

PUBLIC HEARING

April 26, 2023

At 8:12 p.m. Supervisor Schiliro stated that a Public Hearing which was opened and adjourned on March 22, 2023, would be reconvened 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 p.m., 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

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

Attorney for the applicant Mark Weingarten requested that the Board approve the conservation easement which will require the golf course property be used exclusively as a golf course, and if it ceases to operate, will remain open space. He said the establishment of the conservation easement is a requirement of a covenant made when the property was divided into two parcels, in September 2017. He explained that Summit Club Partners LLC (Summit) will own the property and the Town will be the holder of the conservation easement with rights defined within the document.

Chair of the Open Space Committee (OSC) Kerri Kazak recommended that a third party be the holder of the conservation easement and stated that the Westchester Land Trust and North American Land Trust had previously expressed interest in taking on this role for a fee.

Mr. Weingarten said he had contacted these organizations many years ago, but the applicant said their fees were too expensive and that the organizations were not interested because the land would not be held for public use. Mr. Weingarten said he does not oppose a third party holder, as long as there is no additional expense to Summit.

Mr. Weingarten explained that the terms of the easement allow the Town to bring a third party holder in at any time in the future. He said that Summit will do everything possible to maintain the golf course, therefore the easement holder does not need to be an expert. The holder would only have to make sure that nothing is built on the golf course. He stated that, if the golf course fails, the Town Board can hire a third party easement expert at that time. Mr. Weingarten also stated that not having a third party holder is consistent with the Boards' findings statement.

Councilman Barbara DiGiacinto stated that she is strongly in favor of contracting a third party easement holder because they would be experts in managing the conservation easement, and also because it would add a layer of protection to ensure the property remains open space. Following discussion on this matter, Ms. DiGiacinto recognized that the need for a third party holder may only prove necessary if the golf course should fail. Councilman Berra said he is in favor of a third party holder of the conservation easement. Councilman Saleem Hussain said he favors the appointment of a third party holder with an expertise in managing conservation easements. He stated concerns regarding the risks to the Town by taking on role of the easement steward.

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Councilman Matt Milim suggested that, instead of instating a third party easement holder, the Board require a super-majority vote of the Town Board to revoke the easement. Town Attorney Roland Baroni said requiring a super-majority vote is permissible. Discussion ensued regarding requiring a unanimous vote of the Town Board to revoke the easement. Mr. Baroni said this too is acceptable. Councilman José Berra stated that he is concerned that requiring a unanimous vote would start a practice of tying the hands of a future Town Board and set a bad precedent.

Discussion ensued regarding the OSC's role in revoking the easement. Mr. Baroni said an advisory committee should not be empowered with control over an action of the Town Board.

Discussion regarding use of money Summit paid into the general fund pursuant to the Community Benefits Agreement to pay for the third party conservation easement holder. This money was earmarked for use for a public capital improvement, potentially for public parking in Armonk. Supervisor Schiliro and Councilmen Milim and Hussain stated they are against use of these fees to hire a third party steward, stating that they should be used to benefit the entire community. Councilman DiGiacinto said it would be a benefit to the entire community to protect 130 acres of open space in the community and therefore part of the Community Benefit funds should be saved in case the golf course fails. Mr. Baroni said there is no need to use funds from the community benefits agreement, instead the Board can use other money from the general fund.

At the suggestion of Ms. Kazak, the Board agreed to name the Town Engineer, instead of Kellard Sessions, as the conservation easement inspector in the easement agreement.

Discussion ensued regarding the length of time from which the Golf Course is abandoned until it is deemed open space. The OSC said five years is too long. Mr. Weingarten said it takes a long time for a golf course to change ownership and there is precedent from other golf course closures to warrant this amount of time. The Board agreed to leave a term of no less than five years.

Supervisor Schiliro stated that he wants to ensure that this property is used as a golf course or maintained as open space, and wants to move forward in the best possible way to prevent future building. Mr. Baroni said this protection is in place in the form of the covenant and conservation easement, neither of which can be overturned without Town Board approval. Supervisor Schiliro confirmed the fact that the covenant and conservation easement may be overturned by a future Town Board.

Applicant Jeff Mendell asked the Board to approve the conservation easement to move the project forward and enable construction to begin.

The Board agreed to adjourn the Public Hearing to the next Town Board Meeting to further consider the current need for a third party easement holder, and the proposed super-majority or unanimous vote requirement for a future Town Board to reverse the conservation easement and covenant. During this time the OSC will meet to consider the proposed super-majority or unanimous vote requirement, and Ms. Kazak will reach out to the County to determine if the Westchester Land Trust would consider taking on the role of the third party conservation easement holder.

In regard to the applicant's request to reduce recreation fees for Summit Club residences to \$1,000 per market rate and AFFH unit, the Town Board agreed to agendize referral of this matter to the Planning Board on the next Town Board Meeting Agenda.

Councilman: José Berra moved, seconded by Councilman: Saleem Hussain, receipt of memo from DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, dated April 20, 2023.

The roll call vote was as follows:

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

Noes: None

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After all persons were heard who desired to be heard, Councilman: José Berra moved, seconded by Councilman: Saleem Hussain, that the Public Hearing be adjourned at 9:51 p.m. and reconvene on May 10, 2023.

The roll call vote was as follows:

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

Noes: None

Alison Simon, Town Clerk

Dated: May 3, 2023