

PUBLIC HEARING

March 22, 2023

At 8:22 p.m. Supervisor Schiliro 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 a Public Hearing on March 22, 2023, at 7:30 PM, or as soon thereafter as practical, at Town Hall, 15 Bedford Road, Armonk, NY 10504, concerning grant of conservation easement and declaration of restrictive covenants for properties, consisting of approximately 156 acres, located at the Summit Club at Armonk (formerly Brynwood), the address commonly known as 568 and 570 Bedford Road, Armonk, New York.

ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the Town Board  
Alison Simon, Town Clerk

Dated: March 8, 2022  
Armonk, NY

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.

Certificate of Mailing of Notice of Hearing to adjacent property was marked Exhibit "D" for the record.

Memo from Kerri Kazak, Chair, North Castle Open Space Committee, dated March 22, 2023 was marked Exhibit "E" for the record.

Mr. Weingarten, attorney for the applicant, requested that the Board approve the conservation easement as it is required by a covenant made when the property was divided into two parcels, in September 2017. He explained that the conservation easement requires the golf course property be used exclusively as a golf course, and if it ceases to operate, it will remain open space. Summit will own the property and the Town will be the holder of the conservation easement with rights defined within the document.

Mr. Weingarten stated that this is not a usual conservation easement in that it does not protect land for public use, instead this conservation easement creates a restriction that will only come into play if the golf course ceases to operate, and it will cause the land to remain open space, but it will not be open to public use.

Mr. Baroni stated that there is an existing covenant on the property which was filed at the time the property was divided into two lots which restricts the use of the golf course property to either a golf course or open space. The purpose of the conservation easement is not only to restrict the use of the property, but also to manage the land and to make sure that the wetlands, steep slopes, and trees are not impacted going forward by its use.

Mr. Baroni stated that the purpose of the conservation easement is to conserve the land in its present form and protect the land into the future. He explained that this is done by establishing a baseline of how the property currently looks, and then, with periodic inspections, as provided for in the document, the land conditions are compared to the baseline conditions. This is the assurance the Town has that the land continues to be conserved. If violations are found, then the grantor is given the opportunity to correct the violations, and if they are not corrected, the Town can go in as the grantee and have the violations corrected. Mr. Weingarten stated if the land was

no longer used as a golf course, the Home Owners Association (HOA) would maintain the land as open space. Mr. Baroni said he cannot see a HOA wanting to pay taxes on 130 acres for very long, in which case they would go into default, and the Town would have to foreclose on the property and end up owning it.

In response to a question from Supervisor Schiliro, Mr. Baroni stated that there is always a possibility that a future Town Board could rescind or amend the covenants and conservation easement.

Mr. Baroni said the document allows the Town to assign the covenant to a third party. The issue the Open Space Committee (OSC) is trying to negotiate with the property owner is the cost associated with the baseline study and future inspections. In response to a question from Councilman Milim, Mr. Baroni confirmed that the covenant can be assigned to a third party which would add another layer of protection to the property in the future since it would require the Town Board and the third party to amend the covenants.

Mr. Weingarten stated that Westchester Land Trust and New York Land Trust are not interested in holding the easement because it is not public space. Mr. Baroni stated that he did not believe the volunteer members of the OSC would be equipped to manage the property.

OSC member Bob Greer stated that he does not agree with the memo submitted by Kerri Kazak, Chair of the North Castle Open Committee, dated March 22, 2023. He said that he wants to see this project progress and commented that it would greatly increase the assessable tax base.

Property owner Jeff Mendel commented on the history of this project and his desire to move it toward completion. Mr. Mendel stated that he has been working on this project for 13 years and has always planned to maintain the golf course as open space. He believes it will be a community benefit to have the course open for public play, and commented that the golf course has existed for the past 60 years and it is not going anywhere.

Mr. Mendel stated that further restrictions to the conservation easement is government overreach. He stated that the terms of the conservation easement agreement had been negotiated with the Town attorney and then reviewed in discussions with the OSC. He indicated the document was amended per OSC recommendations. Mr. Mendel added that, to further reduce risk to the Town, the agreement specifies the Town engineer as the property inspector, providing the Town a level of control over the property maintenance, and indicated the applicant is paying the engineers fee.

Supervisor Schiliro strongly disagreed with comments made that the Town Board is slowing down progress of development projects in Town.

The Board agreed to keep the public hearing open and schedule a work session with the Open Space Committee.

After all persons were heard who desired to be heard, Councilman DiGiacinto moved, seconded by Councilman Hussain, that the Public Hearing be adjourned at 9:55 p.m.

The roll call vote was as follows:

Ayes: Councilmen DiGiacinto, Berra, Hussain, Milim, Supervisor Schiliro

Noes: None

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Alison Simon, Town Clerk

Dated: April 10, 2023