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PRIVILEGED & CONFIDENTIAL

BY HAND

Village of Cold Spring Planning Board
Village Hall
85 Main Street
Cold Spring, New York 10516

Re: Butterfield Hospital Redevelopment
Butterfield Realty Site Plan Application* Submission Procedures

Dear Chairman Molloy and Members of the Planning Board:

As requested by the Planning Board, this is a brief analysis of application submission procedures pertaining to the Butterfield Realty site plan. The recently adopted B-4A Zoning Amendments apply to redevelopment of the Butterfield Hospital site. It is noted that in addition to site plan review, Butterfield Realty must also apply to the Planning Board for subdivision approval to create three residential lots on Paulding Avenue.

Village Code Chapter 134 ("Zoning Code") Article VIII sets forth general procedures and requirements for site plan review conducted by the Planning Board. There is a presubmission process that precedes the submission of a formal site plan so that an applicant has a clear understanding of requirements pertaining to site development, with such process to be conducted by the Planning Board or its designated representative (consultant). Once there is a formal site plan submission to the Building Inspector, general provisions of Article VIII contemplate that the Building Inspector conduct a "basic" review of the site plan with respect to zoning and building requirements. An alternate procedure is also contemplated where such initial review is waived with a direct referral to the Planning Board. See Zoning Code §134-27(C)(1).

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Pursuant to the recently adopted B-4A Zoning Amendments, "a site plan shall be submitted to the Building Inspector, who shall refer the site plan of the proposed building(s) and use(s) to the planning board for its review under Article VIII of this chapter" and notably, without reference to any basic reviews by the Building Inspector. Most significantly, B-4A unequivocally gives the Planning Board authority to determine whether "all requirements" of the Zoning Code "have been met" in conjunction with site plan review. See Zoning Code §134-15A(A).

Therefore, with regard to Butterfield Realty's site plan application, subsequent to the pre-submission process, a formal site plan should be submitted to the Village. Procedurally, it appears the site plan would be submitted to the Building Inspector for Planning Board review, consistent with B-4A and other Zoning Code provisions. The Planning Board is authorized to determine zoning compliance and may refer the site plan application to its consultants for review and comment. According to the B-4A Zoning Amendments, a public hearing is required in accordance with Village Law §7-725-a procedures. See Zoning Code §134-15A(A). The public hearing is to be held within 62 days of the receipt of the application, with a decision on the application within 62 days after the hearing. The timeframe for decision making may be extended by mutual consent of the applicant and Planning Board. See N.Y. Village Law §7-725-a (8).

At the time of formal site plan submission, the application is also forwarded to the Architectural and Historic District Review Board ("HDRB") with a request for a Certificate of Appropriateness. See Village Code §64-5(B). If deemed necessary, the HDRB will hold a public hearing prior to making its determination on the application within the timeframes set forth in Village Code §64-7(D), which may be extended by HDRB upon consent of the applicant. See Village Code §64-10.

I would be happy to discuss these procedures in greater detail at your September 17th meeting.

Very truly yours,

WORMSER, KIELY, GALEF & JACOBS LLP


Anna L. Georgiou