

Town Board Minutes
Town of North Castle
Whippoorwill Hall
19 Whippoorwill Road East
Armonk, New York
on
August 17, 2011

Supervisor Weaver called the meeting to order at 6:00 p.m. and the following persons were present:

Supervisor	William R. Weaver
Councilmen	Rebecca A. Kittredge
	Michael J. Schiliro
	Diane Roth
	John J. Cronin

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

The meeting was immediately adjourned into an executive session which was then closed at 7:15 p.m. The regular meeting was reconvened at 7:35 p.m.

Councilman Roth moved, seconded by Councilman Kittredge, approval of the minutes of the July 27, 2011 meeting.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

The minutes of the Public Hearing which commenced at 8:05 p.m. follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Cronin, receipt of a Certificate of Appropriateness granted by the Landmarks Preservation Committee for the revised Armonk Square plan dated July 11, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, receipt of Special Use Permit application from Engel Burman at Armonk, LLC for an assisted living facility at 90 Business Park Drive.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of a letter from Edward Baquero, Brynwood Partners, withdrawing its petition for amendments to the zoning ordinance for a residential community at Brynwood Golf & Country Club, 568 Bedford Road.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Peter Caviello and Stuart Kovensky expressed concerns regarding the petition from Brynwood Partners. Mr. Coviello said the Brynwood petition did not consider the expenses to the Town, nor significant increases to traffic. He said that additional information should have been provided to residents. Mr. Kovensky said that proposed projects need to be communicated to residents much earlier in the process ideally any time a developer asks for a variance.

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Councilman Kittredge moved, seconded by Councilman Cronin, receipt of a cash bond, in the amount of \$500, from Marc Mancini, Haunted Dead End Productions, to guarantee cleanup for the special event to take place at the Rocky Ledge Swim Club, on Fridays, Saturdays and Sundays, and on Halloween, during the last three weeks of October, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Cronin, receipt of a letter from the officers of the Banksville Independent Fire Company expressing their opposition to rezoning in Banksville that would eliminate or restrict business properties.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Following a discussion regarding Restaurant North's request for a Special Event Permit for a Harvest Party on September 25, 2011, Councilman Kittredge moved, seconded by Councilman Schiliro, the scheduling of a public hearing for September 14, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for the Town's attorneys to execute the Consent Judgments in the following matters: H. H. Benfield Electric Supply Corp. vs. Town of North Castle (25 Lafayette Avenue), Index Nos. 16513/04 et al and 155 Lafayette Corp. vs. Town of North Castle – Index Nos. 16512/04 et al.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the recommendation of the Planning Board to reduce the amount of the construction bond for the wetland mitigation improvements completed at 114 Cox Avenue (Section 2, Block 05, Lot 20.D01), Galina Feit, developer, from \$90,000 to \$13,500, and further moved that the construction bond be converted to a performance bond.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Upon the recommendation of Superintendent Richard Fon, Councilman Kittredge moved, seconded by Councilman Cronin, approval to issue a license to collect and dispose of refuse in the Town of North Castle to Sani-Pro Disposal Services.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Pursuant to a letter from Tax Receiver Colombo, Councilman Kittredge moved, seconded by Councilman Cronin, approval to issue a refund of \$9,888.49, due to correction of assessment errors, to Mr. and Mrs. Brian Miller, Ashfields Lane, Greenwich, CT.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Cronin, receipt of a letter from Governor Andrew Cuomo regarding economic development efforts.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Cronin, approval of the request from Jarden Westchester Triathlon to use some roads in the Town for its annual race on September 25, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Cronin, authorization to make payment No. 3 to A&R Electric, Inc. in connection with new well in Water District No. 2.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Cronin, to consider the following in connection with wastewater treatment nitrogen removal project:

- Final change order #2 for BMJ Construction Co. to reduce the value of contract No. 1, resulting in a credit of \$99,066.
- Payment #12 to BMJ Construction Co. – final payment.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt of Notice of Claim in the matter of Leroy Williams vs. Town of North Castle.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, receipt of memo from Comptroller Gobeo and authorization for the Supervisor to make the budget transfers and amendments that follow at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, the provisional appointment of Elizabeth Thomas to the position of Senior Recreation Leader – Senior Citizens, effective September 1, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt of letter of retirement from Linda DiFiore from her full time position effective August 31, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the recommendation from Superintendent Fon to appoint Linda DiFiore to the part time hourly position of Senior Office Assistant, effective September 1, 2011.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, receipt of memo from Director of Planning Adam Kaufman regarding completion of 2010 training by all members of the Planning Board.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, approval of the request from Superintendent Susan Snyder to attend the National Recreation and Parks Association Conference in Atlanta, GA., November 1-3, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, approval of the request from Police Chief Robert D'Angelo to attend International Police Chief's Conference in Chicago, IL, October 22-26, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, the re-appointment of Dana Coakley to the Landmarks Preservation Committee, for a term to expire May 17, 2014.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, the re-appointment of Martin Rube to the Landmarks Preservation Committee, for a term to expire May 17, 2014.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Upon the recommendation from Police Chief D'Angelo, Councilman Schiliro moved, seconded by Councilman Kittredge, the provisional appointment of Mary Ann Rinaldi to a full-time clerical position in the Police Department, based on her testing for the title.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, the consensus agenda:

- Receipt of Workers Compensation Report, Recreation worker.
- Receipt of Town Clerk's monthly report for July, 2011
- Receipt of memo from Asst. General Foreman, Norris, requesting approval for release of bonds as follows:
 - Con Edison - Permit 0972 for street opening at Old Post Road in the amount of \$1,000 to be reinstated to the \$50,000 bond.
 - Marc Frimet - Permit 0630 for driveway alteration at 67 Windmill Road, in the amount of \$500 to be returned to bond holder as work has been completed and approved.
 - Steve & Lisa Russell - Permit 0876 for driveway alteration at 3 Sterling Road South, in the amount of \$500 to be returned to bond holder as work has not been done and permit has expired.

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- Ann Putalik - Permit 0661 for driveway alteration at 3 Laurel Hill Place in the amount of \$500 to be returned to bond holder as work has been completed and approved.
- Receipt of third annual Franchise Grant installment from Verizon in the amount of \$2,400.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, adoption of a resolution authorizing the formation of, and the Town's consent to be a member of, the East of Hudson (EOH) Watershed Corporation for the purpose of jointly organizing, administering and implementing the regional stormwater plans under the MS4 Permit, and further moved that the Supervisor serve as the initial member of the Board of Directors of the EOH Watershed Corporation.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, adoption of a resolution approving the Funding Agreement of the East of Hudson (EOH) Watershed Corporation which will enable New York City to transfer the \$15.5 million provided for in the 2010 Water Supply Permit issued by the Department of Environmental Conservation and the \$4.5 million provided for in the 2007 Filtration Avoidance Determination to the EOH Corporation when formed.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Upon the recommendation of Superintendent Fon, Councilman Kittredge moved, seconded by Councilman Cronin, the establishment of a Ball Field Trust Account which will be funded by leagues and other individuals and be used specifically for materials, supplies, equipment, contractual services, seasonal staff or needs that might be required to maintain and improve the ball fields and accompanying facilities.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Pursuant to a letter from Tax Receiver Colombo regarding a Consent Judgment for Interlaken Capital Aviation Services, Westchester County Airport, 100 E. First Street, Room 900, Mt. Vernon, NY 10550; property located on King Street, Parcel I.D.: 3-06-3.J, Councilman Kittredge moved, seconded by Councilman Roth, authorization to issue a refund in the amount of \$27,209.49.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of application and ratification of approval to film in North Castle from Go Film Productions at 915 North Broadway.

The Town Board audited and approved payments totaling \$423,839.53 as indicated on Warrant #14.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 11:15 p.m.

Anne Curran, Town Clerk

Dated: September 12, 2011

PUBLIC HEARING

August 17, 2011

At 8:15 p.m. Supervisor Weaver stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN that the North Castle Town Board will hold public hearings on Wednesday, August 17, 2011, at 7:30 p.m., or as soon thereafter, at Whippoorwill Hall, 19 Whippoorwill Road East, Armonk, New York, 10504*, for the purpose of considering (1) the Zoning Petition submitted by AZ Reservoir, LLC, Poughkeepsie Development, LLC, EZ Rentals I, LLC, Antares Armonk Square, LLC, and AZ Ventures, LLC, collectively the owners of the properties located at 402 Main Street, Armonk, New York (Section 2, Block 14, Lot 8) and at 29 Maple Avenue (Section 2, Block 14, Lot 4), which Petition seeks (a) an amendment to the Zoning Code of the Town of North Castle to allow parking for all uses in the CB-A District, except residential and office uses, to be changed to one space per 200 square feet of gross floor area; (b) an amendment to the Zoning Code of the Town of North Castle to permit the required middle income units for the CB-A District to be located either on-site or off-site; and (c) an amendment to the Zoning Map of the Town of North Castle to include the property located at 29 Maple Avenue (Section 2, Block 14, Lot 4) in the CB-A Zoning District; and (2) special permit approval for a retail business exceeding 5,000 square feet of floor area. The Petition and proposed Local Law are available in the Town Clerk's office during regular business hours and on the Town's website. All persons having an interest in the matter are invited to attend and be heard.

By Order of the Town Board
Anne Curran, Town Clerk

Dated: July 28, 2011
Armonk, New York

(* NOTE: LOCATION FOR PUBLIC HEARING WAS WHIPPOORWILL HALL, 19 WHIPPOORWILL ROAD EAST, ARMONK, DIFFERENT FROM LOCATION PUBLISHED IN JOURNAL NEWS.)

The Public Notice was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

Letter, with a Zoning Petition and exhibits, from Anthony Veneziano, Veneziano & Associates, dated June 17, 2011, was marked Exhibit "D" for the record.

Letter from Director of Planning Adam Kaufman dated July 12, 2011 was marked Exhibit "E" for the record.

Letter, with an application for Certificate of Appropriateness for Armonk Square, from Mark Miller, Veneziano & Associates, dated July 27, 2011 was marked Exhibit "F" for the record.

Notification of granting of a Certificate of Appropriateness from the Landmarks Preservation Committee, dated August 4, 2011, was marked Exhibit "G" for the record.

Special Use Permit application, dated August 10, 2011, was marked Exhibit "H" for the record.

The following were marked Exhibit "I" for the record:

Letter from Frederick P. Clark Associates to Mr. Kaufman dated August 16, 2011.

Letter from the Westchester County Planning Board to Mr. Kaufman dated August 16, 2011.

Letter from Kellard Sessions Consulting to Mr. Kaufman dated August 17, 2011.

The green cards denoting receipt of certified mail by adjoining property owners were received and marked Exhibit "J" for the record.

The following were marked Exhibit "K" for the record:

Proposed resolution of approval for amendments to zoning code and zoning map.

Proposed resolution of approval for Special Use Permit.

Full Environmental Assessment Form.

Proposed Negative Declaration.

Proposed local law.

Anthony Veneziano, Veneziano & Associates, reviewed the highlights of the revised mixed-use development, including:

- Inclusion of recently purchased adjacent property (former Beascakes Bakery, 29 Maple Avenue) and the request to rezone it from CB to CB-A zoning district.
- Zone text change to allow one parking spot for each 200 square feet of gross floor area.
- Special Use Permit approval to permit a food market of approximately 24,000 square feet.
- Reduction of residential space to 10 units.
- Amendment to zoning code to permit the required middle income units to be to be located on or off-site.

Planning Director Adam Kaufman commented that Westchester County Planning Board said this mixed-use project is exactly the type of development that will add to the vitality of the downtown. In addition, he stated that a traffic study was prepared and reviewed, noting that the conclusion is that the project would not have a significant adverse impact and that truck turning movements will be further examined by the Planning Board.

Judy Willsey, owner of Framings on Main Street, voiced her "100% support of the project" emphasizing that the project is being done by community minded people who are residents.

In response to Lydia Rippstein's query concerning the appropriate ratio of parking spaces per retail square footage, Planning Director Kaufman said that one space per 200 square feet is adequate and he is very comfortable with this ratio. Councilman Schiliro added that this same ratio serves as a successful model at the Stop & Shop in North White Plains.

Mr. Veneziano stated that the parking provides a nice amenity to the downtown, and in response to Councilman Roth, confirmed the intention is to create a parking district, offering 179 parking spaces.

Barbara DiGiacinto presented the Town Board with a petition of support signed by over 70 property owners and merchants in the Armonk hamlet. She read the names and businesses of those that signed the petition and emphasized that establishing a food market at Armonk Square will provide a solid anchor for the rest of the project and it will strengthen the heart of the entire Main Street business district.

Christopher Carthy, Sarles Street, described an alternative proposal for a larger supermarket of 36,000 square feet located where the Town Highway garage and Town Hall Annex (Cornell Birdsall building) are located. His proposal included constructing a new two-story structure for Town Hall and leasing the land for a supermarket that would thereby create a revenue stream.

Susan Shimer, Pond Lane resident and Chair of the Landmarks Preservation Committee (LPC) stated that some LPC members remained concerned about traffic in the Historic District and suggested restricting truck traffic patterns and time of access. She also recommended that hedging be included for screening purposes and that the patrons of the Dentist's office use the parking lot rather than the yard.

Mr. Venziano stated that he doesn't believe one way access is workable, but he would look into Ms. Shimer's suggestion. He confirmed that there is two-way access at Maple Avenue.

Jeff Garson, Armonk Town Center developer, asked the Town Board to approve the plan tonight and praised the traffic consultants that have studied the proposal.

James Sieper, Windmill Road, said he was impressed by Christopher Carthy's proposal for a larger supermarket and questioned if there would be interest by retailers to lease this smaller food market at Armonk Square. He also asked if underground parking could be considered.

Mr. Veneziano replied that there is significant interest from several supermarkets and that underground parking is not feasible at this location.

Alfred LaPorta DDS, Maple Avenue, expressed grave concerns with how the project fits into the Town plan and questioned if there was sufficient time spent vetting the revised proposal.

Planning Director Kaufman stated that the site plan is not fully vetted, but that the project is consistent with the Town's comprehensive plan. The project is approved for retail use and the request for a Special Use Permit is for the supermarket. He added that the CB-A district allows for a parking district. Mr. Kaufman said that the proposal by Mr. Cathy to build a new Town Hall complex would require an amendment to the Town's Comprehensive Plan.

Councilman Schiliro said the Town Board is considering just the items necessary to take the next step and that they are not considering approval of the site plan. He added that the project is not being rushed but that they owe it to the applicant, downtown retailers and residents to work harder and faster.

Councilman Cronin stated that he believes that the supermarket belongs in the hamlet and is in favor of unlocking Armonk Square. He suggested holding a work session with professionals.

Councilman Roth stated that she has a problem with the legislation that will allow the middle income units to be located on or off-site. She encouraged the Planning Board to carefully review the site plan.

Town Attorney Baroni explained the consideration of the off-site middle income units is to allow for two units that were land-banked at the Smith Cockren property, giving the option of using what already approved.

Supervisor Weaver encouraged the Town Board to consider the differences in the proposal and the original plan, and reiterated that he believes getting the supermarket incorporated as an anchor makes the project work.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 10:25 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Schiliro adoption of Local Law 8 of the year 2011 to (a) amend the Zoning Code of the Town of North Castle to allow parking for all uses in the CB-A District, except residential and office uses, to be changed to one space per 200 square feet of gross floor area; (b) amend the Zoning Code of the Town of North Castle to permit the

required middle income units for the CB-A District to be located either on-site or off-site; and (c) amend the Zoning Map of the Town of North Castle to include the property located at 29 Maple Avenue (Section 2, Block 14, Lot 4) in the CB-A Zoning District

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None

The local law and the resolution of approval for amendments to zoning code and zoning map follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the special use permit for a retail business exceeding 5,000 square feet of floor area.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None

The resolution of approval for the special use permit follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: September 12, 2011

TOWN OF NORTH CASTLE

Local Law No. 8 For the Year 2011 (Adopted August 17, 2011)

A local law to amend Chapter 213 of the Town of North Castle Code with respect to the CB-A zoning district.

Section 1. Amend Section 213-23(B) by amending subsection 223-13(B)(6)(a) to read as follows:

213-23(B)(6)(a) Off-street parking shall be provided in accordance with the requirements of Article IX of this chapter. No parking shall be permitted in the front yard unless approved by the Planning Board consistent with the intent and design guidelines of this section. Parking shall be maintained privately; however, the Planning Board may require the establishment of a parking district to provide for the proper maintenance and improvement of such parking areas. Notwithstanding the provisions of Article IX, as well as §§ 213-5 and 213-46, the parking requirements for all uses other than residential uses and office uses in the CB-A district shall be as follows:

- (a) Off-street parking spaces. Not less than one off-street parking space for each 200 square feet of gross floor area or major portion thereof, except that the following requirements shall apply to the following specific areas of a grocery, convenience store, or a supermarket:
 - [1] For mezzanine floor area, the requirement shall be one space for each 250 square feet of gross office floor area and one space for each 1,200 square feet of gross storage and/or employee lounge floor area.
 - [2] For dedicated space associated with customer return of recyclable materials, such as bottles and cans, the requirement shall be one space for each 1,200 square feet of floor area.
 - [3] For any food storage chest which is situated outside the principal building, the requirement shall be one space for each 1,200 square feet of total floor area.

Section 2. Amend Section 213-5 of the Town of North Castle Zoning Code by amending the Town of North Castle Zoning Map to remove 29 Maple Avenue (Section 2, Block 14, Lot 4) from the CB zoning district and add it to the CB-A zoning district.

Section 3. Amend Section 213-23(B)(2)(c) as follows:

213-23(B)(2)(c) At least 20%, but not more than 40%, of the total floor area within the CB-A District shall consist of multifamily dwellings located on the second story. Middle income units, based on the income thresholds established in this Zoning Code, shall be designated and set aside, either on-site or off-site, in an amount equal to at least 20% of the dwellings within the CB-A district.

Section 4. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 5. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 6. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: August 17, 2011

RESOLUTION

Action:	Off-street Parking Revision to Town Code for CB-A Zoning District; Zoning Map Amendment to Place former “Beascakes” Property in CB-A Zoning District; Revision of CB-A District Regulations to Permit the Provision of Off-Site Middle Income Units
Date of Approval:	August 17, 2011

WHEREAS, a local law has been prepared to amend Chapter 213 of the Town of North Castle Town Code with respect to the CB-A Zoning District; and

WHEREAS, Section 1 of the local law would amend Section 213-23(B) by amending subsection 223-13(B)(6)(a) to read as follows:

213-23(B)(6)(a) Off-street parking shall be provided in accordance with the requirements of Article IX of this chapter. No parking shall be permitted in the front yard unless approved by the Planning Board consistent with the intent and design guidelines of this section. Parking shall be maintained privately; however, the Planning Board may require the establishment of a parking district to provide for the proper maintenance and improvement of such parking areas. Notwithstanding the provisions of Article IX, as well as §§ 213-5 and 213-46, the parking requirements for all uses other than residential uses and office uses in the CB-A district shall be as follows:

- (a) Off-street parking spaces. Not less than one off-street parking space for each 200 square feet of gross floor area or major portion thereof, except that the following requirements shall apply to the following specific areas of a grocery, convenience store, or a supermarket:

- [1] For mezzanine floor area, the requirement shall be one space for each 250 square feet of gross office floor area and one space for each 1,200 square feet of gross storage and/or employee lounge floor area.
- [2] For dedicated space associated with customer return of recyclable materials, such as bottles and cans, the requirement shall be one space for each 1,200 square feet of floor area.
- [3] For any food storage chest which is situated outside the principal building, the requirement shall be one space for each 1,200 square feet of total floor area

WHEREAS, Section 2 of the local law would amend Section 213-5 of the Town of North Castle Zoning Code by amending the Town of North Castle Zoning Map to remove 29 Maple Avenue (Section 2, Block 14, Lot 4) from the CB zoning district and add it to the CB-A zoning district; and

WHEREAS, Section 3 of the local law would amend Section 213-23(B)(2)(c) to state that “At least 20%, but not more than 40%, of the total floor area within the CB-A District shall consist of multifamily dwellings located on the second story. Middle income units, based on the income thresholds established in this Zoning Code, shall be designated and set aside, either on-site or off-site, in an amount equal to at least 20% of the dwellings within the CB-A district;” and

WHEREAS, on July 12, 2011, the Planning Board reviewed and discussed the project and positively recommended that the Town Board consider the proposed Zoning changes and special use permit (4-1 vote); however, the Planning Board noted that the Town Board and Planning Board will need to closely scrutinize the site plan to ensure that the mass/architectural design of the supermarket is appropriate for the Armonk Hamlet, that the site plan is designed properly to accommodate expected truck movements, that traffic impacts are mitigated with respect to Maple Avenue, Bedford Road and Main Street and that the proposed supermarket tenant will be compatible with existing hamlet businesses;and

WHEREAS, the supermarket is supported by the Town’s Comprehensive Plan. Pursuant to Section IV.B.2.a(1) of the Town Comprehensive Plan, “the function of retail and service business in North Castle should be to serve the immediate need of the population. Grocery stores...fall into this category.” Additionally, Section IV.B.2.b.ii provides that “the policies for Armonk focus on providing a well-designed, safe and efficient center which will attract more local shoppers and are also aimed at providing a better mix of uses in the hamlet center.” Furthermore, Section IV.B.2.b.iii(b) of the Comprehensive Plan calls for providing a shared parking district between existing and proposed buildings on Main Street; and

WHEREAS, the application for special use permit was referred to the Westchester County Planning Board pursuant to Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code; and

WHEREAS, the Westchester County Planning Board has stated in its August 15, 2011 letter to the Town of North Castle that the Proposed Action, “featuring a mix of uses in a cluster of relatively small buildings within the center of the Armonk hamlet, represents the type of project envisioned by Westchester 2025 for Westchester's "Local Centers;" and

WHEREAS, the County Planning Board also notes that “[i]t is particularly welcome that the proposal now includes a small supermarket in light of the recent closing of a supermarket nearby in the hamlet. Together with proposed housing, retail, office and restaurant uses, the supermarket will help solidify the future of the hamlet's vitality and future as a walkable and accessible center;” and

WHEREAS, in accordance with the Town Code, the Proposed Action contains 20% of the 10 proposed housing units as Town Middle Income Units; and

WHEREAS, the County Planning Board has stated that the Town should consider setting aside a minimum of 10% of the units to be developed as affordable affirmatively furthering fair housing (AFFH) units rather than Middle Income Units; and

WHEREAS, the County Planning Board also recommends that the Town adopt the "Model Zoning Ordinance Provisions for Affordable Affirmatively Furthering Fair Housing Units" as included in

the Westchester County Fair and Affordable Housing Implementation Plan (dated August 9,2010); and

WHEREAS, the County Planning Board further recommends that the Town require green building technology as well as a reduction in the number of parking spaces provided for the project; and

WHEREAS, the proposal contemplates the construction of a new mixed-use development consisting of three new buildings, parking areas, and site amenities in downtown Armonk. The two buildings fronting on Main Street have been designed to be appropriate in size and scale with the surrounding commercial area. The third proposed building, consisting of a 24,250 square foot grocery store, is larger than most surrounding commercial buildings. The Applicant has created a building design aimed at breaking up the mass of the buildings and using architectural design to ensure that the structure is compatible with surrounding buildings and neighborhood character; and

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on August 17, 2011, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on June 22, 2011, the Town Board declared its intent to act as Lead Agency with respect to the environmental review of the proposed action pursuant to the State Environmental Quality Review Act (SEQRA) and adopted a resolution authorizing circulation of a Lead Agency Determination Notice and a copy of the application materials, including a copy of the Environmental Assessment Form, to all involved agencies for the project; and

WHEREAS, the Town Board has found that the proposed action is a Type I Action pursuant to SEQRA; and

WHEREAS, on August 17, 2011, the Town Board issued a Negative Declaration; and

WHEREAS, the basis for the Town Board’s environmental determination is set forth in detail in said Negative Declaration; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the proposed zoning amendments will not have a significant adverse effect on the environment; and

NOW, THEREFORE, BE IT RESOLVED, that the foregoing “WHEREAS” clauses and the findings contained in the Negative Declaration are incorporated herein by reference and fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that the local law regarding the CB-A Zoning District amendments shall hereby be adopted.

RESOLUTION

Action:	Special Use Permit Approval for Use Over 5,000 square feet
Application Name:	Armonk Square
Owner/Applicant:	AZ Reservoir, LLC Poughkeepsie Development, LLC EZ Rentals I, LLC Antares Armonk Square, LLC AZ Ventures, LLC
Designation:	Section 2, Block 14, Lots 4 and 8
Zone:	CB-A Zoning District
Location:	Maple Avenue, Main Street and Bedford Road
Date of Approval:	August 17, 2011
Expiration Date:	August 17, 2012 (1 year)

WHEREAS, the Town of North Castle Town Board has received an application for special permit approval from Armonk Square for a modification of the previous approval to construct a new 25,000 square foot supermarket on the Armonk Square site; and

WHEREAS, the total project would consist of 10,234 s.f. of residential space (10 Units), 4,301 s.f. of retail, 2,930 s.f. of office, a 3,814 s.f. bank, 1,425 s.f. of restaurant space, a 600 s.f. building for DEC, 3,601 of circulation space, and a 24,250 s.f. grocery store (total of 51,155 s.f.) together with 179 parking spaces; and

WHEREAS, any retail use over 5,000 square feet requires the issuance of a special use permit by the Town Board; and

WHEREAS, on July 12, 2011, the Planning Board reviewed and discussed the project and positively recommended that the Town Board consider the proposed Zoning changes and special use permit (4-1 vote); however, the Planning Board noted that the Town Board and Planning Board will need to closely scrutinize the site plan to ensure that the mass/architectural design of the supermarket is appropriate for the Armonk Hamlet, that the site plan is designed properly to accommodate expected truck movements, that traffic impacts are mitigated with respect to Maple Avenue, Bedford Road and Main Street and that the proposed supermarket tenant will be compatible with existing hamlet businesses; and

WHEREAS, the supermarket is supported by the Town's Comprehensive Plan. Pursuant to Section IV.B.2.a(1) of the Town Comprehensive Plan, "the function of retail and service business in North Castle should be to serve the immediate need of the population. Grocery stores...fall into this category." Additionally, Section IV.B.2.b.ii provides that "the policies for Armonk focus on providing a well-designed, safe and efficient center which will attract more local shoppers and are also aimed at providing a better mix of uses in the hamlet center." Furthermore, Section IV.B.2.b.iii(b) of the Comprehensive Plan calls for providing a shared parking district between existing and proposed buildings on Main Street; and

WHEREAS, the application for special use permit was referred to the Westchester County Planning Board pursuant to Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code; and

WHEREAS, the Westchester County Planning Board has stated in its August 15, 2011 letter to the Town of North Castle that the Proposed Action, "featuring a mix of uses in a cluster of relatively small buildings within the center of the Armonk hamlet, represents the type of project envisioned by Westchester 2025 for Westchester's "Local Centers;" and

WHEREAS, the County Planning Board also notes that "[i]t is particularly welcome that the proposal now includes a small supermarket in light of the recent closing of a supermarket nearby in the hamlet. Together with proposed housing, retail, office and restaurant uses, the supermarket will help solidify the future of the hamlet's vitality and future as a walkable and accessible center;" and

WHEREAS, in accordance with the Town Code, the Proposed Action contains 20% of the 10 proposed housing units as Town Middle Income Units; and

WHEREAS, the County Planning Board has stated that the Town should consider setting aside a minimum of 10% of the units to be developed as affordable affirmatively furthering fair housing (AFFH) units rather than Middle Income Units; and

WHEREAS, the County Planning Board also recommends that the Town adopt the "Model Zoning Ordinance Provisions for Affordable Affirmatively Furthering Fair Housing Units" as included in the Westchester County Fair and Affordable Housing Implementation Plan (dated August 9,2010); and

WHEREAS, the County Planning Board further recommends that the Town require green building technology as well as a reduction in the number of parking spaces provided for the project; and

WHEREAS, throughout the Town's multi-year review of the Proposed Action (including the previous approval), a considerable amount of attention has been focused on traffic issues; and

WHEREAS, the subject property has frontage on Main Street, Maple Avenue and Bedford Road. Vehicular access to the site will be provided via Bedford Road and Maple Avenue with the Main Street frontage providing pedestrian access to the site; and

WHEREAS, as part of the review of the project the Applicant commissioned a Traffic Impact Study which included the following potential impacts:

- NYS Route 128 (Main Street) and Maple Avenue/Whippoorwill Road East

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates the intersection is projected to continue to operate at an overall Level of Service "B" during the Weekday Morning Peak Hour (with the Maple Avenue westbound approach operating at a Level of Service "C"), is projected to continue to operate at an overall Level of Service "E" during the Weekday Afternoon Peak Hour (with the Maple Avenue westbound approach operating at a Level of Service "F"), and is projected to continue to operate at an overall Level of Service "C" during the Saturday Midday Peak Hour (with the Maple Avenue westbound approach operating at a Level of Service "E").

The Armonk CBD Area Traffic Management Study recommended the upgrading of the Traffic Signal and fine tune the Traffic Signal Timing Plan at this location. With these improvements, the intersection is projected to operate at an overall Level of Service "B" during the Weekday Morning Peak Hour, is projected to operate at an improved overall Level of Service "D" during the Weekday Afternoon Peak Hour and is projected to operate at an overall Level of Service "C" during the Saturday Midday Peak Hour and is consistent with the projected future Levels of Service outlined in the Armonk CBD Area Traffic Management Study.

The Applicant has stated that they will prepare an application to the NYSDOT on behalf of the Town of North Castle and supply \$30,000 for the installation of a new controller and vehicle detection at this location.

- NYS Route 128 (Main Street) and Bedford Road/Kent Place

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates that the Bedford Road westbound approach (minor movements) is projected to continue to operate at a Level of Service "F" during the Weekday Morning, Weekday Afternoon and Saturday Midday Peak Hours and the Kent Place eastbound approach (minor movements) is projected to continue to operate at a Level of Service "D" during the Weekday Morning Peak Hour and is projected to continue to operate at a Level of Service "F" during the Weekday Afternoon and Saturday Midday Peak Hours. The NYS Route 128 (Main Street) northbound and southbound approaches (major movements) are projected to continue to operate at a Level of Service "A".

The Armonk CBD Area Traffic Management Study recommended the installation of a Traffic Signal at this location. With signalization, the intersection will operate at an overall Level of Service "B" during each of the Peak Hours and is consistent with the projected future Levels of Service outlined in the Armonk CBD Area Traffic Management Study.

The Applicant has stated that they will post a \$130,000 bond for the installation of a new traffic signal at this location, if approved by NYSDOT. The bond will be posted prior to the issuance of a certificate of occupancy for the supermarket and will expire one year thereafter.

- NYS Route 128 (Main Street) and Old Route 22

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates that the Old Route 22 eastbound approach (minor movements) is projected to continue to operate at a Level of Service "D" during the Weekday Morning Peak Hour, is projected to continue to operate at a Level of Service "F" during the Weekday Afternoon Peak Hour and is projected to operate at a Level of Service "0" during the Saturday Midday Peak Hour. The NYS Route 128 (Main Street) northbound approach (major movements) is projected to continue to operate at a Level of Service "A".

It should be noted that for unsignalized intersections it is not uncommon for the side road (minor movements) to operate with delays while the major movements operate at better Levels of Service during peak hours.

- Bedford Road and Maple Avenue

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates the intersection is projected to continue to operate at an overall Level of Service "B" during the Weekday Morning Peak Hour (with the Bedford Road westbound approach operating at a Level of Service "C"), is projected to continue to operate at an overall Level of Service "D" during the Weekday Afternoon Peak Hour (with the Bedford Road westbound approach operating at a Level of Service "F"), and is projected to continue to operate at an overall Level of Service "C" during the Saturday Midday Peak Hour (with the Maple Avenue westbound approach operating at a Level of Service "E").

The Armonk CBD Area Traffic Management Study recommended the upgrading of the Traffic Signal, fine tune the Traffic Signal Timing Plan and restriping to provide a 100' northbound left turn pocket at this location. With these improvements, the intersection is projected to operate at an improved overall Level of Service "B" during the Weekday Morning Peak Hour, is projected to operate at an improved overall Level of Service "C" during the Weekday Afternoon Peak Hour and is projected to operate at an improved overall Level of Service "B" during the Saturday Midday Peak Hour and is consistent with the projected future Levels of Service outlined in the Armonk CBD Area Traffic Management Study.

The Applicant has stated that the Applicant will provide actuation for the existing traffic signal with appropriate vehicle detection and restriping for a 100 foot left turn lane or modification thereof based upon final design.

- Maple Avenue and Site Access

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates that the driveway is projected to operate at a Level of Service "C" or better during each of the Peak Hours.

- Bedford Road and Site Access

Capacity analysis conducted utilizing the Year 2013 Build Traffic Volumes with Proposed Project indicates that the driveway is projected to operate at a Level of Service "B" during each of the Peak Hours.

WHEREAS, the Applicant has submitted two truck-turning diagrams also prepared by John Collins Engineers and dated August 11, 2011. These two plans demonstrate truck-turning maneuvers for a single unit truck and for a WB-50 truck. These diagrams demonstrate that the proposed truck-turning movements work with the proposed layout with slight modifications to parking lot layout which will be addressed during site plan review; and

WHEREAS, accident data was reviewed by the Town Traffic Consultant to assess the impacts associated with the proposal to revise the approved development program and the accident experience in the Study Area; and

WHEREAS, a storage/queue analysis for the study area intersections was reviewed by the Town Traffic Consultant to assess the impacts associated with the proposal; and

WHEREAS, during site plan review, the site plan will need to be revised to depict that adequate intersection sight distance can be obtained from all proposed driveways; and

WHEREAS, throughout the Town's multi-year review of the Proposed Action (including the previous approval), efforts were made to guide the project in a manner designed to minimize impacts to the maximum extent practicable, this includes adequate stormwater management and

erosion control. It is noted that the site is located within the commercial core of the Armonk Hamlet and will be developed with appropriate scale of buildings and off-street parking; and

WHEREAS, a Stormwater Pollution Prevention Plan was approved by the Town Consulting Engineer and a Notice of Intent was filed with the New York State Department of Environmental Conservation for the approved development. The stormwater mitigation for the approved development consisted of standard drainage structures and associated piping. The stormwater quality and quantity mitigation for the approved development utilized stormwater infiltration and pre-packaged stormwater filtration. In addition, a new 24" drain pipe was approved to be installed within the Right-of Way of Bedford Road. This drain pipe was required to carry the stormwater runoff from the site to the Wampus Brook; and

WHEREAS, the stormwater mitigation for the proposed development will consist of the same standard drainage structures and associated piping. The stormwater quality and quantity mitigation will also be the same concept as the previously approved development, where a combination of stormwater infiltration and stormwater filtration will be used. The proposed stormwater mitigation will account for the increase in site area as well as the increase in impervious area; and

WHEREAS, since the proposed amendment to the approved development will only slightly increase the imperviousness of the site, and the proposed stormwater mitigation devices will account for this increase, it is anticipated that there will be no adverse impacts due to stormwater.

WHEREAS, the estimated water usage and wastewater generated for the previously approved development would be 10,405 gallons per day. The water usage and wastewater generated for the proposed development is estimated to be 10,217 gallons per day. Although the existing A&P supermarket in town has an approximate flow rate of 0.05 gpd/sf, the water usage/wastewater figure for the proposed supermarket was calculated using a flow rate of 0.1 gpd/sf. The water usage/wastewater generated from the proposed development would be approximately 188 gallons per day less than the water usage/wastewater generated from the previously approved development; and

WHEREAS, the water for the previously approved and/or proposed development will be supplied by the Town of North Castle Water District Number 4. Water District Number 4's water supply consists of 6 wells and a one million gallon water storage tank. The Town of North Castle Sewer and Water Department personnel have reported water pressure to be approximately 95 psi in the area of the proposed development; and

WHEREAS, the wastewater from the previously approved and/or proposed development will be tributary to the Town of North Castle Sewer District Number 2. Flows from Sewer District Number 2 flow to a wastewater treatment plant that has recently been upgraded to bring the capacity to 450,000 gallons per day.

WHEREAS, the improvements for the previously approved development and the proposed development consist of a watermain extension and a sewermain extension into the site. The proposed watermain extension and the proposed sewermain extension remain in the same location as the approved watermain extension and approved sewermain extension, therefore the existing approval from the Westchester County Department of Health will not need to be amended; and

WHEREAS, the proposed watermain extension consists of a tap of the existing 8" watermain within the Maple Avenue Right-of Way, an extension of the 8" watermain through the site and connecting (looping) the watermain to the existing 8" watermain within the Bedford Road Right-of-Way. There will be approximately 800 linear feet of 8" dip class 56 watermain through the site with 4 hydrants and associated valves and water services. There will also be an additional hydrant located along Main Street, connected to the public watermain through a proposed private watermain.

WHEREAS, the sewermain extension consists of a sewer manhole constructed on-line over the existing 8" sewermain within the Maple Avenue Right-of-Way, extending into the site and terminating at a manhole. The sewermain piping will be approximately 240 linear feet of 8" PVC SDR35.

WHEREAS, since there is a decrease in water usage from the approved development to the proposed development it is anticipated the proposed Armonk Square project will have adequate water supply and pressure; and

WHEREAS, it is also anticipated, that the receiving wastewater treatment plant and receiving collection pipes have adequate capacity to accommodate the proposed development since there is a decrease in wastewater generated from the approved development compared to the proposed Armonk Square development; and

WHEREAS, the proposal contemplates the construction of a new mixed-use development consisting of three new buildings, parking areas, and site amenities in downtown Armonk. The two buildings fronting on Main Street have been designed to be appropriate in size and scale with the surrounding commercial area. The third proposed building, consisting of a 24,250 square foot grocery store, is larger than most surrounding commercial buildings. The Applicant has created a building design aimed at breaking up the mass of the buildings and using architectural design to ensure that the structure is compatible with surrounding buildings and neighborhood character; and

WHEREAS, a portion of the subject site is located within Historic District #1 and the Applicant has obtained a Certificate of Appropriateness from the Landmarks Preservation Committee; and

WHEREAS, the plans for the supermarket would place all loading areas and garbage areas within the supermarket building footprint thereby reducing any significant odor impacts; and

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on August 17, 2011, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, § 213-30 of the North Castle Code establishes certain general standards for all special permit uses; and

WHEREAS, the North Castle Code has no specific standards relating to the issuance of a special permit for uses over 5,000 square feet in size; and

WHEREAS, in order for the Town Board to approve a special use permit, the Town Board must find that all of the conditions and standards have been met; and

WHEREAS, pursuant to § 213-30(A), in order to grant a special permit, the Town Board must find that “The location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all special requirements for such use established in” the Town Code; and

WHEREAS, the proposed location of a supermarket in the Armonk Hamlet is appropriate and consistent with the Town Comprehensive Plan, the nature and intensity of the operations involved with the operation of a supermarket are similar to other certain uses in the commercial core area and any odor impacts will be controlled by placing garage storage within the building footprint, and the size of the building has been mitigated by using architectural techniques to break up the mass of the building so that it compliments other buildings in the commercial district; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all requirements for such use established in the Town Code; and

WHEREAS, pursuant to § 213-30(B), the second criteria for the issuance of a special permit is that “the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings;” and

WHEREAS, the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings since the proposed buildings comply with the CB-A district height and setback requirements and that the construction of this project and the parking district will promote appropriate development and use of adjacent land and buildings; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings; and

WHEREAS, pursuant to § 213-30(C), the third requirement for the issuance of a special permit is that “operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit;” and

WHEREAS, the storage of garbage within the supermarket building footprint will produce a situation that will not be more objectionable to nearby property by reason of odor and that any noise, fumes, vibration or other characteristics of the supermarket would be similar to that of other retail uses in the Armonk hamlet; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit; and

WHEREAS, pursuant to § 213-30(D), the Town Board, in order to grant a special permit, must find that “parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety;” and

WHEREAS, the proposed parking area of approximately 179 spaces is of adequate size for the proposed uses, the parking area is centrally located on the site and will be appropriately screened and landscaped to provide an attractive and safe shopping center; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the proposed parking areas are of adequate size for the proposed use, properly located and suitably screened from adjoining residential uses, and the entrance and exit driveways are laid out so as to achieve maximum convenience and safety; and

WHEREAS, pursuant to § 213-30(E), the fourth criteria for the issuance of a special permit is compliance “where required, [with] the provisions of the Town Flood Hazard Ordinance;” and
WHEREAS, the site is not located in a floodplain; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the site is not located within a floodplain; and

WHEREAS, pursuant to § 213-30(F), it is required that “the Town Board finds that the proposed special permit use will not have a significant adverse effect on the environment;” and

WHEREAS, on June 22, 2011, the Town Board declared its intent to act as Lead Agency with respect to the environmental review of the proposed action pursuant to the State Environmental Quality Review Act (SEQRA) and adopted a resolution authorizing circulation of a Lead Agency Determination Notice and a copy of the application materials, including a copy of the Environmental Assessment Form, to all involved agencies for the project; and

WHEREAS, the Town Board has found that the proposed action is a Type I Action pursuant to SEQRA; and

WHEREAS, on August 17, 2011, the Town Board issued a Negative Declaration; and

WHEREAS, the basis for the Town Board's environmental determination is set forth in detail in said Negative Declaration; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the proposed special permit use will not have a significant adverse effect on the environment; and

NOW, THEREFORE, BE IT RESOLVED, that the foregoing "WHEREAS" clauses and the findings contained in the Negative Declaration are incorporated herein by reference and fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that this special permit shall be deemed to authorize only the particular use of uses specified in the permit and shall expire if work is not initiated within one year from the date of issue, or if said use or uses shall cease for more than one year for any reason or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use; and

BE IT FURTHER RESOLVED, that the special permit be, and it hereby is, approved, subject to the conditions set forth below

Conditions:

1. The Applicant shall be required to receive Planning Board site plan approval.
2. All garbage shall be stored inside the supermarket building.
3. Screening and landscaping shall be provided to the satisfaction of the Planning Board.
4. Compliance with all applicable local laws and ordinances of the Town of North Castle.
5. The Applicant shall comply with all traffic mitigation measures set forth above.