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December 6, 2012

Hon. Howard Arden, Supervisor
and Board Members
Town of North Castle
15 Bedford Road
Armonk, New York 10504

Re: Brynwood Country Club
568 Bedford Road, North Castle, NY
Zoning Amendment, Site Plan Approval,
Wetlands Permit, possible Subdivision

Dear Supervisor Arden and Town Board Members:

This office represents Jan and Kenneth Bernstein, Earle and Elizabeth Yaffa, Peter and Allison Coviello, and Stuart and Nicole Kovensky, along with the interests of other North Castle residents who own and/or reside in homes located in close proximity to the Brynwood Country Club, or who live elsewhere in the Town but recognize the town-wide significance of the above-captioned proposed development.

We thank your Board for providing the public an opportunity to submit further written comments on the SEQRA scoping process for the above-captioned action.

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We ask that the following additional comments be taken into consideration in preparation of the final EIS Scope, along with our earlier comments of November 26th and those of the many other neighbors who have participated in this process:

1. School Impact Analysis

A large number of variables should be taken into consideration in assessing the proposed project's impacts on the school district. For example, the marketing and the selling price of the homes can be important factors in projecting the number of school children they may generate, and therefore projections should be made across a reasonable range of prices – starting at the highest price reasonably anticipated, then considering the school impacts of sales at 95% of that price, and then at 90% and on down, so as to develop projections that anticipate the reasonable range of potential buyers based on price.

Type of homes should also be taken into consideration – e.g., a separate assessment should be made of school child impacts of condominium units, town houses and single-family detached dwellings. Again, a reasonable range of sales prices should be considered when analyzing impacts for each type of home.

An assessment should be made of the school child impact of alternatives that include age-restrictions (see below regarding the issue of age restrictions). It should be noted that the applicant has presented its residential option as being “designed for and marketed to active adults and empty nesters,” but the applicant has not proposed that enforceable age or other

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marketing/sales restrictions be attached to the special use being sought.

When evaluating potential school impacts, care should be taken to make comparisons with other school districts of equal academic reputation and equally strong appeal to families with school-age children.

The potential bedroom use of offices, studies and other "non-bedroom" spaces in the proposed homes should be taken into account in determining potential school child impacts, and the assumption made that these spaces will in fact be used as bedrooms.

The potential should also be considered that new families with school children would move into the school district into homes sold by people moving into the proposed homes.

2. Age Restricted, Price Restricted, et al. Alternatives

In assessing potential school child impacts, alternatives should be evaluated that include the imposition of age restrictions, price restrictions and other controls governing the purchase, sale and resale of the proposed new residences. The universe of such restrictions should be identified, as well as the legal authority under which they could be imposed, the mechanisms that could be employed and the feasibility of success in enforcement of the restrictions. Potential property tax impacts of each alternative should also be assessed.

3. Golf Course Feasibility

The proposed Golf Course Community special use is a very limited use and will, by definition, fail if a financially viable golf course cannot be maintained on the premises.

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According to information presented by the applicant to the Town Board, the golf course itself is already failing: "The only way to preserve the club is to add a residential component." If the application is denied, the applicant has declared that "Brynwood will be forced to immediately file its application for a 49 lot conventional subdivision and the club may be forced to close." We also understand that the applicant has commenced a tax certiorari proceeding. In view of the applicant's dire admissions of financial insolvency, and the historically recalcitrant condition of the housing market in general, it is crucial that the economic feasibility of the golf course community proposal be analyzed in full in the DEIS. It is our understanding that a detailed examination of golf course trends will show playership to be down, and local courses to be closing. An analysis of golf course economics in New York, and nationwide, should be included in the DEIS, along with analyses of local, statewide and national golfing industry trends, and the likely demand for golf course community housing in this economy.

The applicant's experience in building golf course communities should be disclosed, as well as the success (or failure!) of any similar communities built recently within the area. Similarly, the experience over the last four years of the architects in designing, and Troon North in managing, golf courses and similar communities should be disclosed. Furthermore, alternative plans should be identified that would come into play in the event that the proposed use fails. These alternatives should consider alternative uses of the golf course itself, and the impacts of those uses.

4. Property Development Potential (the so-called "as of right" subdivision)

The applicant has held up to the public the asserted right to a 49-lot conventional subdivision. The DEIS should include an assessment of the actual number of individual lots that could be developed on the property under current zoning, and developing within steep slope, wetland and other environmental constraints. The assessment should include an analysis of the feasibility of providing individual wells and septic systems (based on actual soil conditions) for each lot, and an assessment of the impacts, including but not limited to school impacts and tax impacts, of this alternative. An explanation should be provided as to the authority of the Town to mandate clustering, and any such mandated clustering alternative should be set forth and assessed as to impacts. We request that a full analysis be made of the actual conventional subdivision that meets the criteria above, plus a cluster subdivision of the same density; in both alternatives the full parcel would be developed, with no golf course. We also request that lower density alternatives be fully analyzed, including a 60-unit cluster development with the golf course and suitably higher selling prices, and a 60-unit cluster development without the golf course, and with suitably lower selling prices.

5. Tax Analyses/Property Values

We understand that the Town has analyzed tax impacts for proposed development projects, possibly including this one. We thus ask that the Town and School District provide their own independent analyses of tax impacts affecting their taxing jurisdictions for all development

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alternatives identified in the DEIS, including alternatives to be considered in the event of the failure of the proposed use. These would be included for comparison along side the estimates developed by the applicant. Analyses of the project's impact on property values should include consideration of the potential that lower tax rates applicable for any condominium units and town houses to be constructed on the site could increase the tax burden on other residential properties throughout the town. Property taxes for condominium units and town houses should be compared with taxes for detached residences of equivalent size. Comparison with Whippoorwill Ridge and Whippoorwill Hills should be a part of this analysis. Based on reasonable projected completion dates, a schedule of anticipated tax revenue receipts should be developed to show how much in taxes would be paid each year from commencement of construction through final completion and C of Os for all construction. For this purpose, the assumption should be made that STAR exemptions will be claimed by the homeowners.

6. Affirmatively Furthering Fair Housing (AFFH)

We understand Westchester County has requested that a minimum of ten percent of the proposed units be set aside to meet the Town's Affirmatively Furthering Fair Housing (AFFH) requirements. We thus ask that alternatives meeting this requirement be analyzed in the DEIS, including the location, projected sales or rental price, number of school children projected for the units, along with other projected impacts. If density is proposed to be increased for this purpose, then the impacts of such increased density should also be analyzed, as well as an alternative that

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meets the AFFH requirement without increase in density of development. Of particular pertinence to the AFFH analyses is the Town's record of AFFH compliance, including units that have been built or committed, and the economic impacts of the Town's AFFH compliance, including impacts of success and of failure.

7. Water Quality and Resources

The applicant has promised to "manage its own water supply" by developing its own on-site wells. The alternative would apparently be to draw its water from the neighboring water district. The two alternatives should be analyzed fully, both to determine their impacts as well as to clarify whether or not each alternative is feasible. This analysis should include testing for chemical contamination of the groundwater beneath the applicant's property, an assessment of the potential for contamination in the future based on soil characteristics and the experience of similar golf courses in the region, and hydrological studies including test pumping to determine the safe yield of wells within the property, and the potential that the required level of water withdrawal would reduce the flow and capacity of neighboring wells or nearby water districts. The capability of the neighboring water district to supply the required flow of water should also be assessed, including groundwater capacity as well as the possibility that an increased draw on the groundwater of neighboring water districts may result in contaminated ground water from beneath the applicant's property being drawn into the district's groundwater supply. An analysis of the costs associated with the two alternatives should also be conducted, specifically to

determine the economic viability of the applicant's proposal to operate its own water system.

8. Other Environmental Impacts

- As mentioned in my previous letter to your Board, wetlands mapping should include identification of disturbed wetlands, being lands that would revert to wetlands under natural conditions but are maintained as, for example, lawns. Identification of disturbed wetlands is described in the "Federal Wetland for Identifying and Delineating Wetlands, January 1989."
- Any soil testing should be performed during "worst case" conditions so as to determine maximum and minimum percolation rates.
- Alternative construction sequencing proposals should be included that would minimize impacts as well as to ensure completion of the golf course and club house prior to the residences; such plans should also minimize the period of time that construction impacts (including noise, fumes, traffic, flooding and others) would be imposed on neighbors and the neighboring school, and should prevent the construction process from being protracted for economic, marketing or other discretionary reasons that unfairly disadvantage the neighbors.
- Impacts on the adjoining Coman Hill elementary school, during construction and during routine operation of the project, should be examined, with particular attention to children with allergies, asthma or other environmental sensitivities.
- Site lines of alternative building locations should be drawn up so as to minimize visual impacts from public locations and neighboring properties.
- Traffic studies should include traffic counts taken during high traffic periods for Route 22, the school district (especially arrival and departure times), the golf course and other sources of traffic; accident records should include local police reports as well as New York State data; impacts of other and proposed development in the Town should be considered in the consideration of traffic impacts.
- Applicable regulations under New York State law and under the jurisdiction of the NYS DEC, which govern use and storage of pesticides for the project, should be identified, and the requisite means and costs of complying with them should be

spelled out in the DEIS; impacts should be considered of the use of all chemicals approved for use on golf courses and residential property in New York State; alternative chemical use practices that minimize impacts to the maximum extent feasible should also be considered, but only to the extent that the Town is able to demonstrate the practical ability, the will and the requisite experience in enforcing continuous compliance with such practices.

9. Additional Concerns

- The governing entity(ies) of the club and homeowners should be identified in the DEIS, its/their powers and responsibilities should be spelled out, and mechanisms identified to ensure that the interests of the neighbors and the community (e.g., in protection from pesticide contamination, abatement of noise from Saturday morning lawn mowing) are adequately considered and protected by the entity(ies) carrying out these responsibilities.
- An inventory should be promptly prepared, including all properties in the Town of North Castle that qualify for the special permit use as proposed by applicants. The owners and neighbors of such properties should be promptly notified of the proposal so as to be able to participate during the scoping session.
- Construction and operation standards, and the mechanisms capable of enforcing them, should be identified for inclusion as standards applied in the issuance of a permit for the proposed special use. The purpose of such standards would be to ensure that any applications submitted for the special use permit would include all the protections and controls taken into consideration during the SEQRA process.
- In this letter, we have suggested numerous alternatives to the applicant's preferred plan that should be analyzed in the DEIS; while we have highlighted certain specific issues to be addressed in analyzing these alternatives – for example, school impact, tax impact, water use impact – it is not our intention that each of these alternatives be given anything less than the full analysis mandated by SEQRA, including but not limited to an assessment of each alternative's potential environmental impacts, social and economic impacts, tax impacts, impacts on municipal services and resources, and other potential impacts.

These comments supplement those I submitted for your November 26th meeting. It is my

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understanding that a draft of the proposed Scoping Document will be available for public review for approximately two weeks prior to your Board's meeting to discuss it.

I take the liberty of calling your attention specifically to my request above that an inventory should be promptly prepared, including all properties in the Town of North Castle that qualify for the special permit use as proposed by applicants. I do not believe that this step should be incorporated into the DEIS only, but should be implemented immediately so as to ensure that the owners and neighbors of such properties can be promptly notified of the proposal and be enabled to participate so informed during the scoping session.

I thank your Board for your consideration of these comments.

Sincerely,



Thomas Whyatt
Oxman Tulis Kirkpatrick
Whyatt & Geiger LLP

cc: Adam Kaufman