

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DRAGON SPRINGS BUDDHIST, INC.,

Plaintiff,

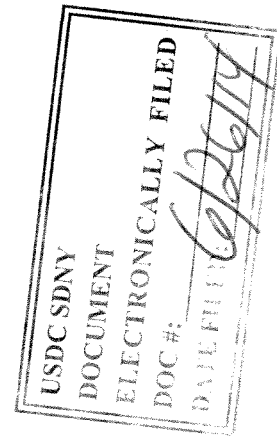
-against-

Docket No. 13 CV 5968  
(VB) (LMS)

**SO-ORDERED  
STIPULATION  
OF SETTLEMENT**

TOWN OF DEERPARK, TOWN OF DEERPARK TOWN BOARD, TOWN OF DEERPARK PLANNING BOARD, KARL A. BRABENEC, in his Official Capacity as Supervisor of the Town of Deerpark and Member of the Town of Deerpark Town Board, DAVID M. HOOVLER, in his Official Capacity as Deputy Supervisor of the Town of Deerpark and Member of the Town of Deerpark Town Board, GARY SPEARS, ARTHUR T. TROVEI, DAVID M. DEAN, in their Official Capacities as Councilmen of the Town of Deerpark Town Board, ALAN SCHOCK, in his Official Capacity as Chairman of the Town of Deerpark Planning Board, ROBERT VICARETTI, SR., in his Official Capacity as Vice Chairman of the Town of Deerpark Planning Board, WILLARD SCHADT, MICHAEL J. HUNTER, CRAIG WAGNER, WILLARD SKIP WILSON, DEREK WILSON, THERESA SANTIAGO and MICHAEL BREITENFELD, in their Official Capacities as Members of the Town of Deerpark Planning Board,

Defendants.



-----X  
**WHEREAS**, Dragon Springs Buddhist, Inc. ("Dragon Springs") owns a parcel of land consisting of approximately 427 acres of land located primarily in the Town of Deerpark (the "Town") on Galley Hill Road (the "Property"); and

**WHEREAS**, the Property is located within the Rural Residential Zone (the "RR Zone") of the Town as classified by the Town of Deerpark Zoning Code (the "Zoning Code"); and

**WHEREAS**, in 2001, Dragon Springs applied to the Town of Deerpark Planning Board (the “Planning Board”) for a special use permit and site plan approval for a “Place of Worship” for practitioners of Falun Dafa or Falun Gong, consisting of three temples, one multi-function building including eating facilities, laundry facilities, offices, a meeting hall, four residential buildings, a bell tower and a drum tower (the “2001 Application”); and

**WHEREAS**, in connection with the 2001 Application, Dragon Springs applied to the Town of Deerpark Zoning Board of Appeals (the “ZBA”) for an interpretation that Dragon Springs’ proposed use of the Property constituted a “Place of Worship” within the meaning of the Zoning Code (the “ZBA Application”); and

**WHEREAS**, in a decision dated June 21, 2001 (the “ZBA Decision”), a copy of which is annexed hereto as Exhibit “A”, the ZBA determined, *inter alia*, that Dragon Springs’ proposed use of the Property constituted a “Place of Worship” within the meaning of the Zoning Code; and

**WHEREAS**, following the ZBA Decision, pursuant to a Resolution dated June 14, 2006, a copy of which is annexed hereto as Exhibit “B”, the Planning Board approved Dragon Springs’ application for a special use permit and site plan approval; and

**WHEREAS**, Dragon Springs subsequently applied for and was granted amended site plan approval by the Planning Board for additions and changes to the improvements located on the Property including, *inter alia*, a meditation hall, a visitor center and a man-made lake; and

**WHEREAS**, in or around 2006, Dragon Springs began using the Property as a site for rehearsal facilities for the “Shen Yun Performing Arts”; and

**WHEREAS**, in or around 2011, Dragon Springs began using the Property as a site for a grade school called the “Fei Tian Academy of the Arts” and, in addition, a college called “Fei Tian College”; and

**WHEREAS**, on or about April 29, 2011, the Planning Board approved Dragon Springs’ amended Site Plan, which provided for, *inter alia*, “Additional Educational Facilities”; and

**WHEREAS**, in order to mitigate impacts on local community resources, such as the local school districts, Dragon Springs has expressly stipulated and agreed that school-age children attending local public schools will not be permitted to reside on the property, provided, however, school-age children attending school on-site at the Property may reside at the Property; and

**WHEREAS**, pursuant to the provisions of the Zoning Code, Dragon Springs renewed its special use permit for the Property annually with the Planning Board until 2013; and

**WHEREAS**, on October 9, 2012, Dragon Springs filed with the Planning Board an Application for Renewal of its Special Use Permit for 2013 (the “2013 Special Use Permit Renewal Application”); and

**WHEREAS**, upon filing of Dragon Springs’ 2013 Special Use Permit Renewal Application, a question arose as to whether the activities being conducted at the Property by the Fei Tian Academy of the Arts and the Fei Tian College, respectively, were permitted under Dragon Springs’ approved site plan; and

**WHEREAS**, on January 2, 2013, solely in order to resolve the outstanding controversy existing between the parties regarding the need for Dragon Springs to re-

apply for site plan approval, Dragon Springs filed an application for amended site plan approval (the “2013 Application For Amended Site Plan Approval” and, together with the 2013 Special Use Permit Renewal Application, the “2013 Applications”) over its previously approved site plan, as amended and approved, under a reservation of all rights; and

**WHEREAS**, on March 25, 2013, the Town Board of the Town of Deerpark (the “Town Board”) amended its Zoning Code (the “Zoning Amendment”), pursuant to which Zoning Amendment the use of “Place Of Worship” became a principally permitted use within the RR Zone subject only to site plan approval; and

**WHEREAS**, a “Place of Worship,” such as Dragon Springs’ use of the Property, is now a principally permitted use within the RR Zone; and

**WHEREAS**, notwithstanding the Zoning Amendment, the Planning Board held and closed a public hearing on Dragon Springs’ 2013 Applications; and

**WHEREAS**, the Planning Board thereafter tabled Dragon Springs’ 2013 Applications without taking action upon them; and

**WHEREAS**, on August 23, 2013, Dragon Springs commenced the above-captioned action (the “Action”) seeking, *inter alia*, to establish that all uses on its Property no longer required a special use permit and to secure amended site plan approval; and

**WHEREAS**, having conferred on the matter, the parties wish to settle all claims amicably and without further recourse to litigation; and

**WHEREAS**, the intent of this Stipulation is to resolve all disputes that have arisen between the parties with respect to, *inter alia*, the need for Dragon Springs to obtain

renewal of its special use permit for the use of its Property as a Place of Worship and the need for Dragon Springs to obtain site plan approval for the improvements and structures presently existing on the Property; and

**NOW, THEREFORE**, in consideration of the promises, covenants and conditions made by the parties herein, it is hereby stipulated and agreed by and between the parties as follows:

1. **Use Of The Property**. The parties agree and stipulate that under the Zoning Code, as amended by the Zoning Amendment, Dragon Springs' present use of the Property is as a "Place of Worship," which, as a principally permitted use in the RR Zone, no longer requires a special use permit. Notwithstanding the foregoing, Dragon Springs shall, to the extent required under the Zoning Code and all other applicable laws, rules, and regulations, apply for and obtain any and all permits or approvals as may be required by law for such changes or expansions before undertaking same.

2. **Resolution Of Pending Application For Renewal Of A Special Use Permit**. Pursuant to the terms of Paragraph 1 above, Dragon Springs' application for a renewal of its special use permit is deemed to be withdrawn without prejudice as moot on the grounds that under the Zoning Amendment a special use permit or any renewal thereof is no longer required for the existing "Place of Worship" uses on the Property.

3. **RLUIPA Protections**. The parties acknowledge that the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §2000cc et seq. ("RLUIPA") applies to religious land uses such as Dragon Springs' herein and that all governmental entities, including the TOWN, must comply with the provisions of RLUIPA.

4. **Resolution Of Pending Application For Amended Site Plan Approval.**

Presently on File with the Town is an updated site plan for the Property dated May 22, 2014, which site plan shall be deemed to be the current approved site plan for the existing uses and improvements on the Property upon the addition of a note reading: *"At all times, the occupancy at Dragons Springs may not exceed the existing septic system occupancy limitation, as same may be amended and/or expanded as necessary from time to time by Dragon Springs upon application and prior approval from the Planning Board, absent express waiver, and prior regulatory approval by the New York State Department of Environmental Conservation."*

5. **Land Use Approvals For Existing Uses On The Property.** The Town, by its Building Inspector and Engineer, has fully inspected the Property and agrees that, as of the date of this Stipulation, there are no buildings, structures or uses thereon which do not comply with the Zoning Code, or prior approvals, or which require any amendments or changes to the said Site Plan. The parties recognize and acknowledge that construction work is ongoing at the Property. All such ongoing construction shall be performed and completed in accordance with the approved plans and all state, county and local building and land use regulations. To the extent and if required by the Zoning Code and all other applicable laws, rules, and regulations, Dragon Springs shall apply for and obtain any certificates of occupancy or compliance upon completion of structures for which construction is presently ongoing.

6. **Septic And Sewage Treatment Standards.** By the execution of this Stipulation, the parties recognize that the current occupancy limitation for the existing septic system located on the Property is 307 persons. At all times, the occupancy at

Dragon Springs shall not exceed the existing septic system occupancy limitation, as same may be amended and/or expanded from time to time by Dragon Springs upon application to and prior regulatory approvals from the New York State Department of Environmental Conservation (“DEC”) and Planning Board. A note to this affect shall appear on the approved site plan for the Property.

7. **School-Aged Children.** Dragon Springs stipulates and agrees that school-age children attending local public schools will not be permitted to reside on the Property, provided, however, school-age children attending school on-site at the Property may reside at the Property.

8. **Payment To Town.** A certified or cashier's check in the amount of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$25,000) shall be provided to the Town by or on behalf of Dragon Springs.

9. **Discontinuance Of Action.** By the execution of this Stipulation, Dragon Springs hereby discontinues the Action with prejudice and in connection therewith Dragon Springs shall provide the Town and all named defendants herein with general releases. ✓

10. **Applicable Law And Forum.** This Stipulation shall be interpreted and determined in accordance with the laws of the State of New York.

11. **Binding Effect.** This Stipulation shall be binding upon and shall inure to the benefit of the parties' agents, successors and assigns.

12. **Entire Agreement.** This Stipulation represents the entire agreement and may not be modified orally and may only be amended pursuant to a writing signed by all



parties. None of the parties hereto is entering into this Stipulation in reliance upon any oral representations.

13. **Resolution Of Ambiguity**. This Stipulation has been prepared after negotiations between the parties and/or their respective counsel and if any ambiguity is contained herein, then in resolving said ambiguity, no weight shall be given in favor or against any party solely on account of his, her, or their drafting of this Stipulation.

14. **Counterparts**. This Stipulation may be executed in counterparts, which taken together shall constitute one complete document.

15. **Authorized Signatories**. Each signatory below represents and warrants that he/she is authorized to sign this Stipulation on behalf of the respective party and to bind that party to this Stipulation.


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IN WITNESS WHEREOF, the parties and their counsel have executed this


Stipulation as of the \_\_\_\_ day of May, 2014.

**DRAGON SPRINGS BUDDHIST, INC.**

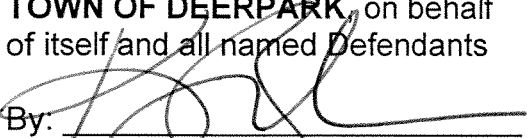
By:   
Name: Kaijin Liang  
Title: Vice President

**CUDDY & FEDER, LLP**


*Attorneys for Plaintiff*

By:   
Joshua J. Grauer, Esq.  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, New York 10601


**TOWN OF DEERPARK**, on behalf  
of itself and all named Defendants

By:   
Name: KARL BRABENECH  
Title: TOWN SUPERVISOR

**DRAKE LOEB HELLER KENNEDY  
GOGERTY GABA & RODD, PLLC**  
*Attorneys for Defendants*

By:   
Stephen J. Gaba, Esq.  
555 Hudson Valley Avenue, Suite 100  
New Windsor, NY 12553

June 25, 2014  
White Plains, NY

SO-ORDERED:  
  
HON. VINCENT L. BRICCETTI,  
United States District Judge

~~Town of Deerpark~~ County of Orange  
Zoning Board of Appeals

-----X  
In the Matter of the Application of  
Dragon Springs Buddhist, Inc.  
For an Interpretation and/or  
a Variance  
-----X

DECISION AND  
FINDINGS OF FACT

**INTRODUCTION**

This is an application by Dragon Springs Buddhist, Inc. (Hereinafter Dragon Springs) for an interpretation as to whether their proposal to construct a Buddhist Temple/Monastery on property located in the RR zone is a special permitted use as a Place of Worship and if the proposed ten (10) structures can be placed on a single lot. The application also requests an Area Variance for the height of certain structures if a variance is needed. The Town of Deerpark Town Board has also requested an interpretation as to whether the multiple structures can be placed on a single lot.

The proposal submitted by Dragon Springs is to build and operate a Buddhist Temple/Monastery consisting of ten (10) structures. Three (3) buildings will be Temple buildings with one of the Temples providing space for a library and providing living quarters for the ABBOT. There will be one (1) multi-function building which will provide eating facilities, laundry facilities, offices and a meeting hall. Four (4) structures will be residential structures to serve the needs of the monks and/or temporary guests at the Monastery. The residential structures will have a total capacity of 100 persons. The remaining two structures will be a bell tower and a drum tower. Due to the religious nature of the proposed use, the structures are required to be in a specific configuration as shown on Exhibit A

attached hereto. All of the structures are proposed to be constructed on a single lot.

Upon receipt of the application and after an initial appearance by Dragon Springs before the ZBA a public hearing was scheduled for April 19, 2001. Notice of the public hearing was duly published in the Town's official newspaper as required by Sec. 8.3.1 and read by the Secretary at the public hearing. Proof of mailing as required by Section 8.3.1.1 was submitted to the Board.

Dragon Springs appeared at the public hearing by counsel and submitted evidence and argument to the Board. Members of the public, including adjoining property owners, appeared and spoke at the hearing. Many of the comments from the public related to environmental issues within the jurisdiction of the Planning Board.

#### APPLICABLE LAWS

Under the Town Zoning Law, there are five (5) permitted uses in the RR Zone and twenty-one (21) special uses. All special uses require a special use permit from the Planning Board. Permitted uses do not require Planning Board Approval.

Among the permitted uses in the RR Zone are one-family detached dwellings with only one dwelling permitted per lot. See Sec. 4.1.1.1.

Places of worship and uses accessory thereto, but excluding a rectory or parsonage, are a special use in the RR Zone. See Sec. 4.1.2.1.

~~The Zoning Law defines Accessory Structure, Accessory Use Building or Structure, and Worship, Place of in Sec. 2.1.2. as follows:~~

- A. Accessory Structure - A structure clearly incidental or subordinate to, and customarily in connection with the principal building or use on the same lot.
- B. Accessory Use Building or Structure - A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term "Accessory Building" may include a private garage, garden shed, a private playhouse, and a private greenhouse.
- C. Worship, Place of - A structure and its accessory properties used for religious observances, such as churches and synagogues.

Also relevant to the issue before the Board is Section 5.1.1.2 which reads as follows:

Section 5.1.1.2 - Accessory structures constructed at the same time may be located in pairs or groups in the required rear or side yard along the common side lot line or rear lot line of contiguous lots.

In addition to the provisions of the Town Zoning Law, the ZBA must also comply with the State Environmental Quality Review Act (SEQR) and the federal Religious Land Use & Institutionalized Persons Act of 2000.

The interpretation of an existing law is an exempt action under SEQR.

The federal legislation mandates, in essence, that a local government may not impose or implement a land use regulation in a manner which imposes a

~~substantial burden on a person's exercise of religious beliefs unless there is a~~  
compelling governmental interest and the regulation is the least burdensome way of  
furthering the compelling governmental interest.

Findings

After hearing all of the testimony presented at the public hearing and after reviewing all of the submissions made to the Board, the Board makes the following findings:

1. The applicant Dragon Springs Buddhist, Inc. is the owner of the property in question.
2. The applicant is a not-for-profit corporation organized and existing pursuant to the not-for-profit corporation law of the State of New York as a Type B corporation and is organized exclusively for religious purposes as defined in Section 503(c) of the Internal Revenue Code of 1986.
3. That the proposed use falls clearly within the definition of Places of Worship as set forth in Sec. 2.1.2 of the Zoning Law.
4. That the proposed use is governed by the provisions of Section 4.1.2.1 of the Zoning Law.
5. That all of the structures proposed are to be treated as a single unit based upon the cultural and religious traditions and beliefs of the applicant.
6. That Section 4.1.2.1 does not prohibit multiple structures on the same parcel.

~~7. That multiple accessory structures on a single lot are specifically permitted~~

by Article 5 of the Zoning Law and under the Accessory Use & Structure definitions in Sec. 2.1.2 of the Zoning Law.

8. That Section 4.1.1.1 applies only to single family residential uses and does not apply to the use proposed herein which is a Place of Worship. The exemption for a rectory or parsonage exempts those structures from being special uses and allows them to be constructed as of right provided they comply with the requirements for a single family dwelling.
9. That in accordance with the determination of the Building Inspector, the applicant does not require a height variance.

**DECISION**

Based upon the findings herein the Board determines that the applicant's proposal is a special permit use in the RR Zone and may be constructed on a single lot and that the proposal, as submitted to the Board, does not require a height variance.

MOTION BY: *Ken Klaiber*

SECOND BY: *Gerald Cedrone*

ALL IN FAVOR     4

ALL OPPOSED     0

6/14/06

TOWN OF DEERPARK PLANNING BOARD  
RESOLUTION

WHEREAS, the Town of Deerpark Planning Board has received an application seeking approval of a Special Use Permit and approval of a Site Development Plan from DRAGON SPRINGS BUDDHIST, INC. (hereinafter the "Applicant"); and

WHEREAS, the application is seeking approval for additional site improvements planned at the subject location, which is intended for use as a Buddhist Temple/Monastery that was the subject of prior Planning Board actions; and

WHEREAS, the proposed site is located within the Rural Residential (RR) zone as defined in the Town of Deerpark Zoning Law; and

WHEREAS, the proposed site is 427.19 acres in size; and

WHEREAS, the Applicant's intended use and occupancy of the site will be for the construction of Chinese Tang Dynasty structures and worship by monks of the Buddhist School and other Buddhist School practitioners residing at and/or visiting the site and any other lawfully permitted use that is customary, incidental and/or appurtenant to the principal uses permitted herein, with the maximum population of the Premises to be One Hundred (100) permanent residents based on occupancy of the residence halls, with anticipated guests who shall not reside on the Premises. The Applicant shall be permitted to use all site improvements in accordance with maximum legal occupancy limits and restrictions under all applicable occupancy laws, rules and regulations including those laws, rules and regulations governing sanitary disposal systems, sewer, water, public health, safety and welfare. The residence halls will be primarily used for residential uses; the meditation halls will be used primarily for meals, religious uses and gatherings; and the temples will be primarily used for religious uses. All abovementioned structures shall also be permitted for such other lawfully permitted uses that are customary, incidental and/or appurtenant to the principal uses permitted herein; and

WHEREAS, the Applicant has previously represented to the Planning Board that it anticipates approximately only 100 weekend guests at the Premises who shall not reside at the Premises and the Applicant has reconfirmed this representation in the current application; and

WHEREAS, the Applicant has previously represented to the Planning Board that it did not intend to have school age children permanently residing at the Premises and the Applicant has reconfirmed this representation in the current application; and

WHEREAS, the proposed daily flow of the Visitor Center shall not exceed 500 gallons per day and shall not contain a grease trap, unless otherwise approved by the Planning Board; and

WHEREAS, the subject parcel is located within Rural Residential (RR) Zone as defined in the Town of Deerpark Zoning Law. The Applicant agrees to access the parcel primarily from the southerly side of Galley Hill Road, onto a private road known as Gurda Road over a new bridge to be constructed by Applicant over an existing stream. The subject site has Tax Map Designations: Town of Deerpark Section 31, Block 1, Lot 21.22; Town of Mount Hope Section 19, Block 1, Lot 1. The areas of the Town of Deerpark and Town of Mount Hope parcels are approximately 397 and 30 acres, respectively.

Dated: June 14, 2006

Page 1



Town of Deerpark

Resolution

Dragon Springs Buddhist, Inc.

All of the proposed activities that make up the subject action will take place within the Town of Deerpark parcel; and

WHEREAS, the water supply (potable and domestic) will be provided by onsite wells. Water for fire protection is to be supplied from an existing on-site pond pumped through a network of dry hydrants located directly off an access road specifically provided for Fire Apparatus; and

WHEREAS, in accordance with the requirements of §230-41 of the Town of Deerpark Zoning Law the Planning Board has held a public hearing regarding the current application for the Special Use Permit and Site Development Plan approval, which public hearing was opened on May 25, 2005 and closed on June 8, 2005, and reopened on May 10, 2006 and closed on May 10, 2006; and

WHEREAS, the Town of Deerpark Planning Board has determined for the purpose of SEQRA that the action is classified as an "Unlisted" action; and

WHEREAS, the Town of Deerpark Planning Board, being aware of its obligations, and that significant environmental impacts may be associated with Unlisted actions, required preparation by the Applicant of an Environmental Assessment Form ( "EAF" ) pursuant to 6 NYCRR 617.6 in order to determine the significance of the potential environmental impacts, if any, associated with the proposed action; and

WHEREAS, the Town of Deerpark Planning Board has reviewed the latest EAF prepared, and found it to be complete and acceptable as to scope, content and description of the proposed action, for purposes of considering any potential environmental impacts of the action; and

WHEREAS, the Town of Deerpark Planning Board has conducted a coordinated environmental review; and

WHEREAS, pursuant to its responsibilities under SEQRA, the Planning Board adopted a SEQRA negative declaration on June 14, 2006; and

WHEREAS, the Town of Deerpark Planning Board has extensively reviewed and analyzed the potential areas of environmental concern related to the proposed Special Use in accordance with the criteria set forth in §230-51 of the Zoning Law; and

WHEREAS, the Town of Deerpark Planning Board has carefully and extensively reviewed all of the information submitted at the public hearings and by written comment; and

WHEREAS the Town of Deerpark Planning Board has taken into consideration the public health, safety, and welfare, as well as the comfort and convenience of the community in general and of the immediate neighborhood.; and

~~WHEREAS, the Certificate of Occupancy for the buildings proposed under this application will not be issued before the relevant fire safety measure is provided.~~

Dated: June 14, 2006

Page 2

Town of Deerpark

Resolution

Dragon Springs Buddhist, Inc.

UPON all of the foregoing and all of the submissions made to the Town of Deerpark Planning Board, and after due deliberation, the Planning Board hereby makes the following:

**FINDINGS OF FACT**

P. 4 §10,11

1. The property on which the Applicant proposes to construct improvements to a Buddhist Temple and Monastery is classified within the Rural Residential Zone.
2. In the RR Zone, Places of Worship and uses accessory thereto are a specially permitted uses in accordance with Section 4.1.2.1 of the Zoning Law.
3. The property in question is bounded on the East by properties owned by Metro-North and CSX; on the West by the Neversink River and the Bashakill; on the North by Galley Hill Road; and on the South by Graham Road (Guymard Turnpike).
4. The existing use comprises land at which a Buddhist Temple and Monastery is under construction, most of which is forested. This latest application concerns various additional site improvements now proposed by the Applicant which are specifically listed in the June 14, 2006 negative SEQRA declaration and also incorporated into the latest Site Plans submitted by the Applicant. The proposed use will utilize approximately 17 acres of the site.
5. As was previously determined by the Town of Deerpark Zoning Board of Appeals in reviewing the original site plan which reflected the original ten (10) structures as part of a Buddhist Monastery/religious use, "the proposed use falls clearly within the definition of Places of Worship as set forth in Section 2.1.2 of the Zoning Law, that all of the structures proposed are to be treated as a single unit based upon the cultural and religious practices and beliefs of the Applicant, that Section 4.1.2.1 does not prohibit multiple structures on the same parcel, that multiple accessory structures on a single lot are specifically permitted by Article 5 of the Zoning Law under the Accessory Use and Structure definitions in Section 2.1.2 of the Zoning Law" and that "the Applicant's proposal is a special permit use in the RR Zone and may be constructed on a single lot."
6. The project meets the bulk regulations for Places of Worship in the RR Zone as set forth in the Schedule of District Regulations of the Zoning Law.
7. The proposed use is subject to the jurisdiction of the New York State Department of Environmental Conservation and the Orange County Department of Health.
8. Water supply will be provided by on-site wells that will be required to comply with Orange County Health Department and New York State Health Department regulations. A copy of these approvals must be filed with the Planning Board.
9. That on-site waste disposal will be regulated and controlled by requiring that the system be designed by a licensed professional engineer and requiring the system comply with all state and county regulations. Further approval will be required for the second on-site waste disposal system planned to serve the Visitor Center. Copies of these approvals must be filed with the Planning Board.

Dated: June 14, 2006

Page 3

Town of Deerpark

Dragon Springs Buddhist, Inc.

## Resolution

10. That all proposed structures and equipment are readily accessible to fire and police protection. Such fire accessibility confirmation must be filed with the Planning Board.
11. That the Fire District has adequate manpower, training and equipment to handle fires at the site.
12. That the location of the project and the size of the lot are appropriate for the Rural Residential (RR) Zone and the proposed use, as an allowable special use, and will not be detrimental to the orderly development of adjacent properties in accordance with the requirements of the Rural Residential (RR) Zone.
13. That the proposed site plan provides for the required supporting documentation as set forth in the Zoning Law.
14. That the amount of traffic generated by the project will not have a significant impact on the neighborhood. The Applicant will ring the bell in a moderate fashion in accordance with Town of Deerpark Local Law #4 of 2005 now codified as Chapter 166 of the Town of Deerpark Code addressing noise levels within the Town of Deerpark, New York, including, *inter alia*, Sections 2, 3 and 4. Based on the results of a decibel test performed by the Town Building Inspector reported to the Planning Board on March 24, 2004, the sound of the Bell does not exceed ambient noise levels. The Applicant has indicated that it will instruct its guests, vendors and contractors to utilize Route 209 to access the site, and will further advise its contractors to avoid, whenever possible, coming to the site during peak hours. The Applicant will also install and maintain a sign on the applicable gate(s) to the property that advises visitors and deliverymen Do Not Blow Horn. Please Press Button On Talk Box.
15. All of the findings of fact in the SEQRA negative declaration adopted on June 14, 2006 are incorporated by reference.

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

1. By this Resolution all terms, provisions and conditions of all prior declarations and/or resolutions which are inconsistent herewith are hereby modified and superseded.
2. The Planning Board hereby grants a Special Use Permit to the Applicant in accordance with the application submitted, and authorizes the issuance of a building permit by the Building Inspector subject to the terms and conditions set forth herein:
  - A. The Special Use Permit is granted for a period of one (1) year from the date of approval. Prior to the end of the Permit period, the Applicant shall request renewal from the Town of Deerpark Planning Board, in writing, with a copy to the Building Inspector of the Town of Deerpark. If, during the term of this permit, the Applicant shall evidence full compliance with all requirements of the Site Development Plan approval, and the Building Inspector certifies that fact to the Planning Board, then the Planning Board will process the renewal request administratively in accordance with the requirements of the §230-49 of the Zoning Ordinance, and the Special Use Permit shall be automatically renewed for a period to be determined by the Planning Board without the need for further Special Use Permit review or appearance before the Planning Board. Future renewals shall also utilize the same procedure.

Dated: June 14, 2006

Page 4

Town of Deerpark

Resolution

Dragon Springs Buddhist, Inc.

- B. In the event that the Building Inspector alleges that violations of the Special Use Permit approval have occurred within the period of this Special Use Permit approval, then the Building Inspector may take such action as provided by Article 8 of the Deerpark Zoning Regulations including, *inter alia*, Sections 230-57(D), (E) and (F), without prejudice to all rights of the Applicant to contest such allegation(s).

And

3. The Planning Board hereby grants a Site Development Plan approval to the Applicant in accordance with the application submitted subject to the following terms and conditions:

- A. All permits and approvals required by other agencies, including but not limited to the New York State Department of Environmental Conservation and the Orange County Health Department, are to be deemed a condition of site development plan approval. Copies of all such approvals received shall be provided to the Planning Board.
- B. Lighting, screening and landscaping shall be done in accordance with the last revised Site Plan.
- C. All required Dam improvements and fire protection facilities commensurate with the building and other construction shall be completed prior to issuance of a certificate of occupancy by the Code Enforcement Official/Building Inspector.
- D. No certificate of occupancy will be issued for any structure until all infrastructures relating to said structure as determined by the Code Enforcement Official/Building Inspector and Town Engineer are in place, except for the bridge at the Gurda Road entrance, as further specified below.
- E. The bridge/culvert improvements at Gurda Road shall be completed by June 1, 2008.
- F. In the event that the project is not built out within Five (5) Years from the date of this final site plan approval, no building permit is to be issued for any improvements shown on the final site plan without new site plan approval in accordance with the applicable provisions of the Town of Deerpark Zoning Law.
- G. The approved Site Plan plat shall incorporate all required notation delineating that the Applicant's intended use and occupancy of the site will be for the construction of Chinese Tang Dynasty structures and worship by monks of the Buddhist School, and other Buddhist School practitioners residing at and/or visiting the site; and any other lawfully permitted use that is customary, incidental and/or appurtenant to the principal uses permitted herein, with the maximum population of the Premises to be One Hundred (100) permanent residents based on occupancy of the residence halls, with anticipated guests who shall not reside on the Premises. The Applicant shall be permitted to use all site improvements in accordance with

Town of Deerpark

Resolution

Dragon Springs Buddhist, Inc.

maximum legal occupancy limits and restrictions under all applicable occupancy laws, rules and regulations including those laws, rules and regulations governing sanitary disposal systems, sewer, water, public health, safety and welfare. The residence halls will be primarily used for residential uses; the meditation halls will be used primarily for meals, religious uses and gatherings; and the temples will be primarily used for religious uses. All abovementioned structures shall also be permitted for such other lawfully permitted uses that are customary, incidental and/or appurtenant to the principal uses permitted herein.

- H. Any modification the Applicant may propose to any of the approvals that have been granted, or any changes that the Applicant may later propose, that are not shown on this latest site plan which is the subject of the Board's review and requires Planning Board approval, shall be identified in writing to the Building Inspector prior to the construction of any such improvement so that the Building Inspector may make a determination as to whether any such new, future improvement warrants site plan review or not. In the event the Building Inspector alleges that violations of the Site Plan approval have occurred, then the Building Inspector may take such action as provided by the Deerpark Zoning Regulations including, *inter alia*, Sections 230-57(D), (E) and (F), without prejudice to all rights of the Applicant to contest such allegation(s).
- I. The Applicant shall maintain an adequate escrow account to ensure that the Town Engineer and the Code Enforcement Official of the Town of Deerpark can periodically and reasonably perform inspections to ensure the Applicant's compliance with all terms and conditions of the Planning Board's approval. Such escrow account shall be established, maintained and replenished in accordance with the requirements of Chapter 136 of the Town of Deerpark Code and shall be maintained until a Certificate of Occupancy for this approval is issued, at which time any balance remaining in such escrow account shall be returned to the Applicant. The Town shall itemize all expenses for the Applicant.
- J. Resolution of all technical issues by the Town Engineer's office to the satisfaction of the Town Engineer.
- K. The Applicant shall provide to the Town Building Department, the Title and telephone number, of a Responsible Individual who shall reside on site and who shall be the contact person in the event that the Town of Deerpark or any of its officials need to contact the Applicant regarding enforcement of the terms and conditions of the Site Plan approval or of the Special Use Permit or for any other purpose.
- L. The Applicant shall provide a coordinated plan which illustrates all improvements planned to the site as authorized by this latest, and all prior, approvals granted to the Applicant.



Town of Deerpark

Dragon Springs Buddhist, Inc.

Resolution

M. The Applicant will provide all required Orange County Department of Health and New York State Health Department approvals and certificates that are necessary to place the on-site facilities in service, and provide copies of such certifications to the Planning Board.

Motion by: Derek Wilson

Seconded by: Dan Loeb

Roll Call vote:

	Aye	Nay	Absent
Willard I. Wilson	✓	_____	_____
David Dean	✓	_____	_____
Dan Loeb	✓	_____	_____
Noel Malsberg	✓	_____	_____
Theresa Santiago	_____	_____	_____
Gary Spears	✓	_____	_____
Derek Wilson	✓	_____	_____

I attest:

Barbara Brollier  
Barbara Brollier, Planning Board Secretary

7-26-06  
Date