

PUBLIC HEARING

March 13, 2019

At 8:04 p.m. the Supervisor stated that the Public Hearing, which was opened and adjourned on February 27, 2019, 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 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 following correspondence was received since the public hearing was opened on February 27, 2019:

Letter from Sharon Tomback, Co-Town Historian, the North Castle Historical Society, dated March 10, 2019, was marked Exhibit "I" for the record.

Letter from Town Attorney Roland Baroni, dated March 13, 2019, was marked Exhibit "J" for the record.

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

The Town Clerk noted there was a Resolution of approval 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. Edward Baquero and Jeffrey Mendell, the principals of Brynwood, and Megan Maciejowski were also in attendance at the hearing.

Supervisor Schiliro noted that there were several public meetings regarding the zoning petition; and gave a recap of the proposal that was presented by Mr. Weingarten when the public hearing was opened on February 27, 2019. The Supervisor said that the project was previously approved with condominium type of construction with fee simple taxation. He noted that the applicant has publicly relayed the challenges to get the project off the ground, specifically that the applicant could not secure financing for the project due to the fee simple limitation on ownership of the residences. The Supervisor said the applicant has come to him numerous times over the last few years with several proposals, and this is the first proposal that he thought was worthy of consideration. The proposal is to eliminate the fee simple component so the units would be built with condominium taxation. Mr. Schiliro described the phased development plan that was presented by Mr. Weingarten at the February 27, 2019 meeting. The Supervisor noted that the reality is the project is not being built with the approvals that the applicant currently has.

In response to a query from resident Ed Woodyard, Town Attorney Roland Baroni said that that the Conservation Easement is due to be signed and filed prior to the issuance of the first building permit. Mr. Baroni explained that two years ago when the Applicant requested a two lot subdivision to separate the golf course from the residential portion of the site, the Town required that the applicant sign a declaration of restrictive covenant that the golf course can either be used as a golf course or open land, but that there can never be any development on the golf course.

Councilman Berra expressed concerns regarding condominium taxation. Mr. Berra said he would like the project to be built, but he articulated that he would like the Town to have more assurances and protections that it would be built. Discussion ensued regarding the concerns expressed by Councilman Berra and the risk to the Town. Mr. Weingarten detailed the payments that the Town would receive under the Community Benefits Agreement. Mr. Weingarten noted that if the Board approves the zoning amendment the Town would receive a payment of \$190,000; the existing clubhouse at the property would be demolished; and the Water District No. 2 improvements would commence upon the effective date of approval, which occurs upon the expiration of the four-month judicial challenge period to the amendment. The Town would receive an additional \$390,000 upon issuance of the first building permit, and an additional \$470,000 upon closing of the 36th unit. Mr. Baroni explained that if the Board approves the zoning amendment, the Town would negotiate a separate agreement covering the possibility of the age-restricted units, and an amendment to the Community Benefits Agreement which would incorporate the items in the applicant's petition.

Mr. Baquero said it is unprecedented to tax condominiums as fee simple; and every other condominium in Westchester is treated as condominium taxation.

With regard to the letter from Sharon Tomback, Co-Town Historian, dated, March 10, 2019, Mr. Weingarten said that the applicant has no objection to the letter and is committed to the request regarding the pre-Revolutionary War Mile Marker (Mileage Marker or Milestone) "39 Miles from New York" that stands on the Brynwood property be protected, but he asked that this be done using a different process other than a deed restriction.

In regard to a query from Supervisor Schiliro, Mr. Baroni confirmed that the applicant could not build and sell units in a golf course community district without a golf course or a clubhouse on site because it would violate the basic zoning.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Berra, that the Public Hearing be closed at 8:49 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman Berra, that there will be a ten calendar day written comment period beginning March 14, 2019.

The roll call vote was as follows:

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

Noes: None

Alison Simon, Town Clerk

Dated: March 21, 2019