

TO: Town of Cairo Planning Board  
FM: Friends of Round Top, Inc.  
RE: Comments - Blackhead Mountain Site Plan Review (public hearing scheduled for April 3, 2025)  
DT: March 25, 2025

In advance of the April 3 public hearing scheduled for the Blackhead Mountain Lodge Final Site Plan/Special Use Permit Application, Friends of Round Top, Inc. (FORT Inc.) respectfully submits the following comments.

In its March 13, 2025, letter to the Planning Board the Applicant claims that it “previously requested” waivers of specific requirements of the Site Plan Review Law (“SPRL”) under Article D, Section 7 (a “Less Intensive Review”). The Applicant cites a May 9, 2024, submission to the Town of Cairo as support for this claim. There is no record of the May 9 request or any written request for a Less Intensive Review anywhere in the record before the Planning Board, in any of the Applicant’s submissions to the Planning Board, or in the transcripts of the public hearing before the Planning Board.

In fact, there is a procedure by which an applicant indicates that it is seeking a waiver under Article D, Section 7—pages three (3) through five (5) of the Site Plan/Special Use Permit application (the “SP/SUP Application”). The SP/SUP Application is a six-page document<sup>1</sup> that instructs applicants “requesting that the Planning Board conduct a ‘Less Intensive Review’”, report the request along with any supporting information on pages three (3), four (4) and five (5) of the SP/SPU Application. The Applicant has excluded those pages in each of four submissions of the application to the Planning Board.<sup>2</sup> Put more plainly, on four separate occasions the Applicant revised the six-page document and submitted pages one (1), two (2) and six (6) of the SP/SUP Application. As a result, the Application remains incomplete.

If there is correspondence between the Applicant and the Town of Cairo in which a request for a waiver was made<sup>3</sup>, then it should have been added to the record before the Planning Board. Only after the Planning Board’s SEQR determination, did the Applicant first raise publicly that a request was or was being made. Yet still, the primary document required for site plan/special use review remains incomplete. Under Cairo’s SPRL, the request for a Less Intensive Review cannot be made after the application has been deemed complete by the Planning Board. Furthermore, any decision by the Planning Board on a properly-made request for a Less Intensive Review may only be granted upon a majority vote of the Planning Board. There is no record of any request for an Article D, Section 7 request by the Applicant prior to March 10 and there is certainly no record of the Planning Board having voted on the matter.

---

<sup>1</sup> The Town of Cairo Zoning Department Site Plan/Special Use Permit Application is paginated to show the number of pages that comprise the entire document (e.g., Page 1 of 6).

<sup>2</sup> October 24, 2022, 12/21/2023, 4/22/2024, 7/24/2024, and 3/13/2025. While pages 3 – 5 were included in the December 21, 2022, submission, they were left blank by the Applicant.

<sup>3</sup> FORT Inc. submitted a FOIL request to the Town of Cairo on Friday, March 21, 2025, to obtain this submission. As of the date of this memorandum, the Town of Cairo has not responded to the FOIL request.

Accordingly, FORT Inc. raises the following matters to be considered by the Planning Board and questions to be addressed at the April 3 public hearing on the BHML Final SP/SUP Application. We believe there is no reasonable basis on which the Planning Board could decide to grant Applicant's last-minute request to conduct a Less Intensive Review.

- I. The Planning Board should find that the BHML SP/SUP Application is incomplete, deny any request for an Article D, Section 7 waiver, and deny the final SP/SUP Application.

**A waiver of the requirements under Article D, Section 5 (i) of the SPRL<sub>2</sub>** which requires a review of the "location, design, type of construction and exterior dimensions of all proposed buildings and structures." A representative architectural design of each series of lodging units will provide the Planning Board critical information on the future daily water demand by identifying which units will contain kitchens and/or require a water supply connection. Therefore, it is not simply reasonable but incumbent for the Planning Board to ask the Applicant to submit a characteristic design plan for each of the following structures:

- a. Series 1.1–1.3: units with 2 bedrooms;
  - b. Series 2.1–2.8: units with 2 bedrooms;
  - c. Series 3.1–3.2: units with 1 bedroom;
  - d. Series 5.1–5.4: units with 2 bedrooms;
  - e. Series 6.1–6.8: units with 2 bedroom;
  - f. Series 7.1–7.20: units with 1 bedroom;
  - g. Series 8.1–8.9: units with 1 bedroom;
  - h. Series 9: unit with 3 bedrooms;
  - i. Series 15.1–15.26: units with 5-6 bedrooms;
  - j. Building E-1 "Staff Office." Will this proposed structure include a restroom(s) or break room that will require water?
  - k. Building E-3 "Back of House." What is the proposed function of this structure, and will it be connected to the water supply?
- 2) The Applicant has amended the final site plan to include two proposed locations for solid waste collection and/or temporary storage of that solid waste. One of these "refuse areas" is located by Building 10, identified on OP-1 as a restaurant, yet the final site plan does not indicate a kitchen in Building 10. Please clarify.
  - 3) Will Building 10 (restaurant) and Building 4 (Main Lodge) contain restroom facilities? If so, how many?
  - 4) Previous submissions referred to the construction of more than one pool, yet the final site plan shows only one near the Main Lodge (SP-3). What are the dimensions (length x width x depth) or cubic yards (volume) of this proposed pool? Does the proposed spa in the Main Lodge contain indoor soaking pools? If so, what are their dimensions?

Access to the information outlined above is necessary for local, county, and state agencies and departments to take reasonable measures to fulfill their permitting obligations. **By granting a waiver to the Applicant from Article D, Section 5 (i) of the SPRL, the Planning Board may be construed as intentionally thwarting both the work of outside agencies as well as the enforcement of your SEQR resolution stating that approved supply well(s) will not be pumped at a rate higher than 32 gallons per minute.** Until the above information is received, properly reviewed, and made public, the Planning Board must vote to deny the Applicant's SP/SUP permit application.

- II. The Planning Board should find that the BHML SP/SUP Application is incomplete, under SPRL Article D, Section 5(x), and deny the final SP/SUP Application

The Cairo Site Plan Review Law, Article D, Section 5(x) calls for the "[i]dentification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies." All submissions prior to March 6, 2025, omitted the record and approval status of governmental permit applications because the Applicant maintained that the permitting process began *after* the SEQR Review was complete.

When the Planning Board issued a SEQR declaration on March 6, 2025, the Applicant was at liberty to proceed with applying for all necessary permits. Yet, the approval status of permit applications filed with governmental agencies by the Applicant<sup>4</sup> remains blank. That same list omits legally required clearances from the New York State Department of Labor (Division of Safety and Health, Asbestos Control Bureau) regarding its Code Rule 56 (handling of asbestos material during construction activity). No status reports of the following necessary permit applications and clearances were included in the Applicant's final submission dated March 13, 2025, and thus remains unknown:

- 1) NYSDEC: Notice of Intent for SPDES General permit (GP-0-25-001) during construction activity, submitted by RCBG JV Manager LLC.
- 2) NYSDEC: SPDES GP-0-25-001 approved permit.
- 3) NYSDOL: Asbestos Project Notification, Asbestos Survey Report, and (if asbestos was found) an Asbestos Abatement Plan.
- 4) NYSDOH: Confirmation that the quality of water samples from the last hour of the 72-hour pumping tests conducted (in November and December 2024) were deemed acceptable per agency requirements for lab analysis for community public water systems.
- 5) Greene County IDA: Clarification of the permit or agreement they will authorize.

Until the application and approval status of the above necessary permit are received, properly reviewed, and made public, the Planning Board must vote to deny the Applicant's SP/SUP permit application.

- III. The Planning Board should find that the BHML SP/SUP Application is incomplete, under SPRL Article D, Section 16(b), and deny the final SP/SUP Application

---

<sup>4</sup> EAF Part 1, Section B, dated January 27, 2025, the final EAF Part 1 completed by the Applicant.

The Cairo Site Plan Review Law, Article D, Section 16(b)<sup>5</sup> and corresponding New York State General Municipal Law Article 12-B, Section 239 requires that prior to taking final action on the plan, the Planning Board (a.k.a. the “Referring Agency”) must submit a complete referral package to its county planning board for their review and approval. Accordingly, the Greene County Planning Board’s 239 Referral Form gives specific instructions on how referring agencies are to comply: “The referral with supporting documentation must be received 12 days prior to the County Planning Board’s meeting to allow adequate time for review and to be placed on the monthly agenda...all referrals must be accompanied by “full” statement of the proposed action...including a completed environmental assessment form and all other materials required by the referring body to make its determination on significance pursuant to the state environmental quality review act.”

The Greene County Planning Board meeting is held every third Wednesday of the month. To meet the deadline for the county’s monthly meeting on March 19th, the Cairo Planning Board or “referring agency” had to submit its referral and full statement, including SEQR declaration on or before Friday, March 7, 2025. We confirmed that the Town of Cairo was absent from the Greene County Planning Board’s agenda for March 19, 2025.

All correspondence between the Referring Agency (i.e., Cairo Planning Board) and the Greene County Planning Board related to a 239 Review as well as comments and/or conditions made by the Superintendent of the Greene County Highway and Solid Waste Department should be added to the record prior to the Cairo Planning Board’s vote on the Applicant’s SP/SUP permit application. However, as of the date of this memorandum, the county’s 239 Review had not been conducted nor approved. Therefore, the SP/SUP permit application remains incomplete.

Thank you.

---

<sup>5</sup> “Required Referral. Prior to taking the final action on a site plan, and at least ten (10) days prior to the public hearing, if a public hearing is held, and where applicable, the planning board shall refer the plan to the Greene County Economic Development and Planning Department for their review and approval pursuant to Section 239-m of the General Municipal Law as may be amended from time to time.”