

PUBLIC HEARING

February 27, 2019

At 9:19 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 February 27, 2019, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, to consider a Local Law to amend Chapter 355, Zoning, of the Code of the Town of North Castle to eliminate the limitation on form of ownership of residences in the GCCFO (Golf Course Community Floating Overlay) District, so that multifamily residences can be condominium units.

The proposed local law is available in the Town Clerk's office during regular business hours and on the Town website. 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: February 15, 2019
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.

Letter from Mark Weingarten, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, dated January 3, 2019, with Zoning Petition and exhibits including Short Environmental Assessment Form, Part 1, was marked was marked Exhibit "D" for the record.

Short Environmental Assessment Form Part 2, was marked Exhibit "E" for the record.

Market Study for Tax Assessing Analysis prepared by BBG, Inc. for Brynwood Partners, LLC, dated January 3, 2019 was marked was marked Exhibit "F" for the record.

Letter from Westchester County Planning Board, dated January 18, 2019, was marked was marked Exhibit "G" for the record.

Letter from Director of Planning Adam Kaufman regarding positive recommendation from the Planning Board, dated January 29, 2019, was marked was marked Exhibit "H" for the record.

Letter from Chuck Lohrfink, dated February 25, 2019, was marked Exhibit "I" for the record. The Town Clerk read aloud the letter as requested by Mr. Lohrfink.

The Town Clerk noted that certificates denoting mailing of Notice of hearing to adjacent property owners were in order.

The Town Clerk noted there was a Negative Declaration for consideration.

The Town Clerk noted there was a proposed Local Law for consideration.

Mark Weingarten, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, appeared before the Board representing Brynwood Partners LLC, the Petitioner and the owner of an approximately 156 acre parcel located at 568 Bedford Road which is currently improved with an eighteen hole golf course and supporting golf club facilities. Also in attendance were the principals of Brynwood, Edward Baquero and Jeffrey Mendell; as well as Megan Maciejowski and Ian Klein; and Josh Lowney, Brynwood General Manager.

Mr. Weingarten gave a presentation on the Brynwood Petition.

The presentation provided a summary of the history of the project approvals including the creation of the GCCFO District and the rezoning of the property in June 2015, and the recording by the Town of a Declaration by Brynwood in January 2018 that the subdivided lot on which the golf course is located can only be used as a golf course or related facilities, or as open space.

Mr. Weingarten presented the following points that were also included in his letter to the Town Board, dated January 3, 2019:

- Brynwood has diligently endeavored to formulate a residential development program for the golf course community since the project was first approved in June 2015.
- Brynwood has been unable to move forward with the residential design and construction due to marketability and financing issues primarily related to the fee simple ownership requirement.
 - o Project has been presented to 38 lenders and multiple real estate marketing firms and salespeople
 - o Mismatch between the housing type (multifamily) and the required form of ownership in the GCCFO District (single family, fee-simple home ownership, rather than the more traditional condominium ownership for a multifamily residence) has created confusion for both lenders and real estate professionals, who believe the restriction will render the project non-competitive.
 - o Requirement for club membership coupled with fee simple taxes create carrying costs for residents that are multiples above alternate choices; these carrying costs are particularly problematic for the empty nester that is the target demographic for the project.
- Without the ability to develop the residential community which will, in part, support the golf course component of the project, development of the golf course component is also infeasible, and thus the club has remained shuttered.

The presentation detailed a proposed solution:

- Eliminate form of ownership requirement so that the Brynwood residences can be conveyed in any form ownership that matches the housing project type.
- Phased Development Plan
 - o Phase 1: Up to 36 residences, with no limitation regarding form of ownership
 - o Phase 2: Up to 37 residences, with no limitation regarding form of ownership, would be "55 and older" age-restricted housing
 - o Price Threshold: Provided that the aggregate average of the gross sales prices of the Phase 1 condominium units is \$700 per square foot or more, then the age restriction would automatically terminate without any further action from the Town.
 - o Concept: Brynwood anticipates that Phase 1 condominium sales in excess of \$700 per square foot will yield economic benefits equal to or greater than those projected in the fee simple scenario analyzed in the FEIS. To ensure that public benefit is optimized, Phase 2 is secured with an age restriction in the event that the price threshold is not achieved.
- Agreement reflecting terms above would be entered into by Town and Brynwood and recorded in the Westchester County Clerk's office; Brynwood would also agree that the terminable age restriction would be made an express condition of site plan approval of the golf course community.

The presentation also provided:

- Information regarding the economic benefits of the project to the Town as shown in a report (entitled Market Study for Tax Assessing Analysis) by BBG, Inc., a MAI appraiser commissioned by Brynwood, to provide the Town with a third party market and tax analysis.

Town Board Minutes
February 27, 2019

- List developed by NBBG, Inc. of comparable projects from which to benchmark reasonable expected values at Brynwood.
- Information regarding additional benefits of the project to the Town including:
 - o Acceleration of payments under the Community Benefits Agreement for repair/restoration of the windmills and stone walls at Windmill Farm
 - o Acceleration of work commencement including the demolition of the clubhouse at the property and the commencement of Water District No. 2 improvements
- Summary chart comparing the approved project with fee simple form of ownership to the proposed project with not restricted form of ownership

In response to a query from Councilman DiGiacinto, Town Attorney Roland Baroni said that the original requirement was that the Conservation Easement be in place before issuance of the first building permit. Mr. Weingarten said that this was part of their approval for the project.

Councilman Berra expressed concerns regarding condominium taxation which is roughly half the amount of fee simple taxation.

Resident Joseph Paresi expressed support of the project.

Resident Ed Woodyard said he was in agreement with Councilman Berra regarding the issue of condominium taxation versus fee simple taxation. Mr. Woodyard noted that the windmills in Windmill Farm have already been refurbished. He said there were pollutants in the grass and on the golf course during construction at the property and he hoped that this would be taken care of during construction.

Resident Bob Greer spoke in support the project and of open space. Mr. Baroni confirmed that there is a deed restriction in place which requires that the property be either a golf course or open space.

In response to a query from resident Susan Shimer, the Supervisor said if the affordable units are on site they would be included in the total of 73 units at the property, if the affordable units were off-site they would be in addition to the 73 units on the property. In regard to the 55 and older age restriction for phase 2 of the project, Ms. Shimer said that families are being created later in life and there would be more parents over age 55 with children in school.

In response to a query from Charles Youngblood, Mr. Baroni said that affordable units are not included in the \$700 per square foot price threshold.

Supervisor Schiliro said that the Town had confirmed with the school district that the number of school aged children was not an impactful issue of the project. He said he understood Councilman Berra's concerns regarding condominium taxation, but believes the form of ownership restriction should be lifted to ensure that the project gets the funding needed to move forward. Mr. Schiliro said he was in favor of moving this project forward and feared that without funding, the project will not be developed, and the Town would lose any potential assessables associated with the project.

Councilman D'Angelo moved, seconded by Councilman Berra, that the Public Hearing be adjourned at 10:21p.m.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Alison Simon, Town Clerk

Dated: March 8, 2019