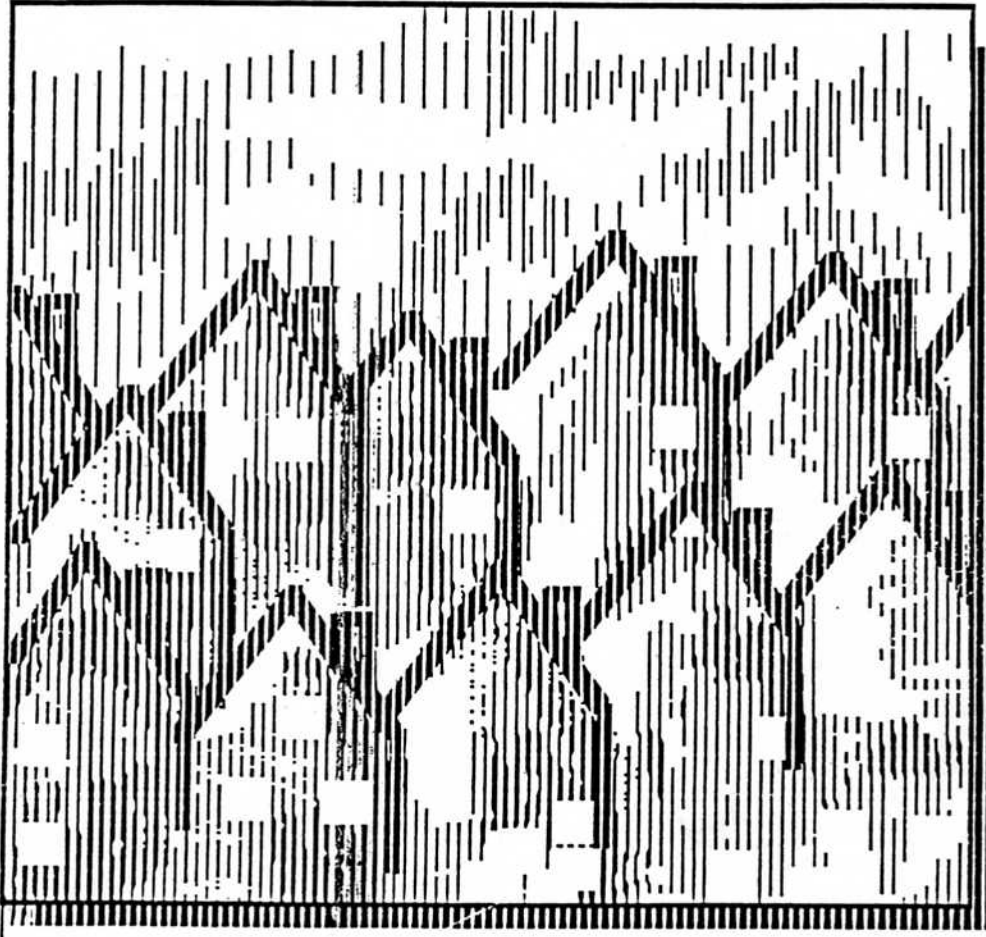


# Village of Newport Zoning Law



Adopted  
January 9, 1989

VILLAGE OF NEWPORT

ZONING LAW

LOCAL LAW NUMBER 1 of 1989

ADOPTED: January 9, 1989

ENTERED INTO THE OFFICIAL MINUTES OF THE  
NEWPORT BOARD OF TRUSTEES:

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## ZONING LAW

## VILLAGE OF NEWPORT, HERKIMER COUNTY, NEW YORK

A LOCAL LAW REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION, ALTERATION AND USE OF BUILDINGS AND LAND IN THE VILLAGE OF NEWPORT, NEW YORK, PURSUANT TO THE ZONING PROVISIONS OF ARTICLE 7 OF THE VILLAGE LAW OF THE STATE OF NEW YORK.

THE NEWPORT VILLAGE BOARD, by virtue of the power and authority vested in it by law, does hereby adopt and enact as follows:

## ARTICLE I - TITLE, PURPOSE

Section 1 - Title

This local law shall be known and may be cited as "The Village of Newport Zoning Law".

Section 2 - Purpose

This Zoning Law is a land use control regulation to guide development in the Village of Newport.

The provisions of this Zoning Law shall be held to be the minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare.

Whenever the requirements of this Zoning Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard, shall govern.

## ARTICLE II - DEFINITIONS

Section 3 - General

For the purposes of this Zoning Law, certain terms or words used herein shall be interpreted as follows:

- Words used in the present tense shall include the future. The singular tense includes the plural, and the plural, the singular.
- The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
- The word "lot" includes the word "plot" or "parcel".
- The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged, or designed to be used or occupied".
- The word "shall" is mandatory and not optional, and shall include will.

#### Section 4 - Definitions

**ACCESSORY APARTMENT:** A dwelling unit which is subordinate to a permitted principal one-family residence in terms of size, location, and appearance. This use must be located on the same lot as the principal use and can either be accomplished by conversion within the existing one-family structure or conversion of another accessory building.

**ACCESSORY BUILDING:** A building (attached or unattached) subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**ACCESSORY USE:** A use customarily incidental to the principal use or building and located on the same lot as such use or building.

**ALLEY:** A service way which affords a secondary public means of vehicular access to abutting property.

**ALTER/ALTERATIONS:** A change or rearrangement of the structural parts, when referring to a building; also an enlargement, either in height or in sides or ends or the moving from one position to another.

**AMUSEMENT ARCADE:** An establishment in which the principal use is the operation of mechanical, electrical, and/or coin operated games and/or devices for the enjoyment of the general public.

**AREA, BUILDING:** The total area taken on the horizontal plane at the main grade level of the principal building and all the accessory buildings, excluding uncovered porches, terraces and steps.

**AUTO REPAIR SHOP:** A structure used for the repair and servicing of motor vehicles. For the purpose of this Local Law, an auto repair shop encompasses minor and major auto repairs. All repair work must take place within an enclosed structure and all vehicles must be stored within an enclosed structure.

**AUTO WRECKING:** The dismantling or disassembling of used motor vehicles or the storage, sale, salvaging or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts. As used herein, the term "vehicle" shall mean passenger-type automobile, truck, tractor-truck, trailer, bus, motorcycle, or other vehicles, however propelled, as well as tractors, bulldozers, machinery, and similar equipment.

**AREA OF LOT OR SITE:** The total area within the property lines of a site.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year (frequently referred to as the 100 year flood).

**BASEMENT:** A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, and which is not designed or used primarily for year-round living accommodations.

**BOARDING HOUSE:** Any dwelling in which more than three persons either individually or as families are housed or lodged, except those engaged in farm work, for hire with or without meals.

**BUILDING:** Any roofed structure intended for the shelter, enclosure or housing of persons, property or animals.

**BUILDING, FRONT LINE OF:** The line of the wall of the building nearest to the front line of the lot, including covered sunporches or parlors whether or not enclosed, but not including steps.

**BUILDING LINE:** A line established by law or by agreement, usually parallel with a property line, beyond which a structure may not extend.

**BUILDING, HEIGHT OF:** The vertical distance measured from the mean natural grade at the foundation to the highest peak of the roof.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is located.

**BUSINESS OR COMMERCIAL:** Pertaining or relating to the sale, exchange, or trade of goods or services where such action is the principal use to which the building or land is devoted. Also means an accessory use of a building or land to an extent which is unproportionate to the principal use.

**CAMPING GROUND:** A tract of land that is planned and improved for the placement of two or more travel trailers, or two or more tents which are used as temporary living quarters, and for an occupancy of not more than 90 consecutive days, and which will comply with all existing State, County, and local regulations covering the same.

**COMMON AREA:** Shall mean any area or space designed for joint use of individuals occupying said developments.

**COMMUNITY SEWER & WATER SYSTEM:** Refers to a private sewer and water system which serves an entire development, but has its service facilities remote from individual housing units.

**COVERAGE:** That area of the lot covered by the principal and accessory structures.

**DAY CARE CENTER:** A structure other than a private residence licensed by the State of New York, which receives for care and supervision more than ten (10) children for more than three (3) hours but less than twenty-four (24) hours per day per child unattended by his/her parent or legal guardian.

**DAY CARE FACILITY, GROUP:** A structure, including a private residence licensed by the State of New York, which receives for care and supervision at least three (3) children but not more than ten (10) children for more than three (3) hours but less than twenty-four (24) hours per day per child unattended by his/her parent or legal guardian.

**DAY CARE HOME, FAMILY:** A private residence licensed by the State of New York, which receives for care and supervision not more than six (6) children for more than three (3) hours but less than twenty-four (24) hours per day per child unattended by his/her parent or legal guardian.

DRIVE-IN RESTAURANT: A place where food or beverages are served or sold for consumption on the premise primarily in an automobile.

DRIVEWAY: That space or area of a lot which is specifically designated and reserved for the movement of motor vehicles from the lot to a public street. Such space or area shall be a minimum of nine (9) feet in width and a maximum of twenty (20) feet in width. In no instance shall motor vehicles be parked or stored within another area of the front yard except in this designated space.

DWELLING, ONE-FAMILY: A detached building, other than a mobile home or other temporary structure, designed for exclusive year round occupancy by one family only.

DWELLING, TWO-FAMILY: A detached building, other than a mobile home or other temporary structure, designed for exclusive year round occupancy by two families living independently of each other.

DWELLING, MULTIPLE-FAMILY: A building or group of buildings, designed for year round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

ELEEMOSYNARY USE: An area or establishment of, relating to, or supported by a charity (i.e. Red Cross, Salvation Army, United Way, etc.).

ENFORCEMENT OFFICER: Refers to the individual appointed by the Village Board of Trustees, who is charged by law with the duty to enforce the provisions of this law.

FAMILY: One or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

FARM: Any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels; and the raising of hogs, the principal source of food of which is garbage transported from another location.

FENCE: A man-made barrier intended to prevent escape or intrusion, or to mark a boundary. For the purpose of this local law, any structure of this nature below 30 inches in height is not considered a fence.

FIRE PREVENTION AUTHORITY: Refers to the fire prevention organization within whose jurisdiction said development is situated.

FLOODPLAIN: The channel or other watercourse and the adjacent land areas (as identified by the Federal Emergency Management Agency, and delineated on the "Agency's" Flood Insurance Rate Maps) that must be reserved in order to discharge the base flood (100 year flood) without cumulatively increasing the water surface elevation by more than one foot.

FLOOR AREA, GROSS: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.



In calculating the "gross floor area," areas such as bathrooms, utility closets, enclosed parking areas, mechanical and equipment rooms, stairwells, public and fire corridors, elevators, etc., are to be included in the "gross floor area" calculations.

**FLOOR AREA, NET:** The sum of the total horizontal areas of the several floors of all buildings on a lot which is devoted to the primary use of the structure only, as measured from the interior faces of exterior walls. Areas such as bathrooms, utility closets, enclosed parking areas, mechanical and equipment rooms, stairwells, public and fire corridors, elevators, etc., shall not be included in the calculation of "net floor area."

**FOUNDATION:** Means a permanent structure which is located under the main body of a residence or building which supports and prevents said structure from shifting, settling or heaving.

**FRONTAGE:** The lot line of a plot or parcel of land which abuts a public street or road.

**GRADE, ESTABLISHED:** The elevation of the centerline of the roads or streets as established by the proper authorities.

**GRADE, FINISHED:** The completed surface of lawns, walks, or roads or the average elevation of the surface of the ground where it abuts the structure.

**HEALTH AUTHORITY:** Refers to the State Department of Health, or its authorized representative, or the local health official serving the municipality.

**HOME OCCUPATION:** (See Section 22)

**HOSPITAL:** A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

**HOSPITAL, ANIMAL:** An establishment for temporary occupancy by sick or injured animals for the purpose of medical treatment.

**INDUSTRIAL:** The use of buildings or land or both for the purpose of manufacturing or producing, in whole or in part, any type of product or goods, for subsequent sale, trade, exchange, or shipment.

**LAUNDERETTE:** A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

**LAWN/GARDEN SALES AND SERVICE:** An area or establishment where merchandise and commodities are sold, repaired, and/or serviced, in which the merchandise and commodities are utilized primarily for residential purposes such as the maintenance, upkeep, and ornamentation of lawns, gardens, and shrubbery.

**LIGHT MANUFACTURING:** Any use wherein the primary occupation is the processing, fabrication, converting, altering, assembling or other handling of materials or goods; the operation of which is conducted solely within a building or group of buildings; and which use creates no objectionable odors, fumes, dirt, vibration, glare, or noise beyond the site containing the use.

LOT: A portion, plot or parcel of land considered as a unit, devoted to a certain use or occupied by a building(s) united for a common interest. Also, such open land existing and not subject to use at the time of adoption of this Local Law.

LOT, AREA: The total area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

LOT, CORNER: A parcel of land at the junction of and fronting on two or more intersecting streets, or roads so as to form an interior angle of 135 degrees or less.

LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines, measured in the direction of the side lines of the lot frontage.

LOT, LINES: Any line or lines dividing one lot from another lot or from a street.

LOT, WIDTH OF: A width of the lot measured at right angles to the lot depth at the front yard specified for the district.

MIXED COMMERCIAL/RESIDENTIAL: For the purpose of this local law, mixed commercial/residential uses are permitted in C-1 zoning districts only, providing not more than three residential units occupy the same building as the commercial use(s), and providing that all the dimensional requirements are met as prescribed in Schedule A.

MOBILE HOME, AGRICULTURAL RELATED: A residential unit used in conjunction with, and on the same premises as an active agricultural farm which provides residential living quarters for a full-time employee of the farm and his immediate family.

MOBILE HOME, SINGLE SECTION: For the purpose of this Local Law, a single section mobile home means a structure, transportable in one section, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. A "trailer" or a "recreational vehicle" is not considered a mobile home. (See Section 26 for additional information.)

MOBILE HOME - DOUBLE SECTION: For the purpose of this Local Law, a double section mobile home means a structure, transportable in two sections, which, in the traveling mode, is at the minimum a constant sixteen feet in width or thirty-six feet or more in length, or, when erected on site, is five hundred seventy-six or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Two "trailers" are not considered a double section mobile home. A double section mobile home, when assembled, will have similar characteristics of a site-built house, including a peaked roof. (See Section 26 for additional information.)

**MOBILE HOME COURT:** A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use. (See Section 26 for additional information)

**MOBILE HOME LOT:** Means a parcel of land for the placement of a mobile home and the exclusive use of its occupants.

**MOBILE HOME STAND:** Means that part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

**MODULAR DWELLING UNIT:** A factory manufactured home, either a one, two or multiple family dwelling, consisting of component parts manufactured off-site which must be transported to the building site separately for erection, construction or installation as a permanent structure. Modular homes differ from mobile homes in that a modular home must be installed on a site-built permanent foundation, is not designed to be moved or transported once installed on the foundation and is subject to the requirements of Chapter B of the New York State Uniform Fire Prevention and Building Code.

**MOTEL:** A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities.

**NON-CONFORMING LOT:** A tract of land lawfully existing at the time of enactment or amendment of this Local Law which does not conform to the dimensional regulations of this Law.

**NON-CONFORMING USE:** A building, structure, or use of land lawfully existing at the time of enactment of this Local Law, and which does not conform to the regulations of the district or zone in which it is situated.

**NURSERY, AGRICULTURAL:** An area or establishment where trees, shrubs, flowers, or plants are grown for transplanting, for use as stocks for budding and grafting, and for wholesale or retail sale. For the purpose of this Local Law, an agricultural nursery shall include greenhouses.

**NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED:** A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

**PARKING SPACE:** An off-street space or area used for the temporary location of one licensed motor vehicle which is at least nine (9) feet wide and twenty (20) feet long, not including an access driveway, and has direct access to a street or alley.

**PERMITTED USE:** A land use specifically allowed in a particular zoning district, excluding illegal uses and nonconforming uses.

**PERSON:** Means any individual, firm, trust, partnership, public or private association, or corporation.

**PERSONAL SERVICE SHOP:** Any building wherein the primary occupation is the repair, care of, maintenance, or customizing of personal properties that are

worn or carried about the person or are a physical component of the person. For the purpose of this Local Law, personal service shops shall include but need not be limited to barber shops, beauty parlors, hair stylists, shoe repair shops, and other similar places of business.

**PLAT:** Means any map, plan or chart, indicating the location and boundaries of individual properties.

**PLOT:** Means a parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat.

**PUBLIC SEWER & WATER SYSTEM:** Refers to a system which serves an entire development but has its service facilities remote from individual housing units, usually in the form of a municipally operated utility system.

**PUBLIC STREET OR ROAD:** Refers to a public way which affords principal means of access to abutting properties.

**PUBLIC UTILITY:** A business or service having an appropriate franchise from the State of New York, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, transportation, or communications.

**RECREATIONAL VEHICLE:** A mobile recreation unit including travel trailer, motor home, pick-up, camper, converted bus, tent trailer, or similar device used for temporary portable housing.

**RIGHT-OF-WAY:** Means the area, either public or private, over which the right of passage exists.

**ROOMING HOUSE:** (See Boarding House)

**SERVICE STATION:** Any area of land including structures thereon, used or designed to be used for the supply of gasoline or oil or other fuel for motor vehicles and which may include facilities for servicing, lubricating, and minor repairing, but not including salvaging of such vehicles.

**SETBACK:** The distance from lot lines to the nearest outside wall of the principle and secondary structure.

**SEQR:** The State Environmental Quality Review Act (SEQR), Article 8 of the NYS Environmental Conservation Law was adopted in order to incorporate consideration of environmental factors into the planning, review and decision making processes at all levels of government, particularly at the local government level. SEQR also facilitates a coordinated review for actions involving more than one agency.

**SEWER CONNECTION:** Means the connection of all pipes, fittings, and appurtenances from the drain outlet of the mobile home or building to the inlet of the corresponding sewer riser pipe of the sewer system serving the mobile home court or development.

**SEWER RISER PIPE:** Means that portion of the sewer lateral which extends vertically to ground elevation and terminates at each building or mobile home lot.

**SIGN:** Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge, or insignia of any government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a "sign".

**SIGN, ADVERTISING:** A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

**SIGN, BUSINESS:** A sign which directs attention to a business, commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

**SIGN, FLASHING:** A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this Local Law any revolving illuminated sign shall be considered a "flashing sign".

**SITE PLAN REVIEW USE:** A particular use of land which requires the Planning Board to review the site plan, maps, and related information of a developer to assure that the plans meet the stated purposes and standards of the zoning district, provide for the necessary public facilities such as roads, drainage structures, and schools, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF:** That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, or any substantial change in the roof.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**TOURIST CAMP:** (See Camping Ground)

**TOURIST HOME:** A dwelling in which overnight accommodations are provided for transient guests for compensation.

**TRAILER:** A mobile unit designed for camping, recreational travel, or vacation use only, which is equipped with a chassis and provides partial housekeeping facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

TRAILER CAMP, OR PARK: (See Camping Ground)

UNIT: Shall mean a house, apartment, house trailer, mobile home, cabin, camp or cottage designed for use by a single family.

WAREHOUSE: An enclosed building or structure used for the storage of merchandise or commodities. For the purpose of this Local Law, a warehouse shall not include a garage, storage shed, pole barn, or any other structure which serves primarily as an accessory structure to a residential use.

WATER CONNECTION: Means the connection consisting of all pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the building or mobile home.

WATER RISER PIPE: Means that portion of the water supply system serving the development or mobile home park which extends vertically to the ground elevation and terminates at a designated point at each building or mobile home lot.

YARD, FRONT: An open, unoccupied space on the same lot with the primary building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

YARD, REAR: An open, unoccupied space on the same lot with the primary building, open and unoccupied except for an accessory building, if any, extending the full width of the lot and located between the rear line of the primary building and the rear line of the lot.

YARD, SIDE: An open unoccupied space on the same lot with the primary building, located between the side-lines of the primary buildings and the adjacent lot side-lines, and extending from the front yard to the rear yard.

### ARTICLE III - DISTRICTS AND BOUNDARIES

#### Section 5 - Establishment of Districts

For the purpose of this Local Law, the Village of Newport is divided into the following types or classes of districts:

R-1	Residential District
AG	Agricultural District
OS	Open Space District
C-1	Downtown Commercial District
C-2	General Commercial District
M-1	Manufacturing District
LC	Land Conservation Overlay District
PD	Planned Development District

#### Section 6 - Interpretation of District Boundaries

The following rules shall apply to determine the boundaries of the districts shown on the zoning map or maps:

1. Where district boundaries follow streets or highways, the center of such streets and highways shall be considered the district boundaries.

2. Where district boundaries shall follow lot lines, such lot lines shall be considered the district boundaries.
3. Where district boundaries on the zoning map shall follow natural routes such as streams, etc., the center of such natural lines shall be considered to be the district boundaries.
4. Where district boundaries are indicated as parallel to streets or highways they shall be construed as being parallel thereto and at such distances therefrom as indicated in figures on the appropriate map, or, if no such figures appear, then by measurement of the scale of the map. In case of dispute as to the exact location of a district boundary, the decision of the Board of Appeals shall be final.

### Section 7 - Application of Regulations

Except as otherwise provided elsewhere in this Local Law:

1. No building or structure shall be erected, constructed, reconstructed or altered, and no land or building or part thereof shall be used, for any purpose or in any manner except as permitted for the district in which such building or land is located.
2. No building or structure shall be erected, constructed, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in any way, except in accordance with the yard, lot area and building location regulations of this Local Law for the district in which such building is, or shall be located; or where such open space or land is located.
3. No yard or other open space surrounding any building located in conformance with this regulation shall be considered as providing the requisite yard or open space area for another building. Likewise, no yard or open space on one lot shall be considered as providing a required yard or open space for a separately-owned building on any other lot.

## ARTICLE IV - USE REGULATIONS

### Section 8 - R-1, Residential District

The purpose of the R-1 District is to provide for low to moderate density residential development and related uses while prohibiting the intrusion of incompatible commercial and other non-residential uses.

The following uses are permitted, subject to regulations set forth in this Local Law:

- A. Permitted Uses
  1. single-family dwelling
  2. two-family dwelling
  3. accessory use

- B. Site Plan Review Uses
1. 2, 3, and 4 family dwelling by conversion
  2. home occupation
  3. accessory apartment
  4. tourist home
  5. church
  6. school
  7. family day care home
  8. group day care facility
  9. day care center
  10. nursing home
  11. boarding house

### Section 9 - OS, Open Space District

The purpose of the OS District is to allow for areas of the Village to be maintained in a rural character through the prohibition of residential, agricultural, commercial, and industrial uses.

The following uses are permitted, subject to regulations set forth in this Local Law:

- A. Permitted Uses
1. park
  2. playground
  3. cemetery

### Section 10 - AG, Agricultural District

The purpose of the AG District is to provide for farming and farm-related uses as well as non-intensive residential development.

The following uses are permitted, subject to regulations set forth in this Local Law.

- A. Permitted Uses
1. farm
  2. farm related structure
  3. nursery (agricultural)
  4. single-family dwelling
  5. accessory use
- B. Site Plan Review Uses
1. two-family dwelling
  2. home occupation
  3. tourist home
  4. boarding house
  5. agricultural-related mobile home

### Section 11 - C-1, Downtown Commercial District

The purpose of the C-1 District is to provide for moderate to high density commercial development which maintains and/or enhances the character of the Village's downtown business area.



The following uses are permitted, subject to regulations set forth in this Local Law:

- A. Permitted Uses
  1. professional/business office
  2. bank/savings and loan institution
  3. personal service shop
  4. retail store
- B. Site Plan Review Uses
  1. laundromat
  2. restaurant/tavern
  3. mixed commercial/residential\*
  4. bakery
  5. dry cleaning/tailoring shop
  6. printing/lithograph shop
  7. gasoline/service station
  8. amusement arcade
  9. lawn/garden sales and service
  10. public utility

#### Section 12 - C-2, General Commercial District

The purpose of the C-2 District is to allow for new low to moderate density commercial and residential development.

The following uses are permitted, subject to regulations set forth in this Local Law.

- A. Permitted Uses
  1. professional/business office
  2. bank/savings and loan institution
  3. personal service shop
  4. retail store
  5. single-family dwelling
  6. two-family dwelling
- B. Site Plan Review Uses
  1. 2, 3, and 4 family dwelling by conversion

#### Section 13 - M-1, Manufacturing District

The purpose of the M-1 District is to provide for limited low-intensity industrial development in areas of the Village which have traditionally been used for manufacturing purposes.

The following uses are permitted, subject to the regulations set forth in this Local Law:

- A. Site Plan Review Uses
  1. light manufacturing
  2. auto repair shop

\* See "Definitions" (Article II - Section 4)

3. warehouse
4. public utility

### Section 14 - LC, Land Conservation Overlay District

- A. Purpose: The purpose of the LC District is to ensure that any new development within the 100 year floodplain of West Canada Creek is compatible with this sensitive environmental area, and to ensure that the potential for health hazards and property damage resulting from flooding are minimized.
- B. General Process: The Land Conservation District is an overlay. The uses in the underlying districts are permitted subject to site development plan review by the Planning Board. (See Section 15)
- C. Procedures for Actions in the Land Conservation Overlay District:
  1. Review Criteria: In passing upon such applications, the Planning Board may consider all relevant factors specified in this and other sections of this Local Law and:
    - (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
    - (b) The danger that materials may be swept on to other lands or downstream to the injury of others.
    - (c) The proposed water supply and sanitation systems.
    - (d) The susceptibility of the proposed facility and its contents to flood damage.
    - (e) The importance of the services to the community provided by the proposed facility.
    - (f) The requirements of the facility for a waterfront location.
    - (g) The availability of alternative locations not subject to flooding for proposed use.
    - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
    - (i) The relationship of the proposed use to the comprehensive plan and/or local and regional floodplain management programs for the area.
    - (j) The safety of access to the property in times of flood.
    - (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  2. Standards:
 

All Uses:

    - (a) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed which, action alone or in combination with existing or future uses, unduly affects the capacity of the floodplain or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of

encroachment extending for a significant reach on both sides of the stream. In addition, all floodplain area uses may be subject to the standards contained in Section 15 and the following standards:

Fill:

- (a) Any fill proposed to be deposited in the floodplain must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- (b) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, bulkheading, or other suitable treatment.

Structures (temporary or permanent):

- (a) Whenever possible, structures shall not be designed for human habitation.
- (b) Structures shall have a low flood-damage potential.
- (c) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

- Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
- So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.
- Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restrictions of bridge openings, and other narrow sections of a stream.
- Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area of flood-proofing.

Storage of Material and Equipment:

- The storage of processing materials that are in times of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

3. Possible Conditional Requirements: Upon consideration of the factors listed above and the purpose of this Local Law, the Planning Board may attach such conditions to the granting of permits as it deems necessary to further the purpose of this Local Law. Such conditions may include, but shall not be limited to the following:

- (a) Modification of waste disposal and water-supply facilities.

- (b) Limitation on periods of use and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- (e) Flood-proofing measures such as the following shall be designed consistent with the flood-protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Planning Board may require that the applicant submit a plan or document certified by a registered professional engineer that the flood-proofing measures are consistent with the regulatory flood-protection elevation and associated flood factors for the particular area. The following flood proofing measures may be required without limitation because of specific enumeration:

- Anchorage to resist flotation and lateral movement.
- Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
- Reinforcement of walls to resist water pressures.
- Use of paints, membranes, or mortars to reduce seepage of water through walls.
- Addition of mass or weight to structures to resist flotation.
- Installation of pumps to lower water levels in structures.
- Construction of water supply and waste-treatment systems so as to prevent the entrance of flood waters.
- Installation of pumping facilities or comparable practices for sub-surface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
- Construction to resist rupture or collapse caused by water pressure or floating debris.
- Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm waters into the building or structures. Gravity draining of basements may be eliminated by mechanical devices.
- Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.
- Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately flood-proofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

4. Non-conforming Uses: A structure or use of a structure or premises which was lawful before the passage or amendment of this Local Law which is located in the Land Conservation Overlay District but which

is not in conformity with the provisions of this Section may be continued subject to the provisions of Section 30 of this Local Law and the following conditions:

- (a) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its value, it shall not be reconstructed except in conformity with the provisions of this Local Law. Reconstruction may be permitted provided that adequate and safe floodproofing is completed in conformity with subsection C.3 of this Section.

#### Section 15 - Site Development Plan Review Process (See Appendices A, B, C & D)

- A. Purpose and General Process: The following process is incorporated into this Local Law as a tool for the Planning Board to evaluate specific uses in certain zoning districts. These uses, termed Site Plan Review Uses, are noted for each district in Sections 8 through 13.

The site development plan review process has three (3) possible steps: concept review, preliminary site plan review and action, and final site plan review and action.

- B. Procedure for Preliminary Site Plan Review and Action: Prior to the issuance of a building permit for any Site Plan Review Uses, the zoning officer shall refer the application and all application materials as specified herein to the Planning Board for its review and approval in accordance with the provisions set forth in this Section.

Within sixty (60) days of the receipt of a Preliminary Site Plan, the Planning Board shall inform the applicant of its decision.

##### 1. Concept Review

A meeting shall be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the concept review, the following information will be required, if appropriate:

- a. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets and easements within two hundred (200) feet of the boundaries thereof.
- b. A map of site topography at no more than five (5) feet contour intervals. If general site grades exceed five (5) percent or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.

## 2. Application for Preliminary Site Plan Approval

Anticipated costs which the Planning Board expects to incur due to consulting services or other review costs shall be paid by the applicant and placed in an escrow account. Any unspent funds shall be returned to the applicant within five (5) days of Planning Board action on the Final Site Plan.

An application for preliminary site plan approval shall be made in writing to the zoning officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the sketch plan conference.

- a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- b. North arrow, scale and date;
- c. Boundaries of the property plotted to scale;
- d. Existing watercourses;
- e. Grading and drainage plan, showing existing and proposed contours;
- f. Location, proposed use and height of all buildings;
- g. Location, design and construction materials of all parking and truck loading areas, showing ingress and egress;
- h. Provision for pedestrian access;
- i. Location of outdoor storage, if any;
- j. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- k. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- l. Description of the method of securing public water and location, design and construction materials of such facilities;
- m. Location of fire and other emergency zones, including the location of fire hydrants;
- n. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- o. Location, size and design and construction materials of all proposed signs;
- p. Location and proposed development of all buffer areas, including existing vegetative cover;
- q. Location and design of outdoor lighting facilities;
- r. Designation of the amount of building area proposed for retail sales or similar commercial activity;
- s. General landscaping plan and planting schedule;
- t. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution; and
- u. Completed Environmental Assessment Form (EAF) in compliance with the State Environmental Quality Review Act (SEQR).

### 3. Review Criteria

The following criteria for the Planning Board review may include, but need not be limited to the following:

- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- d. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- e. Adequacy of stormwater and drainage facilities.
- f. Adequacy of water supply and sewage disposal facilities.
- g. 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.
- h. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
- i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- j. Adequacy of fire lanes and other emergency zones and provisions of fire hydrants.
- k. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

Consultant Review. The Planning Board may consult with the Village enforcement officer, fire commissioners, conservation council, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

Public Hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty (60) days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Village at least five (5) days before the public hearing.

### 4. Planning Board Action on Preliminary Site Plan

The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQR). First, the Planning Board should identify the type of action the proposed development is according to SEQR. Depending on the size, location,

and other factors, it may be a TYPE I or an UNLISTED action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed. When the draft environmental impact statement is complete, the time frame for Planning Board review begins (60 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

When compliance with SEQR is complete and within sixty (60) days of the receipt of an application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within said sixty (60) day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, 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.

If the Planning Board determines that the information provided during the "preliminary site plan review phase" is adequate for a determination to be made by the Board, the procedure outlined in Appendix A is all that is required. In this case, the procedure outlined in Subsection C of this Section may be waived.

If the proposed action is subject to review by the Herkimer County Planning Board, this action shall first be referred to the County Planning Board for their recommendation, prior to the Village Planning Board's final action (See Appendices A and B).

- C. Procedure for Final Site Plan Review and Action: (Optional - See Appendix B) After receiving 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 for approval. If more than six (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 may 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.

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

The final additional information shall accompany an application for final site plan approval:

- a. Record of application for and status of all necessary permits from state and county officials;
  - b. Detailed sizing and final material specification of all required improvements; and
  - c. An estimated project construction schedule.
1. Required Referral (See Section 36 for a more detailed description of the County referral process). Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239 of the General Municipal Law, where the proposed action is within a distance of five hundred (500) feet from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
  2. Planning Board Action on Final Detailed Site Plan. Within sixty (60) days of receipt of the application for final site plan approval, the Planning Board shall render a decision to the Zoning Enforcement Officer. If no decision is made within the sixty (60) day period, the final site plan shall be considered approved.
    - a. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward such copy to the Zoning Enforcement Officer.
    - b. Upon disapproval of a final site plan, the Planning Board shall so inform the Zoning Enforcement Officer and the Zoning Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

#### Section 16 - Planned Development Process (See Appendix E)

- A. Purpose: The regulations hereinafter set forth in this section are intended to provide a means for the development of residential, business,

commercial, manufacturing, recreational and park areas or combinations thereof in a manner which will permit flexible and imaginative design concepts to be utilized and by means of adequate supervision and control by the Planning Board and the Village Board, to insure that the spirit and intent of this Zoning Law will be preserved. No specific requirements with respect to minimum lot sizes within the district, lot coverage, building height, yard dimensions, off-street parking or density of residential use are made although, so far as is practicable within the overall scheme of a planned development district, the requirements of Schedules A and B of this Local Law should be considered as a guide in determining reasonable requirements for comparable uses within a planned development district. Nothing is intended to limit the areas within the Village in which a planned development district may be created.

- B. The General Planned Development Process: The planned development process consists of two basic steps. First is the change of zoning district designation. Second is review of the specific site plans for the area.

Any change to a Planned Development (PD) district shall be based on a specific development proposal. Although the designation for all planned development will be PD, each district shall reflect the type of use which was the basis for the zone change.

- C. Procedures for the Establishment of a Planned Development District:

1. Pre-application Conference

Before submission of a preliminary application for approval as a Planned Development District, the developer is encouraged to meet with the Planning Board to determine the feasibility and suitability of the application before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

2. Application Procedure

Application for the establishment of one of the planned development districts shall be made to the Village Board. The Village Board shall refer the application and all application materials to the Village Planning Board within fifteen (15) days of the application.

3. Planning Board Review

Within forty-five (45) days of the receipt of the application, the Planning Board shall recommend approval, approval with modifications or disapproval of the application to the Village Board. Failure of the Planning Board to act within 45 days or such longer period as may be consented to shall be deemed to be a grant of approval of the plan as submitted. In the event that approval subject to modifications is granted, the applicant may, within ten (10) days after receiving a copy of the Planning Board's decision notify the Village Board in writing of his refusal to accept all such modifications, in which case the Planning Board shall be deemed to have denied approval of the application. In the event that the applicant does not notify the Village Board within said period of his refusal to accept all said modifications, approval of the application, subject to such modifications, shall stand as granted.

a. Submission Requirements

Application to the Village Board must include a petition for the zone change. The applicant must provide proof of full legal and beneficial ownership of the property, or proof of an option or contractual right to purchase the property. The preliminary plan shall include, but not be limited to, the following:

- 1) A completed short Environmental Assessment Form (EAF) to comply with the provisions of the State Environmental Quality Review process (SEQR).
- 2) A mapped preliminary development plan of the property in question. Such a plan shall include all existing structures, roads and other improvements and shall indicate the circulation concept, general site location of all proposed structures, general parking scheme, the approximate acreage in each type of use and the amount, proposed use and location of all open space and recreation areas. This plan shall also indicate the location of all utilities and proposed expansions and/or any alternative concepts for dealing with water supply, sewage disposal, stormwater drainage and electrical service.
- 3) The applicant must demonstrate that alternative design concepts have been explored.
- 4) A written description of the proposal.
- 5) A written description of the probable impacts on the natural systems of the Village.
- 6) A written description of the probable fiscal impacts including a summary of new costs and revenues to the Village due to the development.

b. Review Criteria

In considering the application for the creation of a planned development district, the Planning Board may require such changes in the preliminary plans and specify such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:

- 1) The need for the proposed land use in the proposed location.
- 2) The existing character of the neighborhood.
- 3) The location of principal and accessory buildings on the site in relation to one another and in relation to buildings and uses on properties adjoining the proposed district.

- 4) The general circulation and open space pattern in relation to structures.
- 5) The traffic circulation features within the site, and the amount, location, and access to automobile parking areas.
- 6) The environmental factors on the Environmental Assessment Form (EAF).

#### 4. Planning Board Action

Establishment of a planned development district is a rezoning action and may be subject to the State Environmental Quality Review process (SEQR). Therefore, the Planning Board should make a two-part recommendation to the Village Board as part of this process.

First, the Planning Board should identify the type of action the zone change is according to SEQR regulations. Depending on the size of the zone change and several other factors, it may be a TYPE I or an UNLISTED action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application. A preliminary determination of environmental significance can be made. The Planning Board should advise the Village Board of this determination and all related responsibilities of the Village.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement has been filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement is completed. When the draft environmental impact statement has been completed, the time frame for Planning Board review begins (45 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

The second part of the recommendation is a decision on the zone change itself based on the Review Criteria per sub-paragraph 3.b of subsection (C) of this Section

The decision of the Planning Board shall be in the form of a written resolution which shall include findings of fact and shall set forth the reasons for granting or denying tentative approval, specifying with particularity in what respects the proposal contained in the application would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:

- a. In what respects the plan is or is not consistent with the statement of purpose set forth in subsection (A) of this Section.

- b. The extent to which the proposal departs from zoning regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
  - c. The nature and extent of the common open space in the planned development district, the reliability of the proposals for maintenance and conversion of such open space and the adequacy or inadequacy of the amount and function of the open space in terms of the densities of residential uses and the types thereof where residential uses are proposed.
  - d. The plat of the proposal and the manner in which such plat does or does not make adequate provision for public services, control over vehicular traffic and the amenities of light and air, and visual enjoyment.
  - e. The relationship, whether beneficial or adverse, of the proposed planned development district upon the neighborhood in which it is proposed to be established.
  - f. In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect the interests of the public and the residents of the district in the integrity of the plan.
5. The resolution required by sub-paragraph 4 of subsection (C) of this section shall be filed with the Village Clerk and shall be available during regular hours for inspection by any interested person.
  6. Upon the filing of such resolution with the Village Clerk, the Village Board shall within thirty (30) days hold a public hearing on said proposal after giving the requisite public notice required by law.
  7. The Village Board may thereafter amend this Zoning Law so as to establish the proposed planned development district and define the boundaries thereof. Such action shall have the effect only of establishing a planned development district for the use proposed by the applicant. Such amendment of the Zoning Law shall not constitute or imply a permit for construction or final approval of plans.
  8. In the event that construction has not commenced within two (2) years from the date that the zoning map amendment establishing the Planned Development District, became effective, the Planning Board may so notify the Village Board and the Village Board may, on its own motion, institute a zoning map amendment to return the Planned Development District to its former classification pursuant to Article VII of this Local Law.

#### D. Procedure for Implementation of a Planned Development District

Completion of subsection (C) of this section to change a zone to a planned development district does not imply approval to proceed with actual

development of the area. Upon approval of the rezoning request, the applicant is required to follow the procedure explained herein.

## 1. Concept Review

Before proceeding with the final design for the area in question, the developer is encouraged to meet with the Planning Board and Village Board to clarify any conditions that either Board has requested. This should promote an understanding by all parties before the preliminary concepts are changed to detailed designs and before the developer spends large amounts of money.

## 2. Planning Board Review

Upon approval of zone change, the applicant has one year in which to submit a final plan to the Planning Board for review and recommendation to the Village Board. Within seventy (70) days of the receipt of the application, the Planning Board shall grant approval, approval with conditions, or disapproval of the application.

### a. Submission Requirements

Before final approval of the plan, the applicant must show evidence of full legal and beneficial ownership interest in the land.

The final plan shall include, but not be limited to, the following:

- 1) A completed short or long Environmental Assessment Form (EAF) to comply with the provisions of the State Environmental Quality Review process (SEQR).
- 2) A mapped final development plan of the property in question. Such a plan shall be a certified survey showing all existing and proposed grades, existing and proposed structures, existing and proposed vegetation, the layout of all roadways, walkways, and parking areas. Construction details for such areas described above shall also be submitted.
- 3) A separate map showing all existing and proposed water lines, sewer lines, electric lines, natural gas lines and other utility and service lines, refuse storage and disposal, fuel storage facilities, and rights-of-way.
- 4) If the project will involve construction of new water supply and the infrastructure, new sewage treatment system, and/or new or alternative power systems, the design and details of such proposals must be included.
- 5) A plan showing the treatment of stormwater runoff.

- 6) The total number of acres in the site, the number and type of housing units, the gross and net residential densities, the approximate selling and/or rental prices of the units, the phasing plan, and the approximate completion date of the entire project.
- 7) The Planning Board may require any additional materials it deems necessary to adequately evaluate the proposed project.

b. Review Criteria

The experience of the Planning Board may not be adequate to review the detailed design and construction drawings in all cases. If this is the case, the Planning Board may check with the State Department of Environmental Conservation (DEC), the State Health Department, the County Planning Board and other agencies to insure that review of those areas outside the Board's scope is being attended to. Within its own capabilities, the Board may use the following criteria as a general guideline:

- 1) The height and bulk of buildings and their relation to other structures in the vicinity.
- 2) The proposed location, type, and size of signs, vehicular and pedestrian circulation, loading zones and landscaping.
- 3) The safeguards provided to prevent possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- 4) Storm drainage and sanitary waste disposal in and adjacent to the area.
- 5) The compatibility of uses proposed for such district where a combination of uses are proposed.
- 6) The provisions of adequate and sufficient public utilities, including fire protection.
- 7) The criteria cited for review of the planned development district rezoning process (subparagraph 3.6 of subsection (C) of this Section).
- 8) The environmental factors on the Environmental Assessment Form (EAF).

NOTE: The Planning Board may require as a condition to final approval the posting of a bond to assure the completion of all requirements of the Board including the dedication, maintenance and completion of all streets, easements and open space or recreational areas, creation or extension of special districts or improvement areas, construction of storm and sanitary sewers, landscaping and such other improvements.

### 3. Planning Board Action

First, the Planning Board should identify the type of action the proposed development is according to the State Environmental Quality Review regulations (SEQR). Depending on the size, location, and other factors it may be a TYPE I or an UNLISTED action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed. When the draft environmental impact statement is completed, the time frame for Planning Board review begins (60 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

When compliance with SEQR is complete and within the established sixty day review period the Planning Board shall either grant such approval subject to specified conditions or deny final approval and forthwith file its decision with the Village Clerk and notify the applicant thereof. Thereupon within 90 days the applicant shall file with the County Clerk the final plat of any subdivision proposed and shall make application for a zoning permit or permits in accordance with the proposal as finally approved.

4. No zoning permit shall be granted for the construction of any building or structure other than as approved by the Planning Board and no improvement shall be constructed at variance with the proposal as finally approved except upon resubmission and approval of the Planning Board.
5. The applicant for final approval may appeal to the Village Board a decision of the Planning Board denying final approval or granting final approval subject to conditions with which the applicant is unwilling to comply. Such appeal shall be taken within thirty (30) days of the filing with the Village Clerk of the decision of the Planning Board.

## ARTICLE V - SUPPLEMENTARY REGULATIONS

### Section 17 - Regulations in Schedule A

- A. Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are as specified in Schedule A. The



regulations appearing in Schedule A are hereby made a part of this Local Law and are subject to the supplementary regulations set forth following.

### Section 18 - Additional Area and Yard Requirements

#### A. Lots of Less Than Required Dimension

1. Any lot with an area or width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership on the effective date of this Local Law or any amendment thereto, and the owner thereof owned no adjoining unimproved land that could be combined with said lot to meet the dimension requirements.
2. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board of Appeals shall determine and fix yard coverage requirements for said lot to permit its reasonable utilization for a permitted use.

#### B. Reduction of Lot Area

1. The minimum yards and open spaces required by this Local Law for any building existing on the effective day of this Local Law, or for any building hereafter erected or extended shall not be encroached upon or considered as yard or open space for any other building, nor shall any lot be reduced below the district requirements of this Local Law.

#### C. Corner Lot

1. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard for the district. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a Permit.

#### D. Front Yard Exceptions

1. The front yard of all buildings and structures hereafter constructed within a residential district shall be not less nor required to be more than the average front yard of all lots in the block for a distance of three hundred (300) feet on each side of such lot. A vacant lot within the 300-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

#### E. Transition Yard Requirements

1. Where two districts abut on the same street, and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or extended within a distance of fifty (50) feet from the district

boundary line in the less restricted district, a front yard equal in depth to the average of the required depth in the two districts.

2. Where the side or rear yard of a lot in one district abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.

F. Projecting Architectural Features, Terraces, Porches, Fire Escapes and Solar Energy Equipment

Certain architectural features may project into required yards as follows:

1. Cornices, canopies, eaves or other architectural features may project a distance not exceeding four feet into any front or rear yard, and 40 percent into any side yard to a maximum of four feet.
2. Fire escapes may project a distance not exceeding 4 feet 6 inches.
3. Bay windows, balconies, and chimneys may project a distance not exceeding 3 feet.
4. Apparatus needed for the operation of active and passive solar energy systems, including but not limited to overhangs, movable insulating walls and roofs, detached solar collectors, reflectors, and piping shall be allowed to project into any required front, side or rear yard as necessary to provide for their effective operation. In addition, such equipment shall not be considered in the determination of lot coverage.
5. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form of enclosure exceeding six (6) feet in height.
6. In determining the percentage of building coverage of the size of yards for the purpose of this Local Law, enclosed porches, or porches open at the side but roofed, shall be considered a part of the building.

Section 19 - Additional Height Requirements

A. The height requirements set forth in Schedule A shall be applied to the following special situations as described below:

1. The height limitations of this Local Law shall not apply to barns, silos and other farm buildings, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, solar energy equipment and collectors, and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be

erected only to such height as is necessary to accomplish the purpose for which they are intended and to insure that they do not significantly impair the solar accessibility of buildings or solar collectors on adjacent properties. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.

2. On through lots one hundred twenty (120) feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than one hundred twenty (120) feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than one hundred twenty (120) feet from that street.

## Section 20 - Accessory Buildings and Uses

- A. Permit - All accessory buildings or uses shall require a Permit to be issued prior to their installation as elsewhere required in this Local Law, except that no Permit shall be required for any accessory building with dimensions that do not exceed a maximum of one hundred (100) square feet in size, providing all minimum required yard dimensions are met as prescribed in Schedule A.
- B. Number - There shall be no more than two (2) accessory buildings on any lot in which the primary use is residential, except that Planned Development (PD) districts shall not be subject to this provision.
- C. Height - The maximum height of any accessory building shall be one (1) story or fifteen (15) feet, whichever is less. However, as specified in Section 19 of this Local Law, solar energy collectors, farm buildings, water towers, and other similar structures mentioned in Section 19 shall be exempt from any height restriction.
- D. Location - Accessory buildings or uses in R-1 and AG Districts which are not attached to a principal building may be erected within the side or rear yard in accordance with the following requirements:
  1. For a garage, tool house, storage shed, or similar storage building, no closer than five (5) feet from the side lot line, or ten (10) feet from the rear lot line.
  2. For any accessory building or use located on the street side of a corner lot, the building or use must meet the same setback as for the principal building.
  3. No unattached accessory building shall be closer to a principal building or other accessory building than ten (10) feet, with the exception of accessory buildings on farms which are not subject to this restriction.
- E. Attached Accessory Buildings in R-1 and AG Districts - When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this Local Law applicable to the principal building.

F. Non-Residential Accessory Buildings - Buildings accessory to other than a residential structure shall comply with front, side, and rear yard requirements for the principal building to which they are accessory.

G. Dish and Tower Type Antenna: General Regulations

For the purposes of this Local Law, a dish antenna is a device which is utilized solely for the receipt of satellite television transmissions/signals and it is not intended to include any apparatus utilized by a licensed amateur radio operator.

The following regulations shall apply to all dish and tower type antenna:

1. No dish and tower type antenna shall be erected, altered or reconstructed without the issuance of a building permit by the Enforcement Officer.
2. Application for such permit shall include construction drawings showing proposed method of installation and a site plan depicting structures and plantings on the property.
3. The owner of such a structure shall assume complete liability in case of personal or property damage.
4. No dish and tower type antenna shall be placed in any front yard.
5. All dish and tower type antenna shall have the same rear and side yard setbacks as the principal structure.
6. No dish or tower type antenna shall be attached to the roof of any building (primary or accessory) within any zoning district.
7. The height of a tower type antenna shall not exceed the maximum permitted height of the principal structure (for that particular zoning district as outlined in Schedule A) on the parcel in which it is located.
8. No dish type antenna shall be constructed or erected so as to exceed the height of the principal building on the parcel in which it is located, or fifteen (15) feet; whichever is less.

Section 21 - Accessory Apartments

Accessory apartment units shall be permitted in R-1 Residential zoning districts only after approval by the Planning Board through the site development plan review process and in accordance with the following regulations:

- A. The principal dwelling unit in which the accessory apartment is located must be owner-occupied;
- B. The accessory apartment unit cannot have a gross floor area which exceeds 750 square feet;
- C. The accessory apartment unit is entirely self contained, with separate cooking, sanitary, and sleeping facilities for the exclusive use of the accessory unit's occupant(s);

- D. The accessory apartment unit's entrance shall be located in either the side or rear of the principal dwelling. There shall be no new front entrance to the principal dwelling as a result of the establishment of an accessory apartment;
- E. One off-street parking space shall be provided for each occupant of the accessory apartment unit;
- F. The accessory apartment shall conform to all the dimensional regulations of the principal dwelling as outlined in Schedule A;
- G. Any exterior changes made to the principal dwelling shall, to a degree reasonably feasible, maintain the character and appearance of the principal dwelling; and
- H. The accessory apartment unit shall conform to all requirements of the New York State Uniform Fire Prevention and Buildings Code.

#### Section 22 - Home Occupations

- A. A home occupation shall be deemed to include the following:
  1. The professional office of a physician, dentist, lawyer, engineer, architect, and other similar professions, in which such office may be employed one (1) person in addition to that resident individual engaged in the home occupation; and
  2. A barber, beauty, craft, upholstering, or specialty shop, in which no person other than that resident individual engaged in the home occupation shall be employed or engaged.
- B. However, a home occupation shall not be interpreted to include a commercial stable or kennel; restaurant, tourist or boarding house; animal hospital; convalescent home; mortuary establishment; auto body repair shop; or any store, trade, or business of a similar nature.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, non-illuminated and not exceeding two (2) square feet in area.
- D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the home occupation shall be provided off the street, and not in a required front yard.
- E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot; and in the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

### Section 23 - Off-Street Parking and Loading

- A. Off-street parking space shall be required for all buildings constructed after the effective date hereof. Each off-street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of nine (9) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided.
- B. Parking requirements specified in Schedule B are hereby made a part of this Local Law. For uses not specified, the Zoning Board of Appeals shall establish parking requirements in specific cases consistent with those specified in Schedule B.
- C. Uses in the C-1 district are not subject to the parking requirements specified in Schedule B. However, the Village Planning Board may require off-street parking for site plan review uses in the C-1 district when it has been determined that a need exists and where it is practicable.
- D. For any building having more than one use, parking spaces shall be required as provided for each use.
- E. Parking spaces required in residential districts shall be located in the side or rear yard on the same lot or tract as the principal use, however, off-street parking spaces are subject to the accessory structure setback requirements.
- F. Where parking for commercial uses is located in the required front yard, setbacks for such parking will be at least ten (10) feet.
- G. Floor areas for the purposes of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.
- H. At least one (1) off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of one thousand five hundred (1,500) square feet. Space for off-street loading shall be in addition to space for off-street parking.
- I. An off-street loading space may occupy any part of any required side or rear yard in the C-1, C-2, or M-1 district, except that no such berth shall be located closer than one hundred (100) feet to any lot in any residential district unless wholly within a completely enclosed area or within a building.

### Section 24 - Signs and Advertising Devices

This law regulates signs and street graphics in order to promote the safety and public welfare as follows:

To minimize health and safety hazards associated with poorly constructed signs, sign distractions, and sign obstructions.

To encourage appropriate and compatible signs and graphics.

To lessen objectionable competition in sign size and placement.

To establish a more attractive business climate.

To protect the value of properties and buildings.

To protect and enhance the appearance of the Village.

A. General Sign Regulations: The following regulations shall apply to all permitted signs.

1. Signs must be constructed of durable materials, maintained in good condition and not be allowed to become delapidated.
2. Signs, other than official traffic signs, shall not be erected within the right-of-way of any street.
3. Signs shall not project beyond property lines.
4. Signs shall not be located higher than the principal building to which it is accessory.
5. No billboards or roof signs shall be permitted in any zoning district.
6. No revolving, flashing, or intermittently illuminated signs shall be permitted in any zoning district except that informational signs displaying the time and/or temperature may flash as necessary to convey this information.
7. Any source of illumination of any sign shall not be directed toward any roadway or any adjoining property.
8. All temporary signs erected for any special event or political campaign shall be removed by the property owner when the circumstances leading to their erection no longer apply. In particular, all public office-seekers and their campaign organizations shall remove their candidate's signs and stickers within seven (7) days following the election.
9. No permanent sign shall be placed on any fence, utility pole, or tree.
10. No signs shall be painted directly upon the exterior walls of any building or structure.
11. Flags, emblems, or insignia of a nation, state, government, or school may be displayed without a sign permit, except in connection with commercial or industrial purposes.
12. Signs for home occupations are further regulated under Section 22 of this Law.
13. Nonconforming signs are subject to the regulations contained under Section 30 of this Law.

14. In a Planned Development or Land Conservation Overlay district, the planning board shall review and approve any proposed signs as part of its review of a project in such area.

B. No sign shall be erected, altered, changed or relettered in any O-S, C-1, C-2, or M-1 district unless a sign permit shall have been issued by the zoning enforcement officer pursuant to this section. Any such sign permit shall, unless otherwise indicated thereon, be subject to revocation by the zoning enforcement officer. A sign permit shall not be required for the erection, alteration, relettering or maintenance of a permitted sign in any R-1 district, except for home occupations and nonconforming uses which are outlined under Section 22 and 30 of this Law, respectively.

C. R-1 and AG Districts

1. Non-illuminated and non-advertising signs are permitted as follows:
  - a. One nameplate, identification or professional sign not to exceed two (2) square feet of sign area showing the name and/or permitted Home Occupation of the occupant.
  - b. One sign not to exceed six (6) square feet of sign area pertaining to the sale, lease or rental of the lot or building.
  - c. One temporary sign not to exceed six (6) square feet of sign area pertaining to construction, repairs or alterations on the property.
  - d. Institutional or religious signs not to exceed fifteen (15) square feet of sign area.
  - e. Farm product signs advertising the sale of farm products grown or produced on the premises on which it is located, provided that such sign shall not exceed six (6) square feet in area and shall be promptly removed by the property owner when the circumstances leading to its erection no longer apply.
2. Illumination exception: Signs announcing the name of the occupant may be illuminated provided the source of light is directed away from or shielded from any adjacent residential property or street. Any such illuminated sign may include a professional title which is a commonly accepted form of address (i.e. B.R. Jones, D.D.S.) but may not advertise a Home Occupation.
3. Signs advertising functions, uses, products or services not pertaining to the premises on which they are located, and mobile advertising or attracting devices are expressly prohibited; no vehicle or trailer on which an advertising or business identification sign in excess of two (2) square feet has been applied or painted shall be parked or stored forward of the building line for more than five (5) hours during any twenty-four (24) consecutive hours.



#### D. C-1, C-2, and M-1 Districts

The following signs are permitted in C-1, C-2, and M-1 districts:

1. All signs permitted in R-1 and AG districts.
2. Business signs whose total area is not to exceed two (2) square feet for each one (1) lineal foot of building frontage occupied by the establishment, but in no case shall the gross area of signs advertising a business or business product in a C-1, C-2, or M-1 district exceed thirty-two (32) square feet, nor shall any sign be wider than five (5) feet or longer than one-half of the building frontage occupied by the establishment.
3. One (1) free-standing business sign whose total area is not to exceed twelve (12) square feet. The free-standing business sign is allowed in addition to business signs permitted under Section D-2.

#### E. O-S Districts

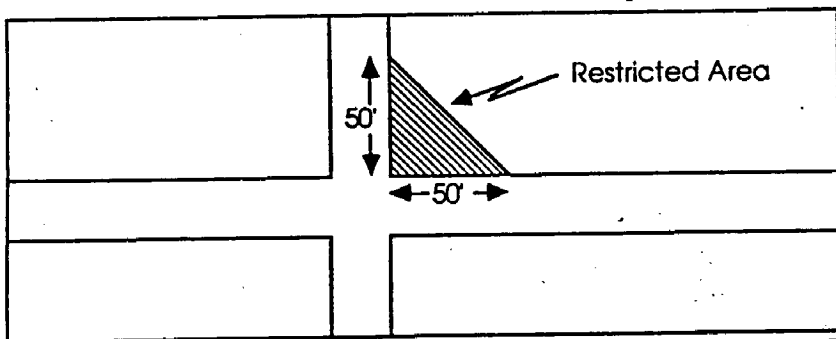
The following signs are permitted in O-S districts:

1. One (1) sign for the purpose of indentifying a park, playground, or cemetery not to exceed twelve (12) square feet.

#### Section 25 - Fences and Walls

1. The installation or construction of any fence requires a zoning permit from the zoning enforcement officer.
2. Fences and walls shall be constructed of durable materials, maintained in good condition, and not be allowed to become dilapidated.
3. No barbed wire fences, electric fences, or wire fences with sharp points shall be permitted in any R-1, O-S, C-1, C-2, M-1, or PD district.
4. No fence or wall shall exceed six (6) feet in height in any zoning district; with the exception of those uses which are regulated by a body of law requiring higher fences (i.e. New York State Uniform Fire Prevention and Building Code).
5. No fences shall be constructed or installed along any front property line, with the exception of agricultural (AG) districts.
6. In yards abutting a street, the height of the fence or wall shall be determined to be the total effective height measured from the finished grade on the side nearest the street. In yards not abutting a street, the height shall be the total effective height above finished grade measured on the side nearest the abutting property. On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement.

7. No fences or walls along side property lines shall be constructed any closer to the front property line than the front of the principal building in any R-1 district; with the exception of residential lots which border non-residential uses - in this case fences and walls may be constructed up to eight (8) feet from the edge of the street, or in the case where a sidewalk is present parallel to the street, a fence or wall may be constructed up to four (4) feet from the inside edge of the sidewalk (edge nearest the principal building).
8. No fence or wall shall be constructed any closer to the edge of the street than eight (8) feet in any zoning district, or in the case where a sidewalk is present parallel to the street, no closer than four (4) feet from the inside edge of the sidewalk. However, in Agricultural (AG) districts, any fence used for the primary purpose of confining animals (such as barbed wire fences or electric fences) may be constructed to within six (6) feet of the edge of the street or inside edge of a sidewalk.
9. On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and a half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection. (See drawing below)



10. No fences, walls, or hedges shall be constructed/grown so as to create a situation in which motorists backing out of driveways would have to back into traffic, or nearly into traffic in order to see if there were any oncoming vehicles.
11. No changes, alterations, or additions to any nonconforming fence or wall shall be permitted in any zoning district unless the change, alteration, or addition complies with all the requirements of this section.

#### Section 26 - Household Pets, Domestic Animals, and Livestock

- A. For the purposes of this Local Law, the following definitions shall be used in the interpretation and administration of this section.
  1. Household Pets: Dogs, cats, and other such animals raised for the enjoyment of the owners and normally housed or cared for entirely within the confines of a residential lot. Household pets, as defined herein, shall include gerbils, hamsters, mice, guinea pigs, parakeets, goldfish, tropical fish, and non-poisonous reptiles, and those related species.

2. Domestic Animals: Domesticated ponies, domesticated horses, confined domestic hares and rabbits, and other similar species which typically require a substantial land area to harbor safely and adequately.

3. Livestock: Animals, and especially farm animals, raised for use, profit, or enjoyment including horses, cattle, donkeys, mules, sheep, goats, swine, fowl, ducks, geese, turkeys, domestically raised mink or fox or other similar fur bearing animals, wild or exotic animals, honey bees, and those species of reptiles, fish, and birds not normally housed or cared for in a non-agricultural setting.

B. Within the Agricultural (AG) districts, household pets, domestic animals, and livestock are permitted.

C. Within the R-1, OS, C-1, C-2, M-1, LC, and PD districts, the only animals which are permitted are those defined herein as household pets. However, domesticated rabbits and hares are permitted, providing they are caged, and providing the parcel in which they are located is at least 1 acre in size.

D. Any person harboring domestic animals or livestock within the R-1, OS, C-1, C-2, M-1, or LC district lawfully at the time of the enactment of this Local Law may continue, subject to the following regulations:

1. Any livestock which are removed from the property for 90 consecutive days may not again be harbored on the property.

2. All livestock now harbored shall be discontinued upon its death, or within 1 year after the effective date of this Local Law, whichever comes first, unless the parcel in which they are located consists of more than 2.5 acres and is adjoined by an agricultural zoning district. In the event that the adjoining agricultural zoning district is ever rezoned to something other than agricultural, the harboring of livestock on the parcel in question shall be discontinued within one (1) year.

3. If such use is discontinued for a period exceeding one (1) year for any reason whatsoever, livestock shall no longer be permitted on the premises, unless approval is granted by the Planning Board.

4. Any domestic animal being harbored at the time of adoption of this Local Law may not be replaced by any kind of domestic animal upon its death.

#### Section 27 - Mobile Homes

A. All mobile homes located or installed after the effective date of this Local Law or its amendment shall comply with the State Code for Construction and Installation and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974, and as it may be amended.

B. A Permit shall be required for any addition or alteration to any mobile home and such Permit shall include a provision for removing any structural addition, unless a Certificate of Zoning Compliance is granted therefore, at such time as the mobile home may be removed or relocated.

- C. An approved metal, wood or other suitable skirting or framing, properly ventilated and attached, shall enclose that area from the bottom of the floor line of the mobile home to the ground.

### Section 28 - Mobile Home Courts

- A. All proposed mobile home courts shall be subject, and developed according to the Planned District procedures. (See Section 16.)
- B. All existing mobile home courts of record shall comply with the provisions of this Local Law whenever any addition, expansion or alteration of the use or operation is proposed, and they shall be required to obtain an initial and annual operating license. Existing courts shall comply in every regard with minimum standards for health, sanitation and cleanliness.
- C. A mobile home court shall have a minimum lot size of two (2) acres.
- D. Within the mobile home court the minimum distance between individual mobile homes shall be thirty (30) feet. This minimum distance shall be maintained with regard to any additions, and/or structures, and/or any projection from the main building, except that unenclosed steps, awnings and one storage building not to exceed ten (10) feet wide by ten (10) feet long by eight (8) feet high per mobile home are exempt from this thirty foot minimum requirement.
- E. Replacement of mobile homes in existing courts will only be permitted where existing clearance limits are maintained or the thirty (30) foot minimum requirement is met, whichever is less.
- F. Sanitary Facility
1. Water and Sewer - All water supply and sewage disposal systems shall be approved by the Department of Environmental Conservation as is applicable.
- G. Utility and Fuel Installations
1. All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the local utility company. Whenever possible, electrical transmission and other utility lines shall be placed below ground.
  2. Liquified petroleum gas systems designed and installed in conformity with NFPA 58, Storage and Handling of Liquified Petroleum Bases, are deemed to meet the requirements of this Local Law.
  3. Equipment for flammable liquids designed and installed in conformity with NFPA 30, Flammable and Combustible Liquids Code, is deemed to meet the requirements of this Local Law.
- H. Roadways
1. All internal roadways within a mobile home court shall have a paved or stone course maintained in a dust free manner, the minimum width of which shall be twenty-two (22) feet for two-way traffic and fifteen (15) feet for one-way traffic.

2. There shall be no dead-end streets in any court. A cul-de-sac or wye turn around with a minimum turn around diameter of 90 feet is acceptable.
3. No mobile home shall be located within twenty (20) feet of any internal roadway or within fifty (50) feet from the boundaries of any public street or highway.

#### I. Off-Street Parking

1. A minimum of one off-street parking space shall be provided for each mobile home lot in the mobile home court outside the required road and shoulder area.

#### J. Recreation Area

1. An open space area of up to ten (10) percent of the total land area suitable for recreation and play purposes shall be designated on the site plan and shall be an integral part of any proposed mobile home court. No such open space area shall be placed in any designated floodplain or wetland.

#### K. Improvements

1. Each mobile home owner-tenant shall be required to screen the area between the ground and the bottom of the mobile home with a suitable 'skirt', properly ventilated, within ninety (90) days after location in the mobile home court. Notification of such requirement shall be the responsibility of the mobile home court operator.

#### L. Records

1. Each mobile home within the mobile home court shall bear a readily identifiable number.
2. Each mobile home court shall contain an office on the premises in which shall be maintained a book recording the names of each household head, and the mobile home number.

#### M. Permits

1. No mobile home court shall be established in the Village until a Permit has been applied for and granted in compliance with this Local Law. All permits for the establishment of a mobile home court shall be approved in accord with the Planned Development process.
2. Application for a Permit for the establishment of a mobile home court shall include all information required in Section 16, and in addition:
  - a. A site plan drawn to scale showing elevations, the layout of the court, individual mobile home lots, the roadway system, parking areas, water supply, sewage disposal and recreation area.
  - b. A complete statement describing the proposed method of sewage disposal, water supply, electric, utility and other services.

c. Approval by the County or State Health Department with regard to matters under their jurisdiction.

3. The court owner or operator shall not allow a replacement mobile home to be installed without first obtaining a Permit approved by the Enforcement Officer.

#### N. License

1. The court owner shall not permit occupancy of any mobile home in the court, until a license to operate has been issued.

2. After such time that all conditions, specified for the establishment of the mobile home court, have been met and have been approved by the Enforcement Officer, said officer will issue an initial operating license.

3. All licenses shall be effective until December 31 of the calendar year of their issuance. An application for a renewable operating license shall be made to the Village Clerk at least thirty (30) days prior to expiration date of the previous license. Upon recommendation of the Enforcement Officer, the Village Board shall authorize or deny such license in accord with the requirements set forth in this Section and the established fee schedule.

4. A temporary license to operate may be requested by the court owner prior to completion of the court. The Enforcement Officer may, upon approval of the completed portion, issue a temporary operating license for a specified number of mobile homes. The Enforcement Officer may from time to time reissue the temporary operating license increasing the number of mobile homes specified, which may be occupied.

5. All temporary licenses shall be effective until December 31 of the calendar year of their issuance. An application for renewing a temporary license shall be made to the Village Clerk at least thirty (30) days prior to expiration date of the previous license. Upon recommendation of the Enforcement Officer, the Village Board shall authorize or deny such license in accord with the requirements set forth in this Section.

6. Licenses shall not be transferred or reassigned and become void upon the transfer or change of ownership of the property.

7. Revocation - If the Village Board upon inspection finds that such mobile home court is not being maintained in a clean and sanitary condition or that such mobile home court is not being conducted in accordance with the provisions of this Local Law, it shall serve upon the holder of such license or the person in charge of such mobile home court an order in writing, directing that corrective action with regard to the conditions therein specified be started within five (5) days after the service of such order and completed within thirty (30) days. If after the expiration of such period, such conditions remain unchanged, or are not corrected in accordance with the order of the Board, the Board shall serve notice in writing upon such license holder or the person in charge of such mobile home court requiring

the holder of such license to appear before the Village Board at a time and place to be specified in such notice, and show cause why such license should not be revoked. The Village Board may after a hearing, revoke such license if the holder has violated the regulations applicable to such mobile home court or has violated any of the provisions of this Local Law. Upon the revocation of such license, the premises shall forthwith cease to be used for the purpose of a mobile home court and all occupants shall be removed therefrom.

8. Permits - A Permit will be obtained for any structural addition or alteration to any mobile home within a mobile home court - except for a self-contained storage or service building not to exceed ten (10) feet in length by ten (10) feet in width by eight (8) feet in height; and such Permit shall include a provision for removing the structural addition at such time as the mobile home may be removed or relocated.

#### Section 29 - Trailer/Recreational Campgrounds

- A. All existing and proposed trailer/recreational campgrounds of record shall comply with the provisions of this Local Law whenever any addition, expansion or alteration of the use or operation is proposed and they shall be required to obtain an initial and annual operating license. In addition, existing and proposed campgrounds shall comply in every regard with minimum standards for health, sanitation and cleanliness.
- B. A trailer/recreational campground shall have a minimum lot size of two (2) acres.
- C. Sanitary Facilities
  1. Water and Sewer - All water supply and sewage disposal systems shall be approved by the State Health Department before any Permit is issued. Each campground will contain adequate and suitably located restroom facilities which will include, where appropriate:
    - a. toilet and urinal closets
    - b. lavatory or washing sinks
    - c. bath or shower stalls

The number and type of each shall be determined by the Planning Board. In addition, a dumping station will be provided for those travel trailers which have self-contained toilet facilities.
- D. Roadways and Parking
  1. Access roads shall be a minimum of eighteen (18) feet wide for two-way traffic and twelve (12) feet for one-way traffic. There shall be no dead-end streets in any campground.
- E. Improvements
  1. An open space area of up to ten (10) percent of the total land area suitable for recreation and play purposes shall be designated on the site plan and shall be an integral part of any proposed trailer/recreational campground. No such open space area shall be placed in any designated floodplain or wetland.

## F. Permits

1. No trailer/recreational campground shall be established in the Village until a Permit has been applied for and granted in compliance with this Local Law.
2. Applications for a Permit for the establishment of a trailer/recreational campground shall include all information required in Section 15, and in addition:
  - a. A site plan drawn to scale, showing elevations, the layout of the campground, individual travel-trailer spaces, the roadway system and water and sewer system.
  - b. A complete statement describing the proposed methods of sewage disposal, water supply and restroom, wash and bathing facilities and any other utility services.
  - c. Approval by the County or State Health Department with regard to matters under their jurisdiction.

## G. License

1. The campground shall not permit the occupancy of any site until a license to operate has been issued. After such time that all conditions specified under Section 29 of this Local Law for the establishment of the campground have been met and have been approved by the Enforcement Officer, said officer will issue an initial operating license.
2. All licenses shall be effective until December 31 of the calendar year of their issuance. An application for a renewable operating license shall be made at least thirty (30) days prior to the expiration date of the previous license. Upon recommendation of the Enforcement Officer, the Village Board shall authorize or deny such license in accord with the requirements set forth in this Section and the established fee schedule.
3. Licenses shall not be transferred or assigned and become void upon transfer or change of ownership of the property.
4. Revocation - If the Village Board upon inspection finds that such trailer/recreational campground is not being maintained in a clean and sanitary condition or that such trailer/recreational campground is not being conducted in accordance with the provisions of this Local Law, it shall serve upon the holder of such license or the person in charge of such trailer/recreational campsite an order in writing directing that corrective action with regard to the conditions therein specified be started within five (5) days after the service of such order and completed within thirty (30) days. If after the expiration of such period such conditions remain unchanged, or are not corrected in accordance with the order of the Board, the Board shall serve notice in writing upon such license holder or the person in charge of such trailer/recreational campsite requiring the holder of such license to appear before the Village Board at a time



and place to be specified in such notice and show cause why such license should not be revoked. The Village Board may after a hearing, revoke such license if the holder has violated the regulations applicable to such trailer/recreational campsite or has violated any of the provisions of this Local Law. Upon the revocation of such license, the premises shall forthwith cease to be used for the purpose of a trailer/recreational campground and all occupants shall be removed therefrom.

### Section 30 - Non-conforming Uses

- A. General - The lawful use of any land or building existing on the effective date of this Local Law or its amendment may be continued, although such use does not conform with the provisions of this Local Law, and any such building may be changed, subject to the conditions stipulated herein.
- B. Alterations/Additions - A non-conforming building or use may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the fair value of the building, unless the use of such building is changed to a conforming use.
- C. Changes - A non-conforming use may be changed to other than a permitted use only upon a determination by the Board of Appeals that such change represents a change to a more appropriate classification or otherwise represents an improvement to the existing use and its relationship to adjoining uses.
- D. Discontinuance - Whenever a non-conforming use has been discontinued for a period of one (1) year, any future use shall be in conformity to the provisions of this Local Law, with the exception of non-conforming uses which are temporarily abandoned due to situations or events beyond the owner's control (i.e. fire, financing delays, etc).
- E. Restoration - A building non-conforming as to use or on a non-conforming lot which has been damaged by fire or other causes may be restored, reconstructed or used as before, provided the foundation, height and exterior dimensions shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as a legal non-conforming use or in a non-conforming manner thereafter shall be terminated. The Board of Appeals may waive the one (1) year deadline if the owner can provide documented proof that four reasons beyond his/her control, registration can not be completed within a year.
- F. Validity - Any building or use for which a Permit has been lawfully granted, and on which construction or placement has been started and diligently prosecuted before the effective date of this Local Law or its amendment may be completed.

## ARTICLE VI - ADMINISTRATION AND ENFORCEMENT

### Section 31 - Enforcement

No zoning permit or certificate of zoning compliance shall be issued except in compliance with the provisions of this Local Law and any amendment thereto or as directed by the Board of Appeals under the provisions of Article VI. Application for Building Permits and Certificates of Occupancy shall be obtained and filed in the office of the Village Clerk.

The office of Enforcement Officer is hereby established. The Enforcement Officer shall be appointed by the Village Board to serve at its pleasure. It shall be his duty to enforce the provisions of this Local Law and of all rules, conditions and requirements adopted or specified pursuant to the same. The Village Board may appoint one (1) or more Deputy Enforcement Officers to exercise any or all of the duties of the Enforcement Officer.

The Enforcement Officer shall maintain files, open to the public, of all applications for certificates of occupancy and zoning permits along with plans submitted therewith as well as final certificates and permits.

The Enforcement Officer shall also maintain records, open to the public, of every complaint of a violation of the provisions of this Local Law as well as action taken as a result of such complaints.

The Enforcement Officer shall submit to the Village Board for insertion in the Board minutes, an annual written report summarizing for the year all building permits and certificates of occupancy issued by him as well as complaints of violations and action taken as a result of such complaints.

### Section 32 - Zoning Permits

No building or fence shall be erected, moved, structurally altered, added to, enlarged, or a change in its use effected, or a change in the use of a property and no excavation for any building shall be begun unless and until a zoning permit for such action has been issued by the Enforcement Officer.

Applications for zoning permits shall be submitted in triplicate on a form or forms provided by the Village Clerk. Each application shall set forth the purpose for which the building is intended to be used and a general description of the structure to be erected, and shall be accompanied by a plot plan showing the dimensions of required yards, floor elevations and street and lot grades. The Enforcement Officer may require such additional information, other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use, and the use of the land are in conformity with the provisions of this Local Law.

The zoning permit when signed and issued by the Enforcement Officer shall be posted conspicuously on the premises facing the street or road where the permit authorizes the work to be done.

A zoning permit for a conforming use shall expire in six months unless the construction authorized by such permit shall have been started and vigorously prosecuted during that time. The Enforcement Officer may extend the building permit for a single one year period, if in his judgement, the facts in the

particular situation warrant such extension. Construction shall be initiated within six (6) months of the date of issuance of the permit. Failure to do so shall nullify the permit.

### Section 33 - Certificate of Zoning Compliance

A certificate of zoning compliance is required for any of the following. No certificate shall be issued unless the work has been substantially completed in accordance with the plans and specifications:

1. Occupation and use of a building hereafter erected, altered, moved or extended.
2. Change in the use of an existing building.
3. Occupancy and use of vacant land, except for agricultural use.
4. Change in the use of land, except for agricultural use.

A certificate of zoning compliance shall be issued only if the proposed use of the building or land conforms with the provisions of this Local Law. The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of zoning compliance has been applied before issuing such certificate. Such inspection and determination shall be made within ten (10) days from the date of application; Saturdays, Sundays and legal holidays excepted. Failure to make such inspection and determination within the specified period of time shall not be deemed to be an approval or a disapproval of the application for certificate of occupancy.

### Section 34 - Fees

The Village Board shall establish a schedule of fees, charges and expenses and a collection procedure for Zoning Permits, Certificates of Zoning Compliance, appeals, site plan reviews, and other matters pertaining to this Local Law. The schedule of fees shall be published in a newspaper of general circulation in the Village and may be altered or amended only by the Village Board.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

### Section 35 - Violations and Penalties

Whenever a violation of this Local Law occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Enforcement Officer. Upon the receipt of a written complaint, the Enforcement Officer shall record the complaint in his files, conduct an investigation, and issue his findings in writing. If the Enforcement Officer finds that any of the provisions of this Local Law are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and order the action necessary to correct it. The Enforcement Officer shall file copies of any notice of violation with the Village Clerk and the Village Attorney.

Any person or corporation, whether as owner, or lessee, agent or employee, who shall violate any of the provisions of this Local Law or who fails to comply with any order or regulation made thereunder; or who erects, alters, moves, or uses any building or uses any land in violation of any detailed statement of plans submitted by him and approved under the provisions of this Local Law,

shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding \$250.00 or imprisonment not exceeding six (6) months, or both, in accordance with the provisions of Article 7 of the Village Law and any amendments thereto and any other statutes relating thereto. Each week's [seven (7) days] continued violation shall constitute a separate violation.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this Local Law, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, 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 building, structure, or land.

### Section 36 - County Referrals

Pursuant to Sections 239-l and 239-m of General Municipal Law of the State of New York, certain classes of zoning actions shall be referred to the Herkimer County Planning Board before final action is taken.

The actions to be referred include the following:

- A. Any municipal zoning regulation or any amendment thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:
  1. Any municipal boundary, or
  2. The boundary of any existing or proposed county or state park or other recreation area, or
  3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or
  4. The existing or proposed boundary of any county or state owned land on which a public building or institute is situated;
- B. And, any special permit or variance affecting such real property within such distance of five hundred feet. The term "special permit" shall be deemed to include any special permit, use permit, exception or other special authorization which a Board of Appeals, planning board or legislative body is authorized to issue under the provisions of this Local Law.

Within thirty days after receipt of such referred matter, the Herkimer County Planning Board shall report its recommendations thereon to the referring municipal body. If the county planning board fails to report within such period or within such mutually agreed extension thereof, the municipal body may act without such report. If the county planning board disapproves the proposal, or recommends modifications thereof, the municipal body shall not act contrary except by a vote of a majority plus one of its full membership and after adoption of a resolution fully setting forth the reasons for such contrary action.

## ARTICLE VII - BOARD OF APPEALS

### Section 37 - Appointment

A Board of Appeals is hereby established in accordance with the provisions of Section 7-712 of the Village Law. The Board of Appeals shall consist of three (3) members, each to serve for a term of three years. The terms of office shall be in accordance with the provisions of the Village Law applicable thereto. Vacancies occurring in said Board shall be filled for such unexpired period only.

### Section 38 - Organization

The Board of Appeals shall adopt rules of procedure governing the organization of the Board and the conduct of its meetings.

### Section 39 - Meetings

Meetings of the Board shall be held as provided in the rules of procedure adopted by the Board. The Board shall keep minutes of its proceedings, showing the vote of each member on each question and shall keep records of its hearings and other official actions. If any member is absent or fails to vote, the minutes shall indicate such fact. The concurring vote of two members of the Board shall be necessary to reverse any order or decision of the Enforcement Officer, or to decide in favor of any applicant on any matter over which the Board has jurisdiction. All hearings of the Board shall be open to the public and the minutes of Board meetings and hearings shall be a public record. Every rule or regulation, amendment or repeal thereof, order, requirement, decision or determination of the Board shall be filed immediately with the Enforcement Officer and shall be a public record.

### Section 40 - Appeals to Board of Appeals

The Board of Appeals shall hear and decide appeals from any order, requirement, decision or determination made by the Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under the provisions of this Local Law. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the applicant any matter upon which it is required to pass under this Local Law or to effect any variance of the provisions of this Local Law. Such appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the Village.

Such appeal shall be taken within thirty (30) days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Enforcement Officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Enforcement Officer shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

### Section 41 - Stay of Proceedings on Appeal

An appeal stays all proceedings in furtherance of the action appealed from unless the Enforcement Officer from whom the appeal is taken certifies to the

Board of Appeals after the notice of appeal shall have been filed with him that by reason of acts stated in the certificate, a stay would in his opinion cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

#### Section 42 - Jurisdiction of Board of Appeals

The Board of Appeals shall have the following powers and duties prescribed by statute and this Local Law:

- A. Interpretation. On appeal from a determination of the Enforcement Officer to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the Enforcement Officer involving the interpretation of any provision of this Local Law.
- B. Variance. An appeal from a determination of the Enforcement Officer and in conformity with law, to vary the requirements as they apply to a particular lot where the property owner can show that his property was acquired in good faith and where the strict application of this Local Law would result in practical difficulty/significant economic injury (area variance) or unnecessary hardship (use variance). No application for a variance shall be acted on until the required public hearing has been held. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case as specified below:
  1. AREA VARIANCE This is a variance involving dimensional deviations from the standards set forth in this Local Law. Because of exceptional narrowness, shallowness, shape or area of the specific parcel, or because of extraordinary topographic conditions or other physical conditions or location of the specific parcel, the strict application of the provisions of this Local Law actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property, and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property. The Board shall address each of the following criteria in making a determination for an area variance.
    - a. First, the applicant must show that unless a variance is provided he/she will suffer a "significant economic injury."
      1. The manner in which the economic injury arose is a proper factor for ZBA consideration. If it is self-imposed, the applicant is not automatically barred from an area variance, but neither is the ZBA prevented from issuing it.
      2. Applicant's burden of showing significant economic injury is not met by a showing of what the property would be worth if the area variance were granted. Purchase price and value as zoned are relevant.

- b. If the applicant shows significant economic injury, the burden of going forward with proof that the restriction is reasonably related to a legitimate exercise of the zoning power is upon the municipality.
  - 1. If the municipality cannot show this, the significant economic injury entitles the applicant to the variance, following a showing of practical difficulty.
  - 2. Where the variance sought is slight, it will be more difficult for the municipality to meet this burden.
- c. If the municipality shows that the zoning restriction involved is reasonably related to a legitimate exercise of the zoning power, the applicant has the burden of showing that the particular restriction is not related to the public health, safety and general welfare.
  - 1. Where the variance sought is great, it will be more difficult to meet this burden.
- d. If the applicant cannot show this (par. c above), the variance should be denied unless the applicant shows that the zoning restriction in question, as applied to his/her property, deprives him/her of all reasonable uses of the property.

Following the determination of "significant economic injury" the Zoning Board of Appeals must also make the following determinations:

- a. How substantial the variance is in relation to the zoning requirements.
- b. The effect the increased population density or land use intensity will have on available government facilities.
- c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created.
- d. Whether the difficulty can be eliminated by some method other than a variance with is feasible for the applicant to pursue.
- e. Whether the interests of justice will be served by allowing the variance.

- 2. USE VARIANCE This is a variance which permits a use of land which is prohibited by this Local Law. The granting of a use variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner, which conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this Local Law. Unnecessary Hardship is the test for a use variance. The Board shall address each of the following criteria in making a determination for a use variance:

- a. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zoning district.
  - b. The use to be authorized by the variance will not alter the essential character of the locality.
  - c. The plight of the owner is due to unique circumstances and not to the general conditions of the neighborhood which may reflect the unreasonable aspect of the Local Law itself.
3. In any case, the granting of the variance will be in harmony with the intent, spirit and purpose of this Local Law and will not permit a use of the property in question for any purpose not permitted in the district in which such property is located or otherwise be injurious to the neighborhood.

### Section 43 - Decisions of the Board

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Enforcement Officer. The Board shall also retain in its files a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of subsections of Articles IV and V where the appeal is for a variance or a special permit.

## ARTICLE VIII - AMENDMENTS

### Section 44 - Declaration of Policy

For the purpose of establishing and maintaining sound and stable development and to conserve property values generally, this Local Law shall not be amended except to correct a manifest error in the Local Law, or to provide for regulations more appropriate to an area because of changed or changing conditions.

### Section 45 - Amendments, How Initiated

The Village Board may from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this Local Law.

Whenever the owner or owners of frontage in any district or part thereof shall present a petition duly signed and acknowledged, to the Village Board, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Village Board to vote upon said petition within ninety (90) days after the filing of the same by the petitioners with the Village Clerk and to notify the petitioners immediately thereafter.

The Planning Board may, by resolution, propose an amendment, supplement, change or repeal of the regulations to the Village Board.



Amendment of the Local Law may be subject to the State Environmental Quality Review process (SEQR). The Village Board should identify the type of action the zone change is according to SEQR regulations. Depending on the size of the zone change and several other factors it may be a TYPE I or an UNLISTED action. To make a decision, the Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York).

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement has been filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement is completed.

#### Section 46 - Referral of Amendments to Village Planning Board and County Planning Board

All proposed amendments shall be referred to the Village Planning Board for its recommendation thereon. The Planning Board shall submit its report within forty-five (45) days after receiving such referral. Prior to making such report as required herein, a meeting shall be held between the Planning Board and the petitioner of such amendment. The purpose of this meeting shall be to review the basic concept of the proposal. The petitioner shall, at the time of filing for such amendment, provide the data discussed below in addition to a written statement describing the proposal. Following this conceptual review meeting and a review of the submitted data, the Planning Board shall submit its report. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

Required data:

1. An area map showing the parcel under consideration for the zone map amendment and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof.
2. A map of site topography at no more than five (5) feet contour intervals.

Whenever any zoning regulations or any amendment would change a district classification, or a regulation applying to real property within a distance of 500 feet from any boundary line of properties in a neighboring municipality or upon other county or state property as described in ARTICLE VI, Section 36 of this Local Law, said zoning regulations or amendments shall be referred by the Village Board to the Herkimer County Planning Board pursuant to ARTICLE VI, Section 36.

#### Section 47 - Hearing on Proposed Amendment

Before any amendment, supplement, repeal or change in the regulations or district boundaries, there shall be a public notice and hearing thereon by the Village Board as provided by law. In addition to the public notice of a hearing, written notice shall be given to all property owners on record of the land included in such proposed change, and situated within 200 feet of the boundaries of the land upon which the proposed change is to be made and the land directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite land.

### Section 48 - Adoption of Amendment

After the public hearing, referral to and report by the Planning Board, a majority vote of the members of the Village Board shall be required to amend the Local Law except as described in Section 49, Protest Petition.

### Section 49 - Protest Petition

If a protest against a proposed amendment, supplement, repeal or change is presented to the Village Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom; or by the owners of twenty (20) percent or more of the land directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite land, such amendment shall not be passed except by a favorable vote of at least three-fourths of the members of the Village Board.

### Section 50 - Periodic Review of Local Law

From time to time, at intervals of not more than three (3) years, the Planning Board shall re-examine the provisions of this Local Law and the location of district boundary lines and shall submit a report to the Village Board recommending such changes of amendments, if any, which may be desirable in the interest of public welfare, convenience and necessity.

## ARTICLE IX - MISCELLANEOUS

### Section 51 - Interpretation

In interpreting and applying the provisions of this Local Law, they shall be held to the minimum requirements for the promotion of public health, safety and general welfare. When this Local Law imposes a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or makes any other greater requirements than is imposed or required by any other ordinance, rule, or regulation, or by easements, covenants, or agreements, the provisions of this Local Law shall govern.

### Section 52 - Severability

If any section, subsection, or phrase of this Local Law is declared to be invalid, such invalidity shall not affect any other portion of the Local Law.

### Section 53 - Effective Date

This Local Law shall be in effect upon its adoption and ten (10) days after the publication as provided by law.

## Schedule A Village of Newport Zoning Districts and Lot Regulations

ZONING DISTRICT	PERMITTED USES	SITE PLAN REVIEW USES	MINIMUM SIZE OF LOT AREA (SQ. FT)	WIDTH ( FT.)	MAX. ALLOW. LOT COVERAGE (PERCENT)	MAX. BLDG. HT. STORIES IN FEET	MIN. YARD DIMENSIONS (FT.)		
							FRONT	SIDE	REAR
R-1	Single Family Dwelling		20,000	100	20	2.5	35	15	40
Residential	Two Family Dwelling		25,000	100	25	2.5	35	15	40
	Accessory Uses					1	15	5	10
	2,3 & 4 Family Dwelling by Conversion		6,000/Unit	100	50	2.5	35	15	40
	Home Occupation								
	Accessory Apartment (1)								
	Tourist Home		20,000	125	35	2.5	40	15	40
	Church		1 Acre	100	35		45	20	40
	School		2 Acres	200	20		45	20	40
	Family Day Care Home		20,000	100	20	2.5	35	15	40
	Day Care Center		25,000	100	25	2.5	35	20	40
	Group Day Care Facility		20,000	100	25	2.5	35	15	40
	Nursing Home		1 Acre	125	25	2.5	35	20	40
	Boarding House		20,000	100	35	2.5	40	15	40

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OS	Park								
Open Space	Playground								
	Cemetery								

AG	Farm								
Agricultural	Farm Related Structures								
	Nursery (Agricultural)								
	Single Family Dwelling		20,000	100	20	2.5	35	15	40
	Accessory Uses								
	Two Family Dwelling		25,000	100	25	2.5	35	15	40
	Home Occupation								
	Tourist Home		20,000	100	35	2.5	40	15	40
	Boarding House		20,000	100	35	2.5	40	15	40
	Agricultural Related Mobile Home		15,000	100	20	1	20	15	15

<b>C-1</b>	Professional/Business Office	50	30	2	30	•	•
<b>Downtown Commercial</b>	Bank/Savings & Loan Institution	50	30	2	30	•	•
	Personal Service shop	50	30	2	30	•	•
	Retail Store	50	30	2	30	•	•
	Laundromat	20,000	25	1	20	15	40
	Restaurant/Tavern	15,000	30	2	30	15	30
	Mixed Commercial/Residential (2)	5,000/Dwelling Unit	50	2.5	35	•	•
	Bakery	5,000	50	2	30	•	•
	Dry Cleaning/Tailoring Shop	10,000	30	2	30	25	15
	Printing/Lithograph Shop	10,000	30	2	30	25	40
	Gasoline/Service Station	20,000	25	1	20	25	30
	Amusement Arcade	5,000	50	2	30	•	•
	Lawn/Garden Sales & Service	10,000	40	2	30	25	15
	Public Utility	5,000	60	•	•	10	5

<b>C-2</b>	Professional/Business Office	10,000	25	2	30	25	15	35
<b>General Commercial</b>	Bank/Savings & Loan Institution	10,000	100	2	30	25	15	35
	Personal Service Shop	10,000	100	2	30	25	15	35
	Retail Store	10,000	100	2	30	25	15	35
	Single Family Dwelling	20,000	20	2.5	35	25	15	35
	Two Family Dwelling	25,000	25	2.5	35	25	15	35
	2,3 & 4 Family Dwelling by Conversion	6,000/Unit	100	2.5	35	25	15	35

<b>M-1</b>	Light Manufacturing	125	30	2	35	25	15	40
<b>Manufacturing</b>	Auto Repair Shop	30,000	30	2	35	25	15	40
	Warehouse	125	35	2	35	25	15	40
	Public Utility	5,000	60	•	•	10	5	5

**LC** Land Conservation Overlay  
 Uses as permitted in the underlying zoning district;  
 review pursuant to sections 14 and 15 is required for all uses  
 Dimensional Requirements are the same as the underlying zoning district

**PD** Planned Development  
 Uses based on a specific development proposal;  
 review Pursuant to section 16 is required for all uses  
 3 Acres

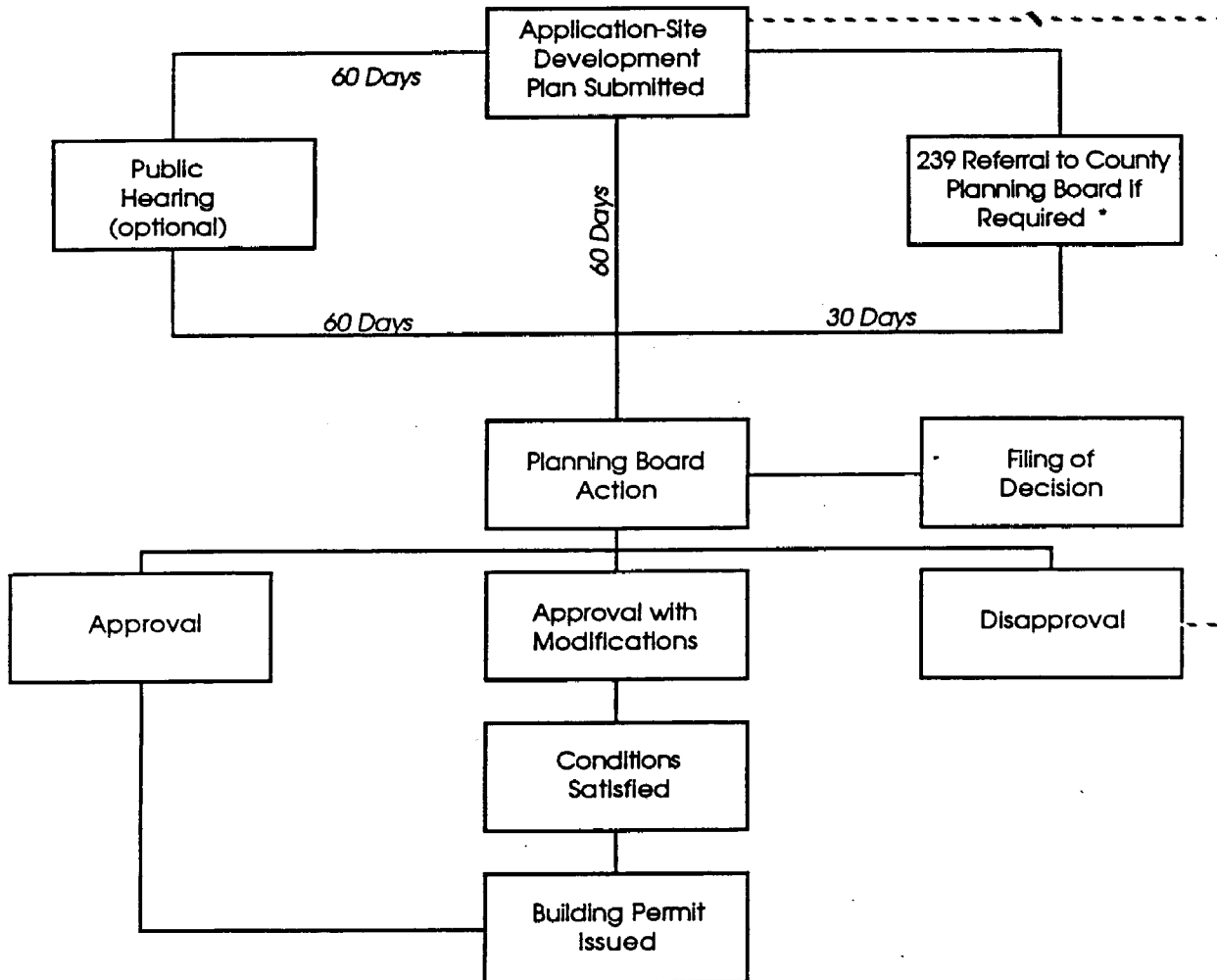
(1) See Section 21 for additional regulations and dimensional requirements  
 (2) See "Definitions" (Article II - Section 4)  
 • Front, side and rear yard setbacks shall be no less than the average setbacks of all buildings located within 100 feet on both sides of the proposed new structure

SCHEDULE B - OFF-STREET PARKING

USE	SPACES REQUIRED (Except for C-1 District)
1. Dwellings	1 space for each dwelling unit
2. Rooming house, tourist home, motel, hotel	1 space for each guest room
3. Administrative, professional, governmental or utility office	1 space for each 200 sq.ft. of gross floor area
4. Funeral home	15 spaces, plus space for all employees and resident personnel cars
5. Church or temple	1 space for each 8 seating spaces in main assembly room
6. School Elementary Junior and Senior High	2 spaces for each classroom 4 spaces for each classroom
7. Theatre or other place of assembly	1 space for each 5 seating spaces
8. Nursing or convalescent home	1 space for each 4 beds, plus 1 space for each employee on duty at any one time
9. Retail store or bank	1 space for each 250 sq.ft. of floor space devoted to customer use
10. Clubs, restaurants and taverns	1 space for each 3 seating spaces or patron accommodations
11. Bowling alley	5 spaces for each alley
12. Wholesale, storage, freight terminal or utility use	1 space for each 1,000 sq.ft. of gross floor area
13. Industrial or manufacturing use	1 space for each 2 employees on the maximum working shift
14. Shopping centers	5 spaces per 1,000 sq.ft. of gross leasable floor area
15. Miniature golf course and golf driving range	10 spaces, plus 1 space for each employee on duty at any one time
16. Auto wash	1 space for each employee, plus standing space for 4 cars per day
17. Home occupation	1 space for each client or patient at any one time
18. Day care center/group day care facility/family day care home	1 space for each teacher/employee plus 1 space for every 6 students

19. Agricultural nursery 1 space for each 200 square feet of retail/sales floor area
20. Personal service shop 1 space for each 100 square feet of net floor area
21. Laundromat 1 space for each 100 square feet of gross floor area
22. Bakery 1 space for each 150 square feet of gross floor area
23. Convenience/service station 1 space for each 100 square feet of gross floor area
24. Dry cleaning/tailoring shop 1 space for each 150 square feet of gross floor area
25. Printing/lithograph shop 1 space for each 150 square feet of gross floor area
26. Eleemosynary uses (Charity Organizations, i.e. Red Cross, Salvation Army, etc.) 1 space for each 300 square feet of gross floor area
27. Fraternal halls/organizations 1 space for each 200 square feet of net floor area
28. Automobile repair shop 1 space for each 400 square feet of gross floor area plus 1 space for each employee on the largest work shift

## Appendix A Basic Site Development Plan Review Procedure



- \* If the Planning Board determines that the proposal in question will require the multi-phase site development plan review procedure (Appendix B), a 239 referral to the County Planning Board is not required at this point. However, it would be required during phase 3 of the multi-phase review as noted in Appendix B; assuming the proposal falls within the jurisdiction of 239 County referral criteria (See Section 36).

# Appendix B

## Multi-Phase Site Development Plan Review Procedure

Phase 1  
Concept Review  
(Optional)

Pre-submittal  
Conference (optional)

Phase 2  
Preliminary Site Plan Review  
and Action

Preliminary SDP  
Submittal

Public  
Hearing (optional)  
60 Days  
60 Days

Planning Board  
Recommendations

Disapproval

Tentative Approval with  
or without Modifications

Phase 3  
Final Site Plan Review  
and Action

Application  
Final SDP Submitted

Public  
Hearing (optional)  
60 Days  
60 Days

Planning Board  
Action

239 Referral to County  
Planning Board  
If Required  
30 Days

Filing of  
Decision

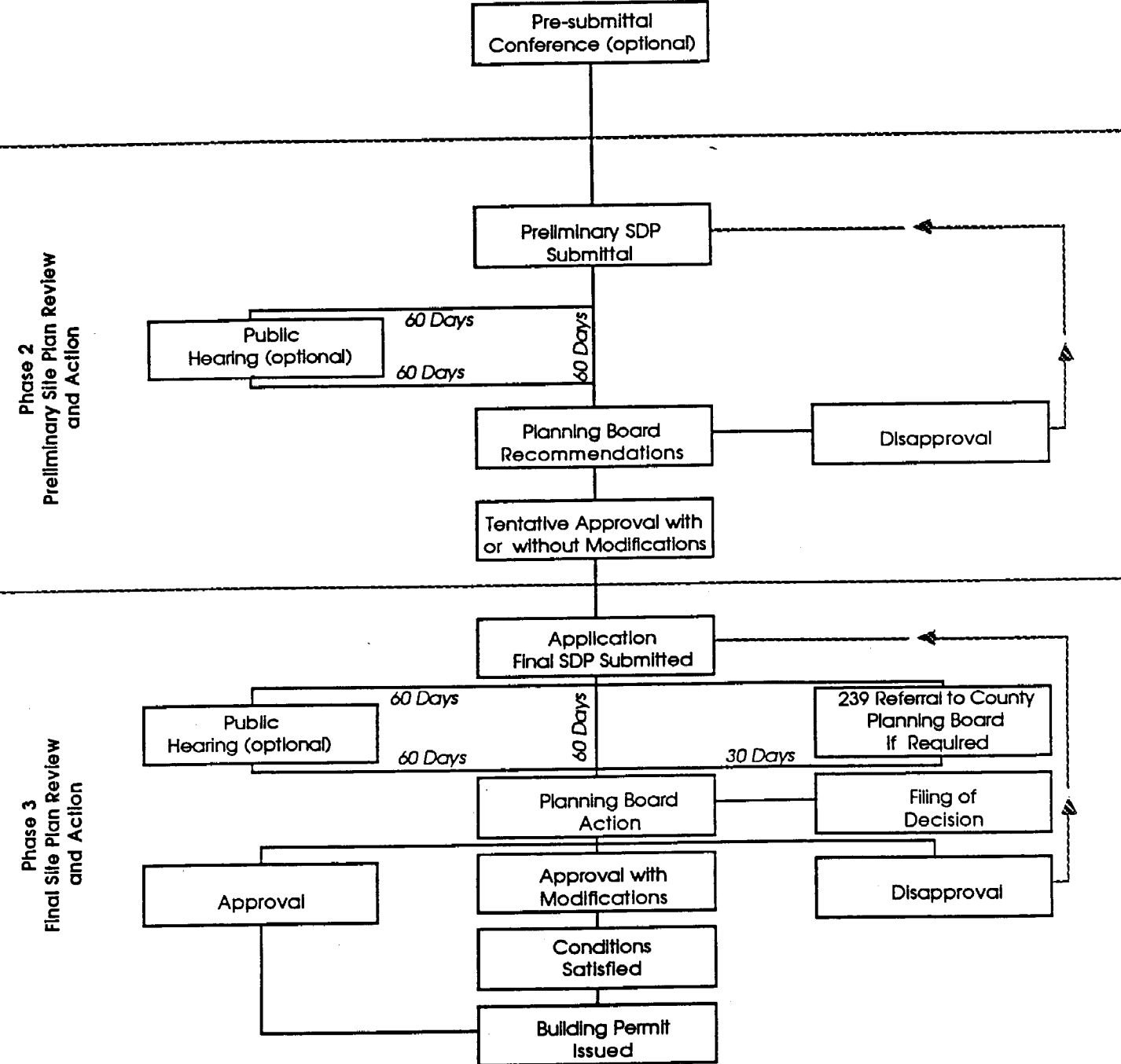
Approval

Approval with  
Modifications

Disapproval

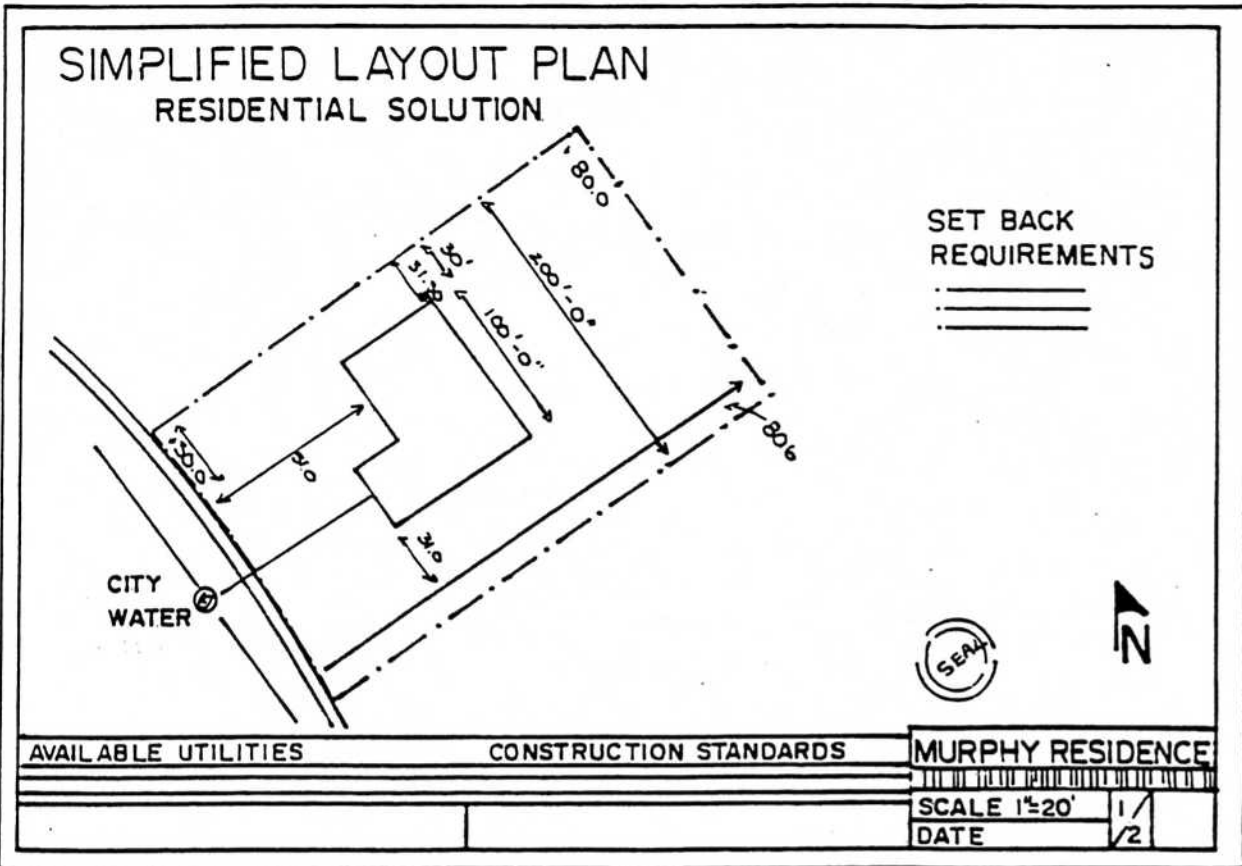
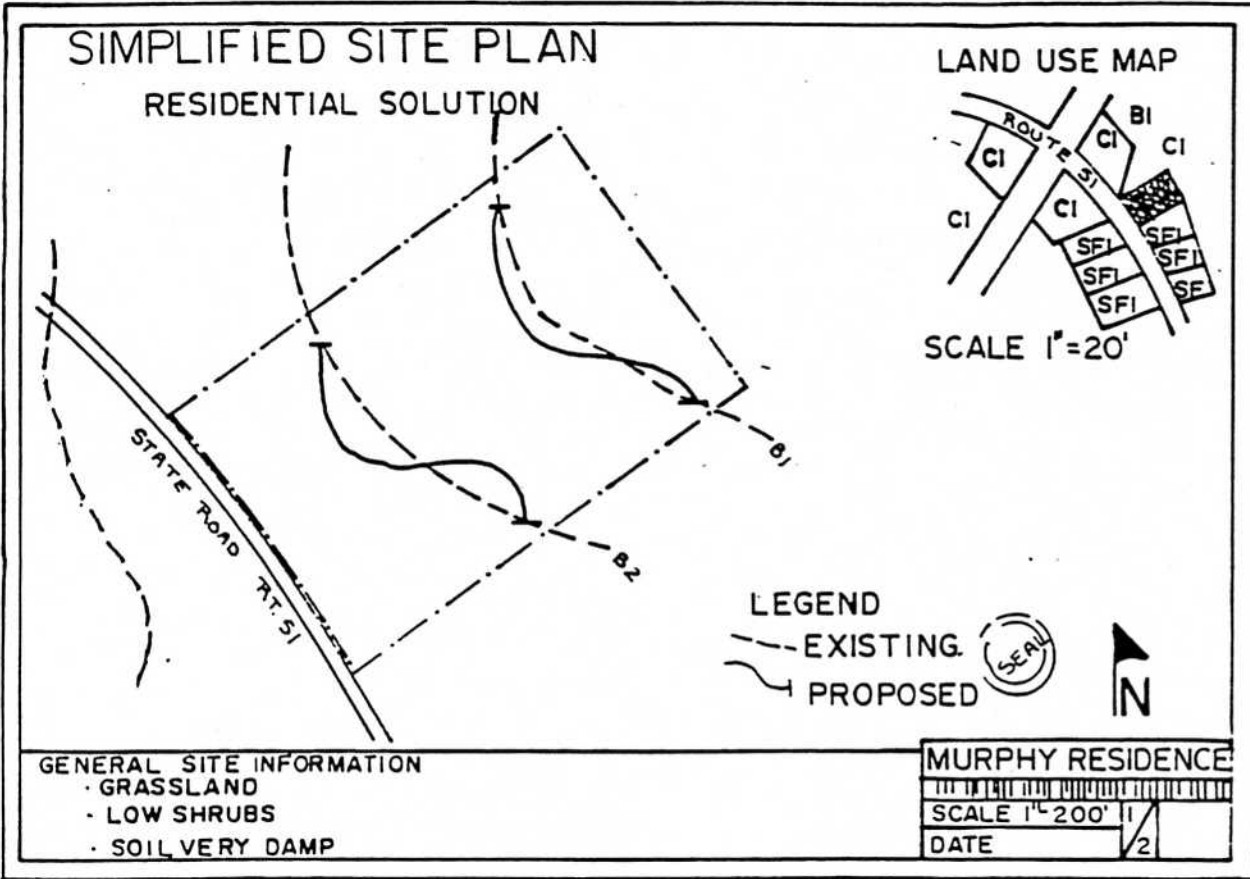
Conditions  
Satisfied

Building Permit  
Issued

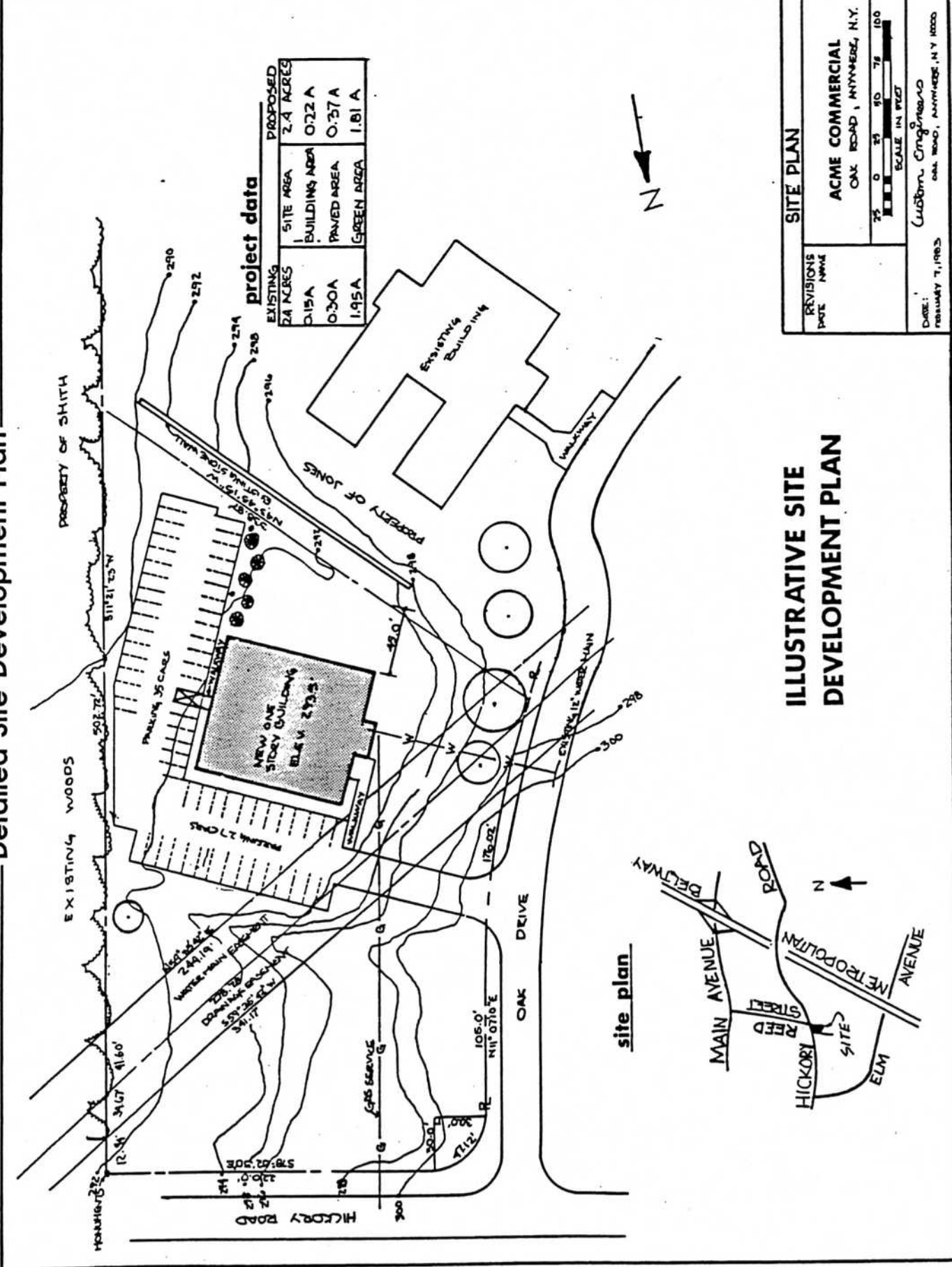




# Appendix C Simplified Site Development Plan



# Appendix D Detailed Site Development Plan



## ILLUSTRATIVE SITE DEVELOPMENT PLAN

**SITE PLAN**

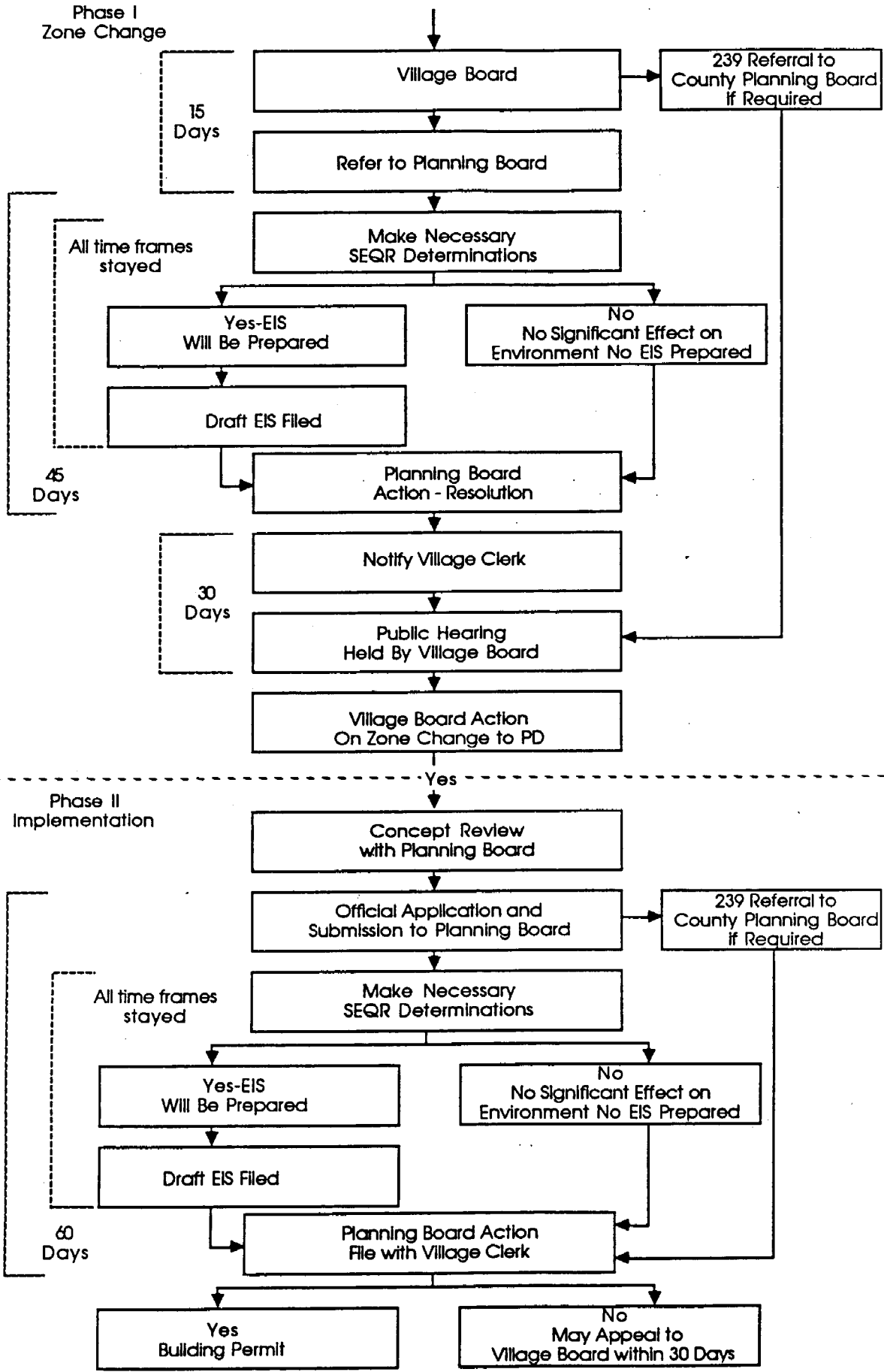
REVISIONS  
DATE NAME

**ACME COMMERCIAL**  
OAK ROAD, HYMNERS, N.Y.

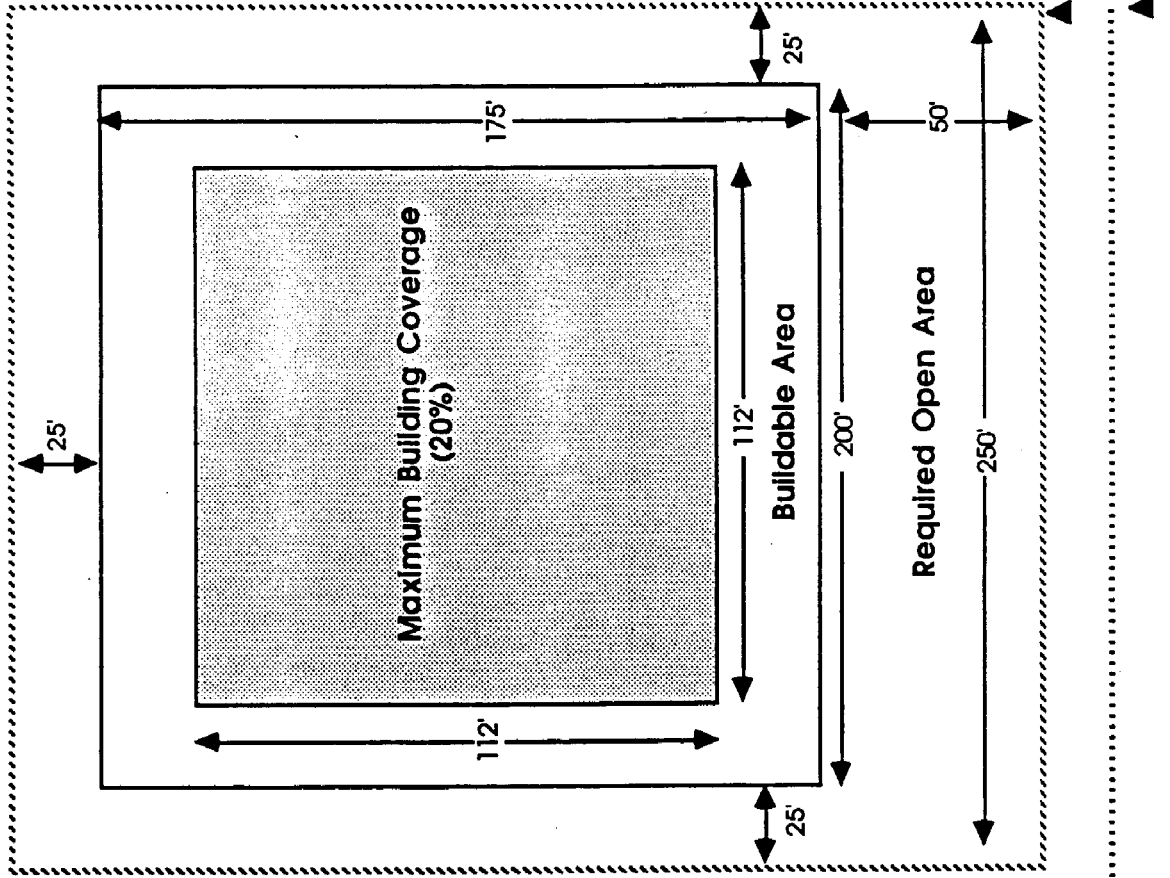
DATE: **Custom Engineering**  
OAK ROAD, HYMNERS, N.Y. 10003

SCALE IN FEET  
0 25 50 75 100

# Appendix E Application Procedure For Change To Planned Development District



# Appendix F Basic Lot Development Regulations



I Minimum Lot Area: 62500 square feet

II Minimum Road Frontage: 250 feet

III Minimum Setback Requirements: (a) Front Yard: 50 feet

(b) Rear Yard: 25 feet

(c) Side Yard: 25 feet

IV Maximum Permitted Building Coverage: 20%

▲ Property Line

▲ Highway Center Line