

PUBLIC HEARING

May 10, 2023

At 8:01 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

Councilman Barbara DiGiacinto moved, seconded by Councilman Saleem Hussain, receipt of Revised Conservation Easement and Declaration of Restrictions and Covenants.

The roll call vote was as follows:

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

Noes: None

Attorney for the applicant Mark Weingarten requested that the Board approve the conservation easement which will require the golf course property to be used exclusively as a golf course, and if it ceases to operate, will remain open space. Mr. Weingarten addressed the two changes to the easement agreement discussed at the last meeting which are: Extra language to clarify that, if the golf course is abandoned, at the end of five years it can no longer be resurrected and used as a golf course; and the requirement of a unanimous vote of the Town Board to revoke the conservation easement agreement.

Town Attorney Roland Baroni stated a third change to the agreement is to require the first annual lot inspection to occur one year after the conservation easement agreement is signed and recorded, instead of after the last certificate of occupancy is issued. Mr. Baroni stated that the baseline study will be done prior to Planning Board approval. Mr. Weingarten stated that annual inspections will occur during the building process.

Mr. Baroni stated concerns regarding the unanimous consent requirement to revoke the easement. He said that while imposing this unanimous requirement is legal, it is highly inadvisable. He stated that this would set a horrible precedent that may be the subject of abuse by a future Board. The unanimous or super-majority requirement would take away the "one man, one vote" concept and actually give one Town Board more power.

Supervisor Michael Schiliro stated that while he originally supported the unanimous requirement, based on Mr. Baroni's concerns, no longer supports it. Councilmen Matt Milim and José Berra stated they do not support the unanimous vote requirement as it would bind the hands of a future Town Board and set a bad precedent.

Mr. Berra stated his support of a third party easement holder and expressed concern that a future third party easement holder may not want to be subject to the easement agreement as written. Mr. Baroni stated that this form of easement was the result of negotiations with North American Land Trust and based on other conservation easements.

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Chair of the Open Space Committee (OSC) Kerri Kazak said she shares Mr. Baroni's concerns regarding a unanimous vote requirement. Ms. Kazak also stated she is still communicating with the County regarding their interest to act as a third party conservation easement holder.

Discussion ensued regarding the role of the third party easement holder. Ms. Kazak stated the third party holder would provide objective property inspections, which would include wetland buffer and water concerns. Mr. Weingarten stated it is not necessary as long as the property is being used as a golf course, and an outside easement holder can be put in place in the future if the Board deems it to be necessary.

Based on the suggestion of Ms. Kazak, the Board agreed to include language in the easement requiring the use of approved fertilizer on the property.

Councilman Saleem Hussain confirmed the steps moving forward, indicating the Board can approve the conservation easement now, and another document could be drafted in the future allowing the County to be the third party easement holder. The Town Board would be required to approve that document, and that the conservation easement could potentially be modified at that time. Mr. Hussain requested that Ms. Kazak continue discussions with the North American Land Trust and the County to see if they would be interested in becoming the third party easement holder.

Town resident Linda Fernberg stated that, because this is private property, the property owner should pay a third party easement holder.

Town resident Barry Malvin questioned the use of funds to pay easement maintenance costs and said it is a good use of Town funds to secure 130 acres of open space. Supervisor Schiliro explained that the money the developer paid to the Community Benefits Agreement (CBA) was earmarked for use in response to impacts the new development will have on the Town and that these funds were specified for parking improvements in downtown Armonk. Mr. Schiliro said he prefers not to use any money to pay a third party easement holder, and thinks the money should be used to address the impacts the development will have on the Town. Mr. Milim stated his strong opposition to the use of any Town money to fund a third party easement holder.

Mr. Baroni stated the four amendments to the easement agreement agreed to by the Board:

1. Annual inspections will commence one year after the conservation easement is recorded, as opposed to one year after the last certificate of occupancy is granted by the Town.
2. Not to require unanimous consent of a future to Board; requiring a simple majority to make any modifications to the document.
3. Paragraph 3H: Delete the last sentence.
4. Paragraph 2: Addition of language prohibiting the use of pesticides or herbicides that are not part of an integrated approved management plan on the property.

After all persons were heard who desired to be heard, Councilman: Barbara DiGiacinto moved, seconded by Councilman: Saleem Hussain, that the Public Hearing be closed 9:15 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman: Barbara DiGiacinto moved, seconded by Councilman: Saleem Hussain, grant and acceptance of the Conservation Easement and Declaration of Restrictive Covenants for properties, consisting of approximately 156 acres, located at the Summit Club at Armonk, the address commonly known as 568 and 570 Bedford Road, Armonk, New York. The conservation easement follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None

Alison Simon, Town Clerk

Dated: May 19, 2023