plan rendering.
  
- c. Stormwater Management Plan. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The stormwater management and stormwater pollution prevention plans shall be prepared in compliance with the Stormwater Design Manual of the New York State Department of Environmental Conservation (SPDES), with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations.

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### **7. Less Intensive Review and Waiver Requirements.**

The Planning Board must state in writing its grounds for electing to conduct less intensive review and file such statement along with the site plan application and supporting documents. The Planning Board may elect to conduct a less intensive review for minor types of projects. Minor projects are those that do not generate a significant amount of traffic, or are a re-use of an existing building under 5,000 square feet and that create no new parking, curb cuts, lighting, or signage. Certain requirements of (C) (5) and (6) of this law for such proposed uses may be waived by the Planning Board if the Board finds that any such requirements are not requisite in the interest of the public health, safety or general welfare or are inappropriate to a particular site plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted by the Planning Board. Requirements of this law may not be waived except as properly voted by the Planning Board.

### **8. Specifications of Materials Submitted**

- a. Elevations and/or Sections. Elevations and/or sections, illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, shall be required by the Planning Board. The elevations and/or sections shall clearly delineate the bulk height of all buildings and other permanent structures included in the proposal, including the dimensions and height of any proposed signs.
- b. Engineering Plans. The Planning Board may require engineering plans prepared by a licensed professional engineer to illustrate and describe such development aspects as: road improvements, drainage systems, grading plan, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary. Coincident to preparing any such plans, the applicant shall provide the Planning Board with an estimate of the total cost of site improvements confirmed by the engineer retained by the Planning Board.

### **9. Planning Board Action on Preliminary Site Plan:**

- a. Acceptance of Site Plan Application. The Planning Board shall, within forty-five (45) days of a site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies. No application shall be considered complete until a negative declaration under SEQRA Part 617 has been issued or until a draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.

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- b. **Public Hearing.** The Planning Board shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of the preliminary site plan application as complete and shall be advertised in the town's official newspaper at least five (5) days before the hearing. The Planning Board shall give the applicant at least ten (10) days notice by mail of the Public Hearing. The Planning Board shall send notice of the Public Hearing to abutting property owners by certified mail, return receipt requested at least seven (7) days prior to the public hearing.
  
- c. **Decision.** Within 62 days of the public hearing, the Planning Board shall render a decision on the preliminary site plan. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is recommended for approval, disapproval or approval with modifications. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition for a recommendation of approval. If the preliminary site plan is recommended for disapproval, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The Planning Board's decision must be filed with the Town Clerk within five business days after such decision is rendered and a copy mailed to the applicant.
  1. **Approval.** Upon approval of the preliminary site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
  
  2. **Approval with Modifications.** The Planning Board may approve the site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk.

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3. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board's reasons for disapproval.

### **10. Application for Final Site Plan.**

The final detailed site plan shall conform substantially to the preliminary site plan originally recommended for approval. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The following additional information shall accompany an application for final detailed site plan review:

- a. Record of application for and status of all necessary permits from Federal, State and County officials.
- b. Detailed sizing and final material specification of all required improvements.
- c. An estimated project construction schedule.

### **11. Planning Board Action on Final Site Plan.**

After receiving a recommendation for approval, with or without modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board. If more than 6 months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

- a. Public Hearing. The Planning Board may conduct a Public Hearing on the final site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of complete application for final site plan review and shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town at least 5 days before the public hearing.
- b. Decision. Within 62 days of receipt of the complete application for final site plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. The time period in which the

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Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board. In its decision the Planning Board may approve, approve with modifications or disapprove the final site plan. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Building Inspector.

1. **Approval.** Upon approval of the final site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the final site plan and shall immediately file it and a written statement of approval with the Town clerk.
2. **Disapproval.** Upon disapproval of the final site plan the decision of the Planning Board shall immediately be filed with the Town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

### **12. Failure to Take Action on Application.**

Failure of the Planning Board to render a decision within the prescribed time limits shall constitute approval by the Planning Board.

### **13. Extension of Time to Render Decision.**

The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

### **14. Segmentation.**

The site plan application and associated maps shall include proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

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### **15. Reservation of Park Land.**

In accordance with the provisions of Section 274-a (6) of the Town Law, the Planning Board may require the site plan to contain a park or parks suitably located for playgrounds or other recreational purposes, or require the payment of a sum of money in lieu thereof,

### **16. Referral to Other Agencies and Boards**

- a. Coordinated Review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of Federal, State and County agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the State or County Department of Health, whichever has jurisdiction.
- b. Required Referral. Prior to taking the final action on the site plan, and at least ten (10) days prior to the Public Hearing, if a public hearing is held, and where applicable, the Planning Board shall refer the plan to the Greene County Economic Development and Planning Department for their review and approval pursuant to Section 239-m of the General Municipal Law.
- c. Required Ag and Markets Review.
  1. Agricultural data statement. An application for a site plan review must also contain an agricultural data statement if any portion of the project is located on property within a New York State certified Agricultural District containing a farm operation, or other property with boundaries within 500 feet of a farm operation located in such agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement. The Planning Board shall evaluate the impact of the proposal on existing agricultural operations. A written notice of such application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. The Planning Board may also request submission of the Agricultural Data Statement when a proposed project may impact a farm operation that is outside a New York State certified Agricultural District.

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- d. Conservation Advisory Council. The Planning Board may request an advisory opinion from the Town of Cairo Conservation Advisory Council related to any application being considered for site plan approval.

### **17. SEQRA Compliance.**

No application shall be approved without compliance with SEQRA (Article 8 of the Environmental Conservation Law, Section 8-0113, Part 617), including, where necessary, a lead agency determination, a negative or positive declaration, and submission of an acceptable draft environmental impact statement. No application for site plan review shall be considered complete for initiation of the site plan time frames until either a negative declaration has been issued or a draft environmental impact statement has been accepted. When scenic resources are of concern, the Planning Board shall require the use of the SEQR Visual EAF Addendum so that visual impacts can be evaluated during site plan review.

### **18. Costs Associated with Review and Escrow.**

The Planning Board reserves the right to hire professional consultants, at the applicants' expense, to review any information filed by the applicant including that filed under the SEQRA process. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account, funded by the applicant, shall be established to cover all costs related to the review of a site plan. The applicant shall supply the Planning Board information as may be required to calculate the dollar amount required for the escrow account.

### **19. Revocation of Site Plan Approval.**

Any approval issued hereunder shall expire after one year from the date of such approval unless the applicant shall have commenced and substantially proceeded with construction of the project.

## **E. Criteria for Review.**

The Planning Board's review of the site plan shall include, but is not limited to, the following general considerations:

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1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs, including compatibility with setbacks and build-to lines.
2. Glare and light pollution that may be associated with new development shall be minimized by use of fully shielded light fixtures.
3. Consistency with the Town of Cairo Highway Specifications and adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. All site plans shall be reviewed and approved prior to a final decision by the Planning Board by the Town of Cairo Highway Department. Maintain existing street widths and minimize creation of land additions or road widening.
4. Location, arrangement, appearance and sufficiency of off-street parking and loading. Parking areas should be placed at the rear and/or side of principal buildings so they are not visible from public roads. Where site limitations necessitate that parking areas be located adjacent to a public road, a berm, masonry wall, solid fence or evergreen hedge at least 30 inches in height above grade at the time of planting shall be installed to screen the view of parking areas from the road or street. Existing vegetation, which is proposed for preservation, shall also be used to screen the view of parking areas.
5. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. The Planning Board may require a traffic study pursuant to Section C(6)(a) of this local law.
  - a. All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets and shall be reviewed and approved by the appropriate State, County, or local authority prior to the granting of site plan approval.
  - b. To the maximum extent practical, provide, cross access between properties to reduce the number of curb cuts and limit the amount of traffic on the main arterial or collector street fronting the development. The Planning Board may require individual developers to construct a site layout that facilitates future cross access in anticipation of future adjacent development. The Planning Board may require use of shared driveways.
  - c. Similar land uses shall provide, wherever practical, joint access to arterials or collector streets fronting the development to minimize disruption of traffic flow, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement. The Planning Board may require individual

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- developers to construct a site layout that facilitates future joint access in anticipation of future adjacent development. Minimize the number of curb cuts.
- d. Within the hamlet of Cairo, curbing, sidewalks and on-street parking shall be provided for. Elsewhere, curbing shall be required only where natural drainage systems are impractical.
  - e. Safe pedestrian facilities shall be provided for including but not limited to use of raised intersections, curb extensions, textured crosswalks, speed humps, and pedestrian crossing islands.
6. Adequacy of stormwater and drainage facilities. The proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical. Drainage plans shall be reviewed and approved by the engineer retained by the Planning Board prior to approval. To the greatest extent practical, drainage systems shall be designed to avoid an increase in peak stormwater volume and velocity. Use permeable surfaces to the maximum extent practical. The Planning Board should comply with the Flood Damage Prevention Law of 1989.
  7. Adequacy of water supply and sewage disposal facilities. These plans shall be reviewed and approved by the engineer retained by the Planning Board prior to approval. The Planning Board should comply with the Flood Damage Prevention Law of 1989, the Water District Law of 1990, and Sewer Use Local Law of 2002.
  8. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
    - a. Landscape plantings of shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials, such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity and build-to lines within the community. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character. This shall be accomplished through the use of native plant material and the retention of existing natural vegetation, thereby reducing or eliminating the need for irrigation, pesticides, herbicides, and fertilizers.
    - b. Preservation of mature plant species, including but not limited to, hedgerows, wetlands, wildlife corridors, trees, and woodlots shall be

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- encouraged and included as a design element in the development of the site. Existing stone walls shall be preserved to the maximum extent practical.
- c. Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native trees and shrubs of sufficient width to entirely screen a nonresidential use from a neighboring residential use shall be required.
  - d. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate the unsightliness of parked cars.
  - e. Solid waste facilities and containers, outdoor service areas, and loading docks shall be screened around their perimeter from the street and from other adjacent residential areas through the addition of conifer plantings or architectural elements. Outdoor storage shall be prohibited.
  - f. The Planning Board may consult with and obtain advisory opinions from the Conservation Advisory Council where appropriate.
9. Adequacy of utilities. Newly installed utility service systems, and service revisions shall be installed underground and approved by the engineer retained by the Planning Board. When feasible, existing aboveground utility service systems shall be placed underground.
  10. Adequacy of site accessibility, fire lanes and other emergency zones and the provision of fire hydrants. All buildings shall be accessible to emergency vehicles. If the Planning Board deems it necessary, it shall refer the application to the applicable emergency services providers and to the engineer retained by the Planning Board for comment on the proposed access arrangements.
  11. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. These shall be reviewed and approved by the engineer retained by the Planning Board. The Planning Board should comply with the Flood Damage Prevention Law of 1989.
  12. Location of and adequacy of measures proposed to protect environmentally sensitive areas. The Planning Board may request an advisory opinion on these matters from the Greene County Soil and Water Conservation District, NYS DEC, Conservation Advisory Council, or other agencies prior to final decision.

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13. Type, frequency, pitch, and decibel levels of noise that may be generated from project. The Planning Board may request a noise analysis be conducted by measuring existing ambient sound levels measured with a sound-level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and comparing to proposed sound levels. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24, 3-1944, American Standards Association, Inc., New York, New York, and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24, 10-1953, American Standards Association, Inc., New York, New York, shall be used.) The Planning Board shall ensure that no nuisance noise results from the project.
14. Compatibility with neighborhood character and the overall rural character of Cairo.
  - a. Relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to minimizing the impact of the development on such district or use. The Planning Board shall encourage the use of a combination of landscaping, buffers, berms, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles and uses.
  - b. Individual buildings shall relate to each other and to traditional structures in the surrounding area in lot placement, scale, height, build-to lines, and connections to harmonize visually and physically with the traditional character of the area. Buildings shall have facades that honor traditional styles and patterns found in Cairo. The Planning Board shall evaluate the impact to and compatibility of these design features with existing neighborhoods.
  - c. Treatment of the sides and rear of all buildings shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings. Windowless walls shall not face a street. For buildings greater than 80 feet in length, facades shall have a façade break or change in roofline to break up long lengths of structure.
  - d. Rooftop and ground level mechanical equipment shall be screened from public view by the use of materials harmonious with the building, or shall be located so as not to be visible from any public ways.
  - e. When projects involve the renovation/reuse of an existing building, the historic character and architectural elements shall be maintained as may be required by the Planning Board. The Board may engage the services of an architectural advisor to suggest alternatives to harmonize with the character of the area at the applicant's expense.

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- f. Minimize clearing of vegetation.
  - g. Retain stonewalls, hedgerows and other rural elements, if present.
  - h. Provide for setbacks from streams and wetlands to protect water quality. The Planning Board shall also ensure that all requirements of the Flood Protection Law of 1989 are met.
  - i. In hamlets, new development shall be placed on the lot to be consistent with the setbacks of adjacent and surrounding structures. Siting shall be based on and emulate existing development patterns and shall not introduce suburban or strip commercial styles.
  - j. On hills or ridge tops, rooflines shall be placed below the ridgeline to prevent visual disruption of that ridgeline. The Planning Board may also require use of non-reflective or low reflective building materials and dark natural or earth tone colors to mitigate visual impacts, especially if the proposed structure is highly visible from many locations.
  - k. Restrict development to those portions of a parcel less than 20% slope to the maximum extent practical.
15. Compatibility with active agricultural activities. The Conservation Advisory Council may be consulted with regarding significance, location and type of agricultural activities that may be impacted by the proposed development.
16. Compatibility with the Town of Cairo Updated Comprehensive Plan.
17. Consistency with the Hudson River Greenway Compact.

## **F. Guarantee of Site Improvements**

1. General. Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a performance guarantee pursuant to sub-section E(2) has been provided by the applicant for improvements not yet completed.
2. Performance Guarantee Options. In order that the Town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with the site plan approval, the Planning Board may

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require that the applicant enter into one of the following agreements with the town.

- a. Furnish bond executed by a surety bond company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be 1) based on an estimate furnished by the applicant; and 2) approved by the Planning Board.
- b. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.

### 3. Conditions

- a. The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
  - b. Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.
  - c. Certified checks shall be made payable to "Town of Cairo" and will be placed in an escrow account established by the Town for this purpose.
  - d. No approval(s) shall be granted by the Planning Board until such bond funds are placed in such escrow account.
4. Extension of Time. The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. All construction of new roads and associated improvements including, but not limited to curbs, curb cuts, drainage, and paving, shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or certified check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction or improvements are not performed in accordance with applicable standards and specifications.
5. Schedule of Improvements. When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However ten percent (10%) of

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the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the check deposit or performance bond.

6. Inspections. Prior to the Planning Board Chairman or his designee signing the site plan, the applicant shall pay to the Town Clerk an inspection fee escrow established by the Cairo Town Board. Inspections during installation of improvements shall be made by the engineer retained by the Planning Board, and/or Building Inspector to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the engineer retained by the Planning Board and Building Inspector when each phase of improvements is ready for inspection. Upon acceptable inspection and final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the town of the portion of the performance bond or certified check deposit as designated in the contract to cover the cost of such completed work.
7. Phased Development. The Planning Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the engineer retained by the Planning Board and Building Inspector.
8. Termination of approval. In cases of site plan approvals for which no guarantee of completion of site plan improvements has been required by the Planning Board, the approval shall be deemed terminated if construction is not completed within eighteen (18) months of approval.

## **G. Administration/Enforcement/Fines**

1. The Town Board authorizes the Town of Cairo Building Inspector as the enforcement officer to carry out the enforcement and inspection duties assigned by this local law.
2. No person shall undertake any land use or development for which a site plan approval is required until a valid site plan approval has been issued by the Planning Board and a building permit issued by the Building Inspector. A building permit will be issued only when the Building Inspector has determined that all requirements of this local law and of all other applicable local and State laws and regulations are satisfied.

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3. **Site Plan Completion.** No permit or certificate of occupancy shall be issued by the Code and/or Building Inspector, except upon authorization by and in conformity with an approved site plan where required.
4. **Revocation of Approval.** Failure by any property owner to continually observe all conditions of a site plan approval shall result, after notice and hearing, in revocation of such site plan approval and any building permit and certificate of occupancy issued as a result of such site plan approval. If the Building Inspector determines that the site is not being maintained in accordance with its approval he shall order the same to be corrected within ten days of the date of his order. Should non-compliance continue, the Building Inspector may recommend revocation of site plan approval by the Planning Board. Upon receipt thereof the Planning Board shall notify the owner of said premises by written notice. Such notice shall specify the time, date and place of said hearing and the ground upon which revocation has been recommended. After hearing all competent evidence, it shall render a decision.
5. **Violations and Fines.** Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law, or who shall have commenced site work prior to obtaining a building permit and site plan review, or who shall violate any conditions imposed by a permit pursuant to this local law shall be guilty of an offense. The Building Inspector or Town Board, in addition to other remedies, may institute any appropriate action or proceedings pursuant to this local law to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Such violation is subject to a fine of not more than two hundred fifty dollars (\$250) or by penalty of two hundred fifty dollars (\$250) to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. The procedure for investigation of violations shall be:
  - a. **Reporting and Investigation.** The Building Inspector shall record all suspected violations on a form prescribed by the Town and shall investigate and determine whether a violation exists. The investigation shall include a visit to the site of the alleged violation.
  - b. **Notice of Violation.** Within five days of determining whether a violation exists, the Building Inspector shall serve the landowner and any other responsible party, or both, with a "Notice of and Demand to Remedy Violation." The Notice shall be served on the landowner and any other responsible party by certified mail return receipt requested or by personal delivery. If service is not possible under either method, the Building Inspector may use the best possible alternative method of service provided for under the

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Civil Practice Law and Rules of the State of New York that insures notice to the alleged violator(s). The Notice shall set forth the alleged violation in reasonable detail and cite the applicable part of the Site Plan Law and other local law that is being violated. The Notice shall also state the corrective action sought and the time by which the corrective action must happen. A reasonable period shall be provided to correct a violation, which period shall be determined by the circumstances of the violation and the degree to which the violation constitutes a danger to public health, safety and welfare.

- c. Justice Court; appearance Tickets. If the alleged violator(s) fail to correct the violation within the time period provided for by the Building Inspector, the Building Inspector shall then commence a proceeding in the local Justice Court. The Building Inspector shall start the proceeding by ordering an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets. The Building Inspector shall also prepare a supporting deposition or affidavit setting forth the details of the violation. The Building Inspector may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that the Justice Court issue a summons for service on the alleged violator(s). The Town Attorney shall represent the Building Inspector in the Justice Court. Notwithstanding the foregoing, the Building Inspector may simultaneously or besides the remedy provided herein refer the alleged violation to the Town Attorney for an injunction and the collection of civil fines as provided for in Section F(5) above.
  - d. A stop work order may be issued by the Zoning Enforcement or Code Enforcement Officer.
6. Court Review. Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the final decision by the Planning Board in the office of the Town Clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

## **H. Integration of procedures**

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by

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this local law with the procedural and submission requirements for such other compliance.