

## PUBLIC HEARING

June 28, 2017

At 8:02 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 Wednesday, June, 28, 2017, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York, 10504, for the purpose of considering the Special Use Permit Application of Washington East LLC for the conversion of second floor office and warehouse space into seven apartments. The property is located at 11 Washington Place East, North White Plains, NY, and known on the North Castle Tax Maps as 122.12-4-26 and 122.12-4-40, and located within the CB Zoning District.

The special use permit application is available in the Town Clerk's office during regular business hours. 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: June 17, 2017  
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.

The following letters and documents were noted as received and marked Exhibit "D" for the record:

- Special Use Permit Application, dated April 10, 2017 and Plans
- Short EAF, Part 1 dated March 15, 2017

The following memos and letters were noted as received and marked Exhibit "E" for the record:

- Memo from Director of Planning Adam Kaufman, dated April 24, 2017
- Planning Department Staff Report, dated May 19, 2017
- Memo from Kellard Sessions Consulting, P.C. to the Planning Board, dated May 19, 2017
- Letter from Director of Planning Adam Kaufman, dated May 23, 2017, regarding positive recommendation from the Planning Board
- Letter from Acting Building Inspector Michael Cromwell, dated June 16, 2017
- Letter from Westchester County Planning Board, dated June 19, 2107

The Town Clerk noted that the 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 Resolution of approval for consideration.

The architect for the project, Edward (Ted) D'Amore, Jr., of D'Amore Design Studio, Architects & Planners, AIA, appeared before the Board regarding the Special Use Permit Application of Washington East LLC for the property located at 11 Washington Place East, North White Plains. Also in attendance were the owners of Washington Place East, LLC, Frank Della Gala, Elaine Glover and Jamie Glover.

Mr. D'Amore said the project is on the site of the old Handi Rent All, just west of Route 22. Displaying a plan of the property, Mr. D'Amore said the site is about 29,000 square feet and has a two story building of about 6,000 square feet per floor. He said the last use of the building was for Handi Rent All which had offices and some warehousing on the second floor, a retail shop for rentals on the first floor, and a backyard for a parking lot and outdoor equipment storage. The proposed special permit is for the conversion of second floor office and warehouse space into seven apartments of the proposed renovated building which would be a mixed-use building.

With regard to the issue of parking, Mr. D'Amore noted that the as-of-right use had a parking deficiency of 17 parking spaces. This deficiency could continue indefinitely if the as-of-right use does not change. He said his client will develop new parking spaces on the undeveloped part of the lot; and the new use will have a deficiency of five parking spaces. He said that no variances are required for the project which meets all zoning requirements.

Ms. DiGiacinto asked the Board members to consider adding a seventh condition to require that a sewer lateral inspection be conducted and any necessary corrective action be done to the satisfaction of the Sewer and Water Department and Building Inspector. Mr. D'Amore said they were planning to scope the sewer lines with a camera to see if there are any problems with the laterals, and said there was no objection to adding this condition. Mr. Della Gala, Washington Place East, LLC, added that most of the lines would be demolished and replaced.

Referring to the recommendation in the Westchester County Planning Board letter for the Town to work with the applicant to set aside one apartment as an AFFH unit, Councilman DiGiacinto said she was not inclined to ask the applicant to do this as the Town Code requires one AFFH unit for every eight residential units. Supervisor Schiliro said he was in agreement with Councilman DiGiacinto.

In response to a query from Supervisor Schiliro, Mr. D'Amore said that the plan is to place pavers in front of the building.

In response to a query from Councilman Reiter, Mr. D'Amore said there will no parking in front of the building. He said that since the building will be of mixed use, all the spaces for business use will be available for residential use in the evening when the businesses close, and conversely when the residents leave for work, the spaces will available for business use. In response to a query from Councilman DiGiacinto, Mr. D'Amore said there will be 29 parking spaces. Mr. Glover added that there should be a minimal number of business vehicles parked during the day; and the back lot will be available to the residents. Supervisor Schiliro clarified that the Town's Building Inspector determined that the current as-of-right use has a much greater parking deficiency, and with the change in use there will be a deficiency of five parking spaces for the new as-of-right use.

In response to a query from Councilman Berra, Mr. Glover, Washington Place East, LLC explained that through the use of community solar power, the residents will be offered the opportunity to purchase electricity at lower rates.

Councilman DiGiacinto said that the drainage issue has to be addressed at the property line for the houses on Denham Place and contiguous to the 11 Washington Place East property.

Jackie Macken, North White Plains resident, and owner of three properties which border the subject site, expressed her concerns about parking with the addition of seven apartments. Supervisor Schiliro noted that if the proposed project did not go through, an as-of-right user could come in and the 17 space parking deficiency would remain. He said with the new project, the parking deficiency will be reduced by 12 spaces and the property will be improved and rehabilitated. In response to a query from the Supervisor, Mr. Glover said that there will be two studio, three 1-bedroom and two 2-bedroom apartments. In response to a query from Mrs. Macken, Mr. D'Amore said with the issuance of the certificate of occupancy for the new use, the as-of-right use would be five parking spaces deficient, and any requests for additional parking spaces would require a variance from the Zoning Board.

In response to a query from Ed Lobermann, North White Plains resident, Director of Planning Adam Kaufman confirmed that there will not be a requirement for an AFFH unit on the site.

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In response to a query from George Marks, North White Plains resident, Mr. D'Amore said that per the suggestion of the Planning Board, the revised plan will provide a common outdoor area for the use of the residents.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 8:33 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman D'Angelo moved, seconded by Councilman Berra, receipt of the following documents:

- Letter from Acting Building Inspector Michael Cromwell, dated June 16, 2017
- Letter from Westchester County Planning Board, dated June 19, 2107

The roll call vote was as follows:

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

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, 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 D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman Reiter, approval of the Special Use Permit Application of Washington East LLC for the conversion of second floor office and warehouse space into seven apartments at 11 Washington Place East, as amended, to include the condition for sewer lateral inspection. The Resolution follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None

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Alison Simon, Town Clerk

Dated: July 7, 2017

## RESOLUTION

<b>Action:</b>	Special Use Permit for More Than One Dwelling Unit Located in a Building
<b>Application Name:</b>	11 Washington Place East
<b>Applicant:</b>	Edward D’Amore
<b>Owner:</b>	Sigma LLC
<b>Zone:</b>	CB Zoning District
<b>Location:</b>	11 Washington Place East
<b>Date of Approval:</b>	June 28, 2017
<b>Expiration Date:</b>	June 28, 2018 (1 year)

WHEREAS, the Town of North Castle Town Board received a special use permit application to construct 7 apartments consisting of two 2-bedroom apartments, three 1-bedroom apartments and two studio apartments; and

WHEREAS, all of the proposed units would be market rate units; and

WHEREAS, pursuant to Section 355-22 of the Town Code, CB-B Permitted Accessory Use 6, residential uses are limited to one dwelling unit with additional dwellings permitted by the issuance of a special use permit by the Town Board; and

WHEREAS, on May 22, 2017, the Planning Board reviewed and discussed the requested special use permit and positively recommended that the Town Board consider issuing the requested permits; 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, a duly advertised public hearing on said application was conducted on June 28, 2017, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, § 355-37 of the North Castle Code establishes certain general standards for all special permit uses; 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 § 355-37(A) of the Town Code, 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 subject property is located within the CB Zoning District; and

WHEREAS, within close proximity are commercial and residential uses; and

WHEREAS, the proposed use would be compatible with surrounding commercial and residential uses in the CB Zoning 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 § 355-37(B) of the Town Code, 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 building is not proposed to be enlarged and the plans call for improving the aesthetics of the building and property; 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 building is not proposed to be enlarged and the plans call for improving the aesthetics of the building and property; 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 § 355-37(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 proposed residential uses will not generate any noise, fumes or vibrations; 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 § 355-37(D) of the Town Code, 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 site plan provides adequate off street parking as determined by the Building Inspector; 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 § 355-37(E) of the Town Code, 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, no development is proposed within the floodplain; and

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

WHEREAS, pursuant to § 355-37(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, the Town Board has found that the proposed action is an Unlisted Action pursuant to SEQRA; and

WHEREAS, the Town Board elected to conduct an uncoordinated review with respect to the environmental review of the proposed action pursuant to the State Environmental Quality Review Act (SEQRA); 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

WHEREAS, the Town Board hereby adopts a Negative Declaration and finds that the proposed action will not result in any significant adverse environmental impacts; and

NOW THEREFORE BE IT 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 use permit be, and it hereby is, approved, subject to the conditions set forth below:

**Conditions:**

1. The special permit shall only be valid for 7 total apartments consisting of two 2-bedroom apartments, three 1-bedroom apartments and two studio apartments.
2. As previously offered, the Applicant shall provide a common outdoor area for the use of the occupants/residents of the building on a portion of 13 Washington Place E to the satisfaction of the Planning Board.
3. The plans shall depict improvements to the frontage of the subject property that will make the property more attractive through the use of pavers and street furniture to the satisfaction of the Planning Board.
4. The plans shall be revised to depict screening of adjacent residential properties to the satisfaction of the Planning Board.
5. Compliance with all applicable local laws and ordinances of the Town of North Castle.
6. The Applicant shall obtain site development plan approval from the Planning Board.
7. The Applicant shall inspect the sewer lateral for leaks and illegal connections to the sewer system to the satisfaction of the Town Water and Sewer Department. Any issues discovered during the inspection shall be addressed to the satisfaction of the Water and Sewer Department.