



RESOLUTION  
VILLAGE OF COLD SPRING  
PLANNING BOARD  
Adopted: April 1, 2015

RE: **BUTTERFIELD REALTY RESOLUTION OF  
SITE PLAN APPROVAL**

WHEREAS, Butterfield Realty, LLC (“Applicant”) has applied to redevelop its 5.7 acre parcel in the Village located near the intersection of Route 9D and Paulding Avenue (tax lot ID 49.5-3-45), the former site of the Butterfield Hospital (“Premises” or “Property”) as a mixed use development and with three single family homes to be constructed along the northern portion of the Premises on lots to be created by subdivision (“Project”); and

WHEREAS, the Project was subject to a coordinated review under the New York State Environmental Quality Review Act (“SEQRA”) by the Village of Cold Spring Planning Board as the Lead Agency, which included the preparation of an Expanded Environmental Assessment Form (“EEAF”) and on February 19, 2014, the Planning Board adopted a Negative Declaration, determining the Project will have no significant adverse environmental impacts; and

WHEREAS, Planning Board submitted recommendations to the Board of Trustees on the proposed local law to enact conditional zoning for the Project in a memorandum entitled “Planning Board Recommendations on Proposed Local Law, Amending Village Code Chapter 134 (B-4A-Medical and Health Care Facility District)” and after review and due consideration of these recommendations, the Board of Trustees amended the proposed local law to reflect certain of those recommendations; and

WHEREAS, the Village Board of Trustees conducted a duly noticed public hearing on the proposed local law on April 29, 2014, that was completed and closed on that same date, with notice and hearing requirements as provided for in New York State law having been satisfied; and

WHEREAS, on May 13, 2014 the Board of Trustees adopted a local law enacting conditional zoning adding a new sub-district to the B-4 Zoning District, the B-4A Zoning District (Medical and Health Care Facility Mixed Use District) and amending Chapter 134 and the Village’s Zoning Map (Section 134-4) to rezone the Premises (“Local Law 2014-02”); and

WHEREAS, pursuant to Local Law 2014-02 the Zoning Map designation of the majority of the Premises will be changed from Zoning District B-4 to Zoning District B-4A (Medical and Health Care Facility Mixed Use District) and a small portion of the Premises along Paulding Avenue will be changed from Zoning District B-4 to R-1, conditioned upon approval of a site plan that substantially conforms to a Concept Site Plan prepared by Stephen Lopez, Landscape Architect (Tim Miller Associates Inc.), dated January 18, 2013 and last revised on May 6, 2013 (“Concept Site Plan”); and

WHEREAS, the Concept Site Plan contemplates a 15,000 square foot office/retail building located off Route 9D, a 17,500 square foot office/retail building and 55 market-rate

condominium units designated for senior citizen housing to be contained within three buildings, with a resident community center which will join and link two of the condominium buildings. The Lahey Pavilion, consisting of 11,500 square feet, will continue its existing use as a medical office building. Three single family homes will be constructed along the northern portion of the Premises along Paulding Avenue on lots to be created by subdivision; and

WHEREAS, the new sub-district, B-4A Zoning District (Medical and Health Care Facility Mixed Use District), and codified as Zoning Code Section 134-15A, includes as permitted uses: up to 55 units of Senior Citizen Housing, municipal and other government uses, retail stores at street level, business and professional offices, banks, personal service shops, mixed uses, among other uses; and with minimum requirements, maximum permitted building height of 2½ stories (35 feet), and supplementary regulations as more fully set forth in said local law; and

WHEREAS, Local Law 2014-02 also amended the definition of “Senior Citizen Housing” in Section 134-2 (B), “Definitions” so there is compliance with the “housing for older persons” exception from the federal Fair Housing Act, as amended (42 U.S.C. s.3607(b)(1)-(5)); and

WHEREAS, the Project requires subdivision and site plan approvals by the Planning Board, approval of a Certificate of Appropriateness by the Historic District Review Board, as well as approval by other agencies; and

WHEREAS, the following actions were taken by the Board of Trustees and Planning Board prior to the issuance of the Site Plan Resolution:

1. February 19, 2014 - Planning Board adopted a negative declaration as Lead Agency under SEQRA which concluded that the Project will have no significant adverse environmental impacts;
2. May 13, 2014 - Board of Trustees adopted a local law enacting conditional zoning adding a new sub-district to the B4 Zoning District, the B-4A Zoning District (Medical and Health Care Facility Mixed Use District) and amending Chapter 134 and the Village’s Zoning Map (Section 134-4) subject to the following conditions of approval:
  - (a) The Butterfield Redevelopment is subject to site plan and subdivision approval by the Planning Board, among other approvals.
  - (b) The Butterfield Redevelopment includes an age-restricted condominium. All condominium units shall be occupied by at least one person 55 years of age or older, with no residents under the age of 18, and compliance with additional requirements for such age-restricted housing consistent with local, State and Federal law is required. Compliance with age restrictions for Senior Citizen Housing in the B-4A Zoning District shall be a condition of site plan approval and Village Code 134-16G(3) (a) [8] shall apply to assure continued compliance with approval conditions.
  - (c) Gateway Park, as designated on the Concept Site Plan and consisting of approximately 43,600 square feet, shall be an open

lawn area. An access agreement or other arrangement to facilitate access to Gateway Park by Village residents shall be offered to the Village by Butterfield as part of the site plan review process.

WHEREAS, thereafter at subsequent meetings of the Planning Board, the Applicant (and its representatives and consultants) discussed the Project and submitted its application for site plan approval on or about September 17, 2014, with the subsequent submission of an application for preliminary subdivision approval; and

WHEREAS, over the course of several meetings the Planning Board and its consultants (including two duly noticed joint meetings with the Historic District Review Board) reviewed the site plan application in accordance with applicable procedures of the Zoning Code and Village Law §7-725-a, with revised plans having been submitted by the Applicant and reviewed by the Planning Board; and

WHEREAS, on February 18, 2015, after having determined the site plan and subdivision application submissions to be substantially complete, a public hearing on the Applicant's site plan and preliminary subdivision applications was scheduled to be held on March 4, 2015; and

WHEREAS, on February 18, 2015, the site plan and subdivision application submissions were referred to the Board of Trustees for advise/comment; and

WHEREAS, on February 18, 2015, the Planning Board referred site plan and subdivision applications to the Putnam County Planning Department pursuant to GML 239-m and 239-n with notice of the public hearing and the March 3, 2015 response from County Planner Barbara Barosa indicated Planning Department approval; and

WHEREAS, on March 4, 2015 the Planning Board conducted a duly noticed public hearing to consider and receive public comment in connection with the Applicant's site plan and preliminary subdivision applications; and

WHEREAS, at the March 4, 2015 public hearing public comment was offered and the public hearing was closed on that same date with the period for submission of written comments extending for an additional seven (7) days; and

WHEREAS, on March 10, 2015 the Applicant submitted a written response to public comments offered at the March 4, 2015 hearing; and

WHEREAS, in the course of its due consideration of the Project, the Planning Board visited the Premises on several occasions, and is familiar with the site and all aspects of the Project; and

WHEREAS, the Premises and the preservation and improvement of the passive recreational open space are essential parts of the Village character and community; and

WHEREAS, a primary benefit of the Applicant's site plan is the preservation of open space and approximately 20% of the total acreage of the Property being offered as Gateway Park for use of Village residents as a permanent recreational benefit with the Applicant having offered a recreation easement for the benefit of the Village and its residents for use of Gateway Park; and

WHEREAS, a portion of the Project is an age-restricted housing development and under the B-4A Zoning regulations it is required that 100 % of the condominiums be occupied by at least one person 55 years of age or older, with additional requirements for age-restricted housing consistent with local, state and federal law, and that occupancy for each unit is limited to no more than two adults; and

WHEREAS, the Planning Board has referred the applications to and considered any comments offered by the Village's Consulting Engineer, the Village Planning Consultant, the Village's Special Counsel, Historic District Review Board, Fire Department, Superintendent of Water and Sewer, and the Village Board of Trustees, among other boards, agencies and departments; and

WHEREAS, the Village Fire Chief has indicated he is satisfied with the final location and quantity/type of fire hydrants specified and has no issue with emergency access for the Project, and the landscaping plan has been modified to address any concerns regarding type of trees to be planted in areas of the islands (turning radius/ lane width); and

WHEREAS, the Applicant's Storm Water Pollution Prevention Plan ("SWPPP"), a component of the Project, has been reviewed by the Village Consulting Engineer and amended by the Applicant and in correspondence dated March 27, 2015, the Village's Planning Consultant Charles A. Voss advised the Planning Board that the SWPPP is ready to be provided to the NYS DEC for their customary review and approval; and

WHEREAS, in correspondence dated March 27, 2015, the Village's Planning Consultant Charles A. Voss advised the Planning Board that the Applicant has provided the New York State Department of Transportation's ("DOT") Regional Engineer with copies of the site plan and related reports for reviews associated with DOT approval of required permits; and

WHEREAS, on March 27, 2015, the Applicant provided a certification of zoning compliance for the site plan, including that the Applicant's site plan is in "substantial conformity" with the Concept Site Plan, which certification was reviewed and approved by Charles A. Voss, Village Planning Consultant, and the Planning Board is satisfied that the site plan complies with applicable requirements of the Village Zoning Code; and

WHEREAS, on this date the Planning Board is also granting preliminary subdivision approval (Conditional Approval of the Preliminary Plat) for the Project with all recitations and conditions herein incorporated into that Planning Board resolution by reference.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- I. The Planning Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth and resolved herein.
- II. The Planning Board hereby approves an 11.2% reduction in the amount of required off-street parking for the mixed use portion of the Project as authorized in Village Zoning Code §134-15A (shared parking).

- III. The Planning Board acknowledges that the size of Gateway Park exceeds the allowable set aside for recreation space under Village Code Section 111-19(B) and hereby exercises its authority to waive this provision to facilitate Gateway Park as a recreational resource for the use and enjoyment of Village residents.
- IV. The Planning Board and its consultants have thoroughly reviewed the plans annexed hereto and made a part hereof. Based on that review, the Planning Board determines that the Applicant's site plan is in "substantial conformity" with the Concept Site Plan in accordance with applicable provisions of Local Law 2014-02, now codified in a footnote to Village Code §134-4 and Zoning Map Amendments.
- V. The Planning Board hereby grants Site Plan Approval to the Project, subject to the following conditions which are also conditions of Conditional Approval of the Preliminary Plat which shall be fulfilled as provided below:

**A. CONDITIONS TO BE COMPLETED PRIOR TO ENDORSEMENT OF THE SITE PLAN.**

The following conditions and obligations shall be fulfilled prior to the Planning Board Chairman's endorsement of the final approved site plan:

1. Acceptance by the Village Consulting Engineer ("Consulting Engineer") of revisions to the Site Plan that fully respond to the memorandum dated March 13, 2015 from Charles A. Voss of Barton & Loguidice and respond to comments of Village Superintendent of Water and Sewer, Greg Phillips, in correspondence dated March 10, 2015.
2. Submission by the Applicant of a statement signed by the Village Tax Collector that all property taxes due on the Premises have been paid in full.
3. The Planning Board issues preliminary/conditional Subdivision Plat Approval of the four-lot subdivision as set forth on final approved site plan.
4. Upon completion of conditions 1 through 3 above, four (4) sets of the final approved site plan shall be submitted for endorsement of the Planning Board Chairman. One (1) set of the endorsed final approved site plan will be returned to the Applicant, one (1) set will be retained by the Planning Board, and one (1) set each will be provided to the office of the Village Building Inspector and the office of the Consulting Engineer. If there are any changes to the approved plans, other than minor changes approved by the Consulting Engineer or Building Inspector, the Applicant must return for amended site plan approval from the Planning Board.

**B. CONDITIONS TO BE COMPLETED PRIOR TO FINAL SUBDIVISION APPROVAL**

1. Water and sewer approval by the Putnam County Department of Health.

2. Submission of SWPPP in final form to NYS Department of Environmental Conservation (“DEC”) and filing of Notice of Intent.
3. Payment of any outstanding consultant review fees in connection with Planning Board review of the site plan and preliminary/conditional subdivision applications.
4. Satisfaction of all conditions of this Site Plan Resolution as set forth in sections A and B above.

**C. CONDITIONS TO BE COMPLETED PRIOR TO SITE DEVELOPMENT AND ISSUANCE OF ANY BUILDING PERMITS FOR THE PROJECT**

1. Issuance of Final Subdivision Approval by the Planning Board and submission of written proof to the Planning Board Chairman that the final subdivision plat has been filed with the Putnam County Clerk.
2. Issuance of a Certificate of Appropriateness by the Historic District Review Board.
3. Issuance of all required approvals/permits by the NYS Department of Transportation (access and egress onto Route 9D).
4. Applicant’s procurement and submittal to the Village of all applicable permits and approval from the NYS Department of Environmental Conservation (“DEC”) (including SWPPP/SPDES stormwater general permit).
5. The Applicant, shall offer a final easement agreement, in a form satisfactory to the Village Attorney, permitting the use of Gateway Park by the Village and the public which agreement shall contain language by which it shall become a permanent easement agreement upon Applicant’s provision of an engineer’s certification that Gateway Park has been improved and completed in accordance with approved plans and that such certification has been approved by the Consulting Engineer.
6. The Applicant shall offer a declaration, in form and substance satisfactory to the Village Attorney, to memorialize the B-4A Zoning District age restriction requirement and maximum two person occupancy restriction for senior citizen condominiums and shall include covenants and restrictions in its Master Deed, By-Laws and Homeowner’s Association Declaration, as well as restrictions in the deeds of each condominium, with such restrictions applying to each condominium sold. Further, to ensure compliance of this condition, the Village will be a third-party beneficiary to said provisions of the declaration and deed restriction. The Village will have the right but not the obligation, to enforce these restrictions, conditions and covenants in the event that the Homeowner’s Association fails to do so.

7. The Applicant shall submit Covenants and Restrictions, in form and substance satisfactory to the Village Attorney, restricting the Property Owners of the two single-family parcels abutting the Copper Beech tree, and binding their successors and assigns, from pruning or trimming any limbs or branches of the Cooper Beech tree within the easement area as shown on the approved subdivision plat except if such limbs or branches are diseased or dying or present a danger to human health and safety. Any allowed tree trimming shall be the minimum necessary and shall be undertaken by a qualified arborist or tree surgeon. Such Covenants and Restrictions shall be filed against the two single-family properties in the Office of the Putnam County Clerk, Division of Land Records.
8. The Applicant, shall submit to the Village a written offer of easements, in a form satisfactory to the Village Attorney, as required across the Premises (mixed use site only), granting the Village, its employees, agents, and contractors access and the right but not the obligation to enter upon the Premises to install, construct, and/or repair therein drainage systems, storm and sanitary sewers and water services. All easement language, metes and bounds descriptions, and restoration requirements shall be prepared to the satisfaction of the Consulting Engineer and Village Attorney, subject to revision and correction as necessary based upon an as-built survey and subject to approval by the Board of Trustees.
9. Payment of all fees associated with construction monitoring and inspection in accordance with Village Code §40-5.
10. Satisfaction of all conditions of this Site Plan Resolution as set forth in sections A, B and C above.

**D. CONDITIONS TO BE COMPLETED PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY FOR THE PROJECT**

1. Approval of the Recreation Easement (Gateway Park) by the Board of Trustees.
2. Delivery to the Village of an as-built plan for the structure(s) for which a Certificate of Occupancy is to be issued prepared by a licensed surveyor verifying the location of all building footprints, easement areas and site improvements including but not limited to related infrastructure improvements and off-site infrastructure improvements substantially as detailed in the approved site plan, as it may be modified in accordance with the Consulting Engineer's approval, as described herein. Any substantial deviations shall be brought to the attention of the Planning Board for review and consideration.
3. Compliance with landscaping and lighting plans as set forth in the approved site plan in the vicinity for the structure(s) for which a Certificate of Occupancy is to be issued.
4. Preparation and delivery of a survey for the structure(s) for which a Certificate of Occupancy is to be issued showing the final location of all utilities and easement

areas to the satisfaction of the Consulting Engineer and Superintendent of Water & Sewer and in a form or format acceptable to the Building Inspector.

5. The completion in a safe and appropriate manner to the satisfaction of the Consulting Engineer of all necessary site-work, including but not limited to, roads/circulation drives, drainage and parking as necessary to serve and access the structure(s) for which a Certificate of Occupancy is to be issued, including final verification from the Applicant's Engineer that the completed site-work was performed substantially in accordance with the approved site plan described herein as it may be modified in accordance with the Consulting Engineer's approval.
6. Final Verification from the Applicant's Architect that the buildings for which a Certificate of Occupancy is to be issued are in accordance with the approved site plan described herein and subject to the satisfaction of the Consulting Engineer and Building Inspector.
7. Prior to issuance of the first certificate of occupancy, completion of all off-site improvements with final verification from the Applicant's Engineer that same were performed substantially in accordance with the approved drawings and approved site plan and subject to the satisfaction of the Consulting Engineer and Village Superintendent of Water and Sewer.
8. Satisfaction of all conditions of this Site Plan Resolution as set forth in sections **A, B, C, and D above**

**E. MISCELLANEOUS CONDITIONS.**

1. Prior to any site work on the Property, and at all times during construction, Applicant shall post performance bonds, letters of credit, or other security (collectively, "Bonding") in full force and effect, and in form satisfactory to Village Attorney and subject to acceptance by the Board of Trustees, to guarantee the implementation and maintenance of (a) soil erosion controls, (b) site restoration work (c) landscaping, (d) drainage (e) tree protection for Copper Beech Tree (Implementation of tree preservation plan pertaining to Cooper Beech Tree as set forth in the EEAF (Appendix K) shall also be required) and (f) all infrastructure improvements, including both on-site and off-site improvements as set forth in the approved plans and in accordance with Village Code Sections 134-27(B); 111-8(B). The Consulting Engineer shall assist with estimating costs of proposed improvements. Periodic bond reductions may be authorized in accordance with Village Code §134-27(B).
2. Applicant shall provide a maintenance bond upon completion of site improvements to cover the full cost of maintaining required improvements for a period not to exceed three (3) years, with such bond being satisfactory

to the Village Board of Trustees and Village Attorney as to form, sufficiency, manner of execution and surety.

3. All open space upon the site required by the approved site plan shall permanently remain open space in perpetuity, including the area designated as Gateway Park in accordance with the Recreation Easement, and shall not be developed in any manner or degree or by any means, unless such site plan is modified or amended by the Village Planning Board.
4. As offered by the Applicant, Applicant voluntarily agrees that Butterfield Realty and its successors and assigns will not file a petition for review of the assessment on such property for three years from the issuance of the Certificate of Occupancy as long as assessments are substantially as reflected in the EEAF.
5. Design and construction phase of the improvements on or off premises shall be completed substantially in accordance with the approved plans.
6. Acceptance of Gateway Park by the Village to require final approval by the Consulting Engineer that Gateway Park has been completed in accordance with approved plans. Prior to issuance of the final Certificate of Occupancy for the Senior Citizen Housing buildings, Applicant shall deliver in a recordable form all documents necessary to record the Recreation Easement with the Putnam County Clerk's Office. The Village shall record the Recreation Easement against the Premises at Applicant's cost upon acceptance of Gateway Park.
7. The Applicant shall arrange for inspections by the Consulting Engineer or designee of the installation of erosion control facilities and tree protection fencing in accordance with the erosion control and construction sequence plan. All such items shall be subject to the satisfaction of the Consulting Engineer. The Consulting Engineer or Building Inspector also reserve the right to require minor adjustments to construction plans to further preserve, detect or mitigate the loss of existing trees, prior to the initiation of clearing or tree removal and grading activities or other site improvements which could adversely impact the health of existing trees.
8. The Applicant and its successors and assigns shall be responsible for repair and maintenance of the roadways, storm water/drainage system and lines, and private water and private sewer lines on the Property, unless otherwise determined by the Putnam County Department of Health.
9. Adequate facilities shall be provided for the removal of snow, trash and garbage and for general maintenance of the project in accordance with the approved site plan. Snow removal from drives, parking areas and sidewalks shall be conducted reasonably and if necessary snow shall be taken off-site when it cannot be accommodated on-site.

10. Expiration of Approvals – Unless otherwise extended by the Planning Board for good cause shown, the site plan approval shall expire and become void three years from the date of the adoption of this resolution if commencement of improvements is not begun on this project.
11. The continued validity of any building permit or temporary certificate of occupancy issued in accordance with the approved site plan shall be subject to continued conformance with such approved site plan.
12. Construction activities to be conducted in accordance with the approved plans and protocols.
13. Demolition in accordance with protocols set forth in the EEAF for this project, approvals issued by the Village, and in compliance with all applicable requirements of local, state and federal law.
14. If blasting is necessary a blasting protocol must be submitted to the Village for approval and such activity must comply with any and all local, state, and federal requirements regarding the use, transport and storage of explosives.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the foregoing Resolution is hereby adopted.

Moved by: Member Ann Impellizzeri

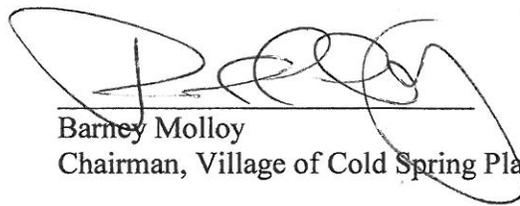
Seconded by: Member Karn Dunn

Vote: Ayes: Ms. Impellizzeri, Ms. Dunn, Mr. Pergamo, Chairman Barney Molloy

Nays: Mr. Saari

Absent: None

Dated: April 1, 2015



Barney Molloy  
Chairman, Village of Cold Spring Planning Board

Filed on the <sup>6<sup>th</sup></sup> day  
of April, 2015



Mary Saari, Village Clerk