

## PUBLIC HEARING

June 12, 2019

At 8:23 p.m. Supervisor Schiliro stated that the Public Hearing, which was opened and adjourned on February 27, 2019; reconvened and immediately adjourned on March 27, 2019; and reconvened and adjourned on May 8, 2019, would be reconvened in accordance with the Public Notices 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 add the R-MF-DA (Residential – Multifamily – Downtown Armonk) Zoning District and to map said district.

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 11, 2019  
Armonk, NY

At 8:26 p.m. Supervisor Schiliro said that the Public Hearing, which was opened and adjourned on March 27, 2019; and reconvened and adjourned on May 8, 2019, would be reconvened in accordance with the Public Notice follows:

NOTICE IS HEREBY GIVEN that the North Castle Town Board will hold a Public Hearing on Wednesday, March 27, 2019 at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York, 10504, to consider amendments to the Town of North Castle Comprehensive Plan regarding the residential use of property in the NB (Nursery Business) Zoning District. The Draft Amendments are 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: March 16, 2019  
Armonk, NY

The following correspondence was received and marked Exhibit "U" for the record:

Letter from Michael Galante, Fredrick P. Clarke Associates, Inc., dated May 30, 2019, regarding updated Traffic Review.

Letter from Director of Planning Adam Kaufman, dated May 31, 2019, regarding positive recommendation from the Planning Board.

Revised Environmental Assessment Form (EAF).

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

- Letter from Michael Galante, Fredrick P. Clarke Associates, Inc., dated May 30, 2019, regarding updated Traffic Review
- Letter from Director of Planning Adam Kaufman, dated May 31, 2019, regarding positive recommendation from the Planning Board
- Revised Environmental Assessment Form (EAF)

The Town Clerk noted there was a letter from the Westchester County Planning Board, dated May 17, 2019.

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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.

Anthony Veneziano and Mark Miller, Veneziano & Associates, appeared before the Board representing 45 Bedford Road LLC, the Petitioner and owner of an approximately 4.1 acre parcel located at 45 Bedford Road which is currently the site of Mariani Gardens Nursery. Also in attendance were Rob Aiello, project engineer and Marc Petraro, traffic engineer, both of JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC (JMC), and John Halper, Halper Architects LLC, project architect. Mr. Miller provided an overview of the zoning petition for the all residential use of the subject property. Mr. Aiello displayed the proposed site plan for the project, followed by a display of the architectural features by Mr. Halper.

Residents Susan Shimer, Ed Woodyard, Linda Fernberg, Christine Eggleton, John Stamatov, Thomas Rice, John Bernson, Tiffany Friedman, Matthew Mayers, Ann Rabinowitz Dantzig, Jill Madden, and Sharon Tomback commented regarding their opposition to the project. Many objections to the project were predominantly due to the proposed density of 43 rental units with 76 bedrooms, not to the residential use of the property which some noted was the best use. Concerns were expressed regarding the size and height of the buildings, traffic impacts, adequacy of the number of parking spaces, number of school children, infringement on the historic district, wetland issues, water and sewer capacity, spot zoning, and the proposed change to the Comprehensive Plan to amend the use of the property from limited residential to residential.

Residents Kelly Skaggs, Michael Fareri, Neal Baumann, and Norma Hill expressed their overall support of the residential use of the property, but noted concerns regarding the density of the project and the Town's water and sewer capacity. Comments were made regarding the architectural design.

Resident Diane Freedman questioned whether the units would command the rental prices that were provided by Mr. Veneziano. Resident Vivien Cord suggested that a 55 and over development should be considered. Resident Ron Tobias questioned the impact of this project on the school district.

Director of Planning Adam Kaufman noted that in terms of the environmental review of this project, building permits would not be issued until there is adequate water and sewer capacity available. Mr. Kaufman noted that the wetlands issues are addressed in the EAF; and it is not anticipated that there will be a significant impact on the wetlands area due to the proposed development.

Councilman Berra expressed his concerns about the project, noting his support for a limited residential development. Mr. Berra noted that residents have contacted him and expressed opposition to the project. Mr. Berra said the project is too dense, the biggest improvement would be a decrease in density, and he hoped the project could be scaled down. He noted his concerns with the lower taxation on rentals and condominiums which he views as unfair to residents who own single family properties with fee-simple taxation. He also noted concerns with traffic issues.

Councilman D'Angelo spoke in favor of the project and noted the amount of time involved and the many revisions to the project to make it a better product. Mr. D'Angelo noted that the tax rate for an apartment or a condominium is the same.

Councilman Reiter spoke in favor of the project and noted the improvement to the site plan to locate the 16 unit building to north side of the property.

Councilman DiGiacinto commented that she thought the proposal is a turning point for the Town. Ms. DiGiacinto noted that she served at the Town Board Liaison to the Comprehensive Steering Committee, and complimented the Committee and Mr. Kaufman. Ms. DiGiacinto noted that from first time that the project came before the Board, with 43 units, she thought the project was too dense and massive. She remarked that she would like to ask the applicant to come back with a different plan that would not fill the meeting room to capacity with the majority of people speaking against it and that would not just reduce the numbers, but a plan that would be embraced in terms of the building designs.

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Councilman DiGiacinto said that she would be voting Aye if she supported the proposal before the Board. Ms. DiGiacinto said she was not opposed to rezoning the Nursery Business property to residential, but that she would only feel comfortable doing that if she could embrace the plan before the Board.

Supervisor Schiliro said that most are in agreement that residential use is the preferred use of the property. The Supervisor noted that it is not uncommon to have changes to a Comprehensive Plan. He remarked that the proposal provides less of a traffic impact than the current zoning for Nursery Business which could be there without approvals. He noted that the balloon test proved out that the height of the proposed buildings is not much higher than the current buildings. He said that the school district does not have any concerns with this project with regard to the numbers of school children. The Supervisor said that the project is favorable for the Town and he would like to see it move forward.

Note: The Public Hearings were adjourned on the duly adopted motion of Councilman Stephen D'Angelo at 9:59 p.m. and were reconvened at 10:00 p.m.

Note: The Public Hearings were adjourned to allow the Town Board to consider another agenda item on the duly adopted motion of Councilman Stephen D'Angelo at 10:51 p.m. and were reconvened at 10:52 p.m.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Reiter, that the two Public Hearings be closed at 12:03 a.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 Reiter, 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, Reiter, Supervisor Schiliro

Noes: Councilmen DiGiacinto, Berra

Councilman D'Angelo moved, seconded by Councilman Reiter, the adoption of a Resolution amending the Town Comprehensive Plan. The Resolution follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, Reiter, Supervisor Schiliro

Noes: Councilmen DiGiacinto, Berra

Councilman D'Angelo moved, seconded by Councilman Reiter, the adoption of Local Law 4 of 2019 to amend Chapter 355 of the Town of North Castle Town Code to add the R-MF- DA (Residential – Multifamily – Downtown Armonk) Zoning District and to map said district. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, Reiter, Supervisor Schiliro

Noes: Councilmen DiGiacinto, Berra

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Alison Simon, Town Clerk

Dated: June 24, 2019

**RESOLUTION**

**Action:** Town Comprehensive Plan Amendment, amendment to Chapter 355 of the Town of North Castle Town Code to add the R-MF- DA (Residential – Multifamily – Downtown Armonk) Zoning District and to map said district; and amendment to create a new Section 355-40.X of the Town Code to create Town Board special use permit standards for the R-MF-DA Zoning District

**Application Name:** R-MF-DA Zoning District Establishment

**Date of Approval:** June 12, 2019

WHEREAS, an application dated June 19, 2018 for Zoning Text Amendment was submitted to the Town Board by 45 Bedford Road, LLC to amend the Town Code as described above; and

WHEREAS, the Applicant’s petition to the Town Board is to amend the Zoning chapter to create a new Residential Multifamily – Downtown Armonk Zoning District on the Mariani Gardens Nursery site; and

WHEREAS, the proposed project would further the goals of the 2018 Town of North Castle Comprehensive Plan by increasing housing opportunities that respond to North Castle’s changing population, including young adults and empty nesters, through infill development in strategic locations with accessible infrastructure in the Downtown Armonk Hamlet area; and

WHEREAS, the Town of North Castle recently completed the process of updating and revising the 1996 Comprehensive Plan; and

WHEREAS, the new Comprehensive Plan was adopted on April 25, 2018; and

WHEREAS, as part of the update process, the Town considered, among numerous other matters, current market conditions with respect to business and office parks, including the Subject Property; and

WHEREAS, the Subject Property is specifically referenced in several places in the Comprehensive Plan with respect to future development; and

WHEREAS, on page 34, the Comprehensive Plan states as follows:

In Armonk, the Town should assess the NB district on Bedford Road (currently Mariani Gardens but on the market) to ensure that it remains a low-impact use that buffers the historic district. The 1996 Comprehensive Plan called for the NB zone to allow nursery-related uses, with future municipal or recreational uses considered based on the Town’s needs and fiscal condition. This Comprehensive Plan supports a continuation of these uses, with the addition of residential and professional office uses similar to the RO zone. Retail should not be allowed in the NB district, to avoid competing with the existing Armonk retail core.

WHEREAS, on page 35, the Comprehensive Plan states as follows:

Uses currently permitted under the NB zoning should be permitted, as well as municipal, recreational, limited residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas. To maintain the low-scale context that serves to buffer the Bedford Road Historic District, the density of the NB district should not be increased.

WHEREAS, in Section 8 at page 100, the Comprehensive Plan states as follows:

Explore options to rezone business and office parks in order to create opportunities for infill mixed use residential development where office uses have become, or could become, obsolete. These locations could include the business park, the former MBIA site, Old Route 22 and Mariani

Gardens, areas where affordable housing for smaller households will minimize traffic and parking impacts. Additional residential uses in these areas can also help to support Armonk businesses.

WHEREAS, in Section 12 at page 155 of the Comprehensive Plan, the following is stated:

To preserve the character of the Bedford Road Historic District and surrounding area, the current Nursery Business (NB) zoning should be maintained on the south side of Bedford Road, and any change of use at that location should be consistent with the intent of the zone. However, the Town may consider modifying the NB zoning to allow for limited professional office uses as well as limited residential. Additional retail should not be allowed, in order to maintain the low-scale character of this transitional zone and avoid competition with existing shopping areas. Municipal and recreational uses are also appropriate for this site and should continue to be allowed under the NB zoning.

WHEREAS, on page 162, the Comprehensive Plan states as follows:

For the Mariani Gardens site, which is also designated mixed use, it is recommended that uses currently permitted under the NB zoning be permitted, as well as municipal, recreational, limited residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas. To maintain the low-scale context that serves to buffer the Bedford Road Historic District, the density of the NB district should not be increased.

WHEREAS, on page 164 and page 165, the Comprehensive Plan depicts in Figure 36 and Figure 37 the Mariani Property in the Mixed Use category; and

WHEREAS, on page 166, the Comprehensive Plan states as follows:

In areas identified as commercial, it is anticipated that the primary land uses will be retail and office. Although these uses are oriented toward the automobile, the Town should continue to take advantage of opportunities to improve conditions for pedestrians through strong site design, sidewalks and streetscaping. This is especially true of commercially designated areas adjacent to single-family neighborhoods, schools or historic assets, such as the NB and RO areas on Bedford Road. Any new uses or redevelopment in these areas should be consistent with existing zoning and should respect adjacent low intensity uses.

WHEREAS, on page 172, the Comprehensive Plan states as follows:

Uses currently permitted under the NB zoning should be permitted, as well as municipal, recreational, limited residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas. To maintain the low-scale context that serves to buffer the Bedford Road Historic District, the density of the NB district should not be increased.

WHEREAS, the Comprehensive Plan does not anticipate a wholly residential project for the Subject Property; therefore, the Comprehensive Plan text will need to be revised as follows:

Page 35

Uses currently permitted under the NB zoning should be permitted, as well as municipal, recreational, residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas.

Page 155

To preserve the character of the Bedford Road Historic District and surrounding area, the current Nursery Business (NB) zoning should be maintained on the south side of Bedford Road, and any change of use at that location should be consistent with the intent of the zone. However, the Town may consider modifying the NB zoning, or creating a new zone, to allow for professional office uses as well as residential uses. Additional retail should not be allowed, in order to maintain the low-scale character of this transitional zone and avoid competition with existing shopping areas. Municipal and recreational uses are also appropriate for this site and should continue to be allowed under the NB zoning.

Page 162

For the Mariani Gardens site, which is also designated mixed use, it is recommended that uses currently permitted under the NB zoning be permitted, as well as municipal, recreational, residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas.

Page 164 and Page 165

Figure 36 and Figure 37 shall be revised to depict the Mariani Property in the Multi-Family category from the Mixed Use category.

Page 172

Uses currently permitted under the NB zoning should be permitted, as well as municipal, recreational, residential and office uses. Retail as a principal use should not be allowed in the NB district, to avoid competition with the established Armonk retail areas.

WHEREAS, the proposed project would accomplish many of the goals of the Comprehensive Plan, including, minimizing traffic and parking impacts by permitting multifamily residential adjacent to the Armonk Hamlet and by strengthening the Armonk Hamlet commercial core by prohibiting additional commercial uses on the subject site; and

WHEREAS, given the generally recognized need for various types of housing to accommodate different ages, incomes and lifestyles, the proposed multifamily zoning district would be consistent with the Comprehensive Plan; and

WHEREAS, the proposed action would ultimately result in the development of a 43 unit project with 76 bedrooms, 5 units of which are Town-regulated AFFH units; and

WHEREAS, the Planning Board, in a communication to the Town Board, recommended approval of the proposed Comprehensive Plan amendments and proposed zoning amendments; and

WHEREAS, the applicant submitted a Full Environmental Assessment Form (EAF) dated June 19, 2018 in connection with the application; and

WHEREAS, the Town Board declared its intent to act as Lead Agency in connection with the proposed action and circulated such Notice of Intent and the EAF to all involved and interested agencies as required under SEQRA; and

WHEREAS, the Town Board opened a public hearing for the zoning amendments on February 27, 2019 and opened the public hearing for the Comprehensive Plan amendments on March 27, 2019 with both hearings closed on June 12, 2019, to receive comments regarding the proposed amendments to the Comprehensive Plan amendment and the Town of North Castle Zoning Code; and

WHEREAS, the Town Board has requested, received and considered comments from the Town attorney, the Consulting Town Engineer and Town Planner regarding the proposed development.

NOW THEREFORE BE IT RESOLVED, that based upon its review of the full environmental record the Planning Board finds that the proposed action will not result in any significant adverse environmental impacts and hereby adopts a Negative Declaration pursuant to the requirements of Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617; and

BE IT FURTHER RESOLVED, that the Town of North Castle Town Board hereby amends the Town Comprehensive Plan as described above; and

BE IT FURTHER RESOLVED, that the Town of North Castle Town Board hereby adopts the proposed local law entitled “A Local Law to amend Chapter 355 of the Town of North Castle Town Code to add the R-MF- DA (Residential – Multifamily – Downtown Armonk) Zoning District and to map said district;”

**Local Law No. 4 For the Year 2019**  
**Adopted June 12, 2019**

A Local Law to amend Chapter 355 of the Town of North Castle Town Code to add the R-MF-DA (Residential – Multifamily – Downtown Armonk) Zoning District and to map said district.

**Section 1.** In accordance with Section 355-80, Chapter 355 of the Town of North Castle Code is amended by amending § 355-5, “Enumeration of Districts,” by adding, in appropriate alphabetical order, a new district to be designated “R-MF-DA, Multifamily-Downtown Armonk Residence District.”

**Section 2.** Chapter 355 is further amended by adding thereto a new section to be known as § 355-25.1 entitled “Additional R-MF-DA Residence District Regulations” to read as follows:

In an R-MF-DA Multifamily District, all such uses shall be subject to site plan approval in accordance with Article VIII of this chapter.

- A. Intent. This district is established for the purpose of furthering the goals of the 2018 Town of North Castle Comprehensive Plan by increasing housing opportunities that respond to North Castle’s changing population, including young adults and empty nesters, through infill development in strategic locations with accessible infrastructure in the Downtown Armonk Hamlet area.
  
- B. Allowable density. The maximum permitted amount of development shall be a floor area ratio of 0.4. The lot area used in the calculation of floor area ratio in the R-MF-DA District shall be “net lot area” as defined in this chapter. Unit count shall not exceed 1 unit per each 4,200 square feet of net lot area. Bedroom count shall not exceed 1 bedroom for each 2,350 square feet of net lot area.
  
- C. AFFH Units. AFFH units shall be provided as set forth in §355-24.I of this chapter.
  
- D. Water and sewage facilities. All dwelling units shall be served by public water and sewage treatment facilities only, and no certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning public water and sewage treatment systems.
  
- E. Required parking. Parking spaces shall be provided in number and design according to the provisions of Article IX of this chapter.

**Section 3.** Chapter 355 is further amended by amending §355-21 “Schedule of Residence District Regulations” by adding thereto, in appropriate order, the following:

- |                            |  |
|----------------------------|--|
| • Permitted Principal Uses | *Attached, semidetached, detached, or multifamily dwellings, subject to the requirements of §355-40.X Same as R-MF |
| • Permitted Accessory Uses |  |
| • Minimum Lot Size         | 4 acres  |
| • Minimum Lot Frontage     | 200 ft.  |
| • Minimum Lot Width        | 200 ft.  |

- Minimum Lot Depth 200 ft.
- Minimum Yard Setback for Buildings
  - Front 50 ft.
  - Side 25 ft.
  - Rear 30 ft.
- Minimum Yard Setback for Parking
  - Front 50 ft.
  - Side 10 ft.
  - Rear 10 ft.
- Maximum Building Height 40 ft.
- Maximum Building Coverage 20%
- Minimum Dwelling Unit Size As required by § 355-24

**Section 4.** Chapter 355 is further amended by amending §355-6 to apply the Residential Multifamily – Downtown Armonk (R-MF-DA) district to lot 108.03-1-65 as shown on the Tax Assessment Map of the Town of North Castle.

**Section 5.** Chapter 355 is further amended by adding thereto a new section to be known as § 355-40.X to read as follows:

Attached, semidetached, detached, or multifamily dwellings. In the Residential Multifamily – Downtown Armonk (R-MF-DA) district, attached, semidetached, detached, or multifamily dwellings shall be permitted, subject to Town Board approval and subject to the following special requirements:

- (1) The following design objectives are met:
  - (a) Height of Buildings. Building height shall be closely evaluated by the Town Board to ensure that building height is compatible with the scale of adjacent neighborhoods. Maximum building height shall only be permitted when special mitigating factors, such as Arterial Roads and/or topography, are present to ensure compatibility with adjacent neighborhoods as determined by the Town Board. When such special mitigating factors are not determined to be present by the Town Board, a maximum building height of 30 feet shall be provided within the district.
  - (b) Landscape area. A landscaped area shall be required along all street frontages.
  - (c) Visual privacy shall be preserved for residents through the proper design of rear yards, terraces, decks or patio spaces. Proper screening through the use of vegetation and fencing shall be provided.
  - (d) Audio privacy shall be maintained by requiring proper standards for party walls that will satisfactorily limit sound transmission between adjoining dwelling units.



- (e) Private outdoor space shall be provided through the use of decks, terraces, or patios for each unit, if deemed appropriate by the Planning Board.
- (2) Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Town of North Castle, Westchester County Department of Health, and the New York State Departments of Health and Environmental Conservation.
- (3) Traffic access shall be from a public street of adequate capacity and design to safely and conveniently accommodate the expected traffic.
- (4) The provision of vehicular and pedestrian improvements on and around the property necessary to mitigate any vehicular and pedestrian impacts associated with the project.
- (5) Lighting. All exterior lighting shall be located so that the source of the light and any objectionable glare therefrom is not visible from any neighboring property. The height, intensity, spacing and design of all exterior lighting fixtures shall be such that they will be in character with the area in which they are located. The level of lighting shall be limited to that necessary for safety and security purposes.

**Section 6.** Chapter 355 is further amended by amending the definition of “Floor Area, Gross” in §355-4 to read as follows:

“The sum of the horizontal areas of the several stories of the building or buildings, excluding any floor area used for off-street parking or loading purposes (except for residential buildings), measured from the exterior walls or, in the case of a common wall separating two buildings, from the center line of such a common wall, and including any two-story or any enclosed porch, or one having a roof and capable of being enclosed. See the definition of “basement” for exclusion of basement/mechanical areas in nonresidential buildings from “floor area, gross.” for residential buildings, any attic space with a floor-to-ceiling height of 7.5 feet or greater shall be included as part of gross floor area, as shall those portions of any basement with a floor-to-ceiling height of 7.5 feet or greater if the basement is considered a “story” in accordance with one of the following three alternative measurements:

- A. Where the finished surface of the floor above the basement is more than six feet above average grade.
- B. Where the finished surface of the floor above the basement is more than six feet above the finished ground level for more than 50% of the total building perimeter.
- C. Where the finished surface of the floor above the basement is more than 12 feet above the finished ground level at any point along the building perimeter.”

**Section 6. Conflicting Standards.**

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York, or other applicable rules or regulations, the requirements of this Local Law shall prevail.

**Section 7.** Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 8.** Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: June 12, 2019