March 2, 2018

By Hand Delivery

Hon. Paul Feiner
Supervisor of the Town of Greenburgh
And Members of the Town Council
Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York 10607

Re: Ridgewood Real Estate Partners
850 Dobbs Ferry Road, Greenburgh, NY
Multifamily Residential Townhouses For Buyers Aged 55 And Older

Dear Supervisor Feiner and Members of the Town Council:

As you know, we represent Ridgewood Real Estate Partners (“Ridgewood”) in connection with the re-development and repurposing of the former Elmwood Country Club located at 850 Dobbs Ferry Road, Greenburgh, NY 10523 (the “Property”). Ridgewood intends to pursue a development of approximately 175 age-restricted, multi-family townhomes, for buyers age 55 and older, together with substantial preservation and protection of open space, combined with a well amenitized community area for active adult purchasers of these condominium unit purchasers (the “Project”).

Indeed, a recently published article in the New York Times Real Estate section underscored the importance of filling the need in this growing demographic segment of society, particularly in the New York Metropolitan area (see enclosed article). While there has clearly been an increase throughout our County of “assisted living (AL), independent living (IL) and memory care (ALZ) units,” we have not seen a corresponding increase focused upon this different and younger, empty nester demographic. As Ridgewood explained to you, and as the enclosed article illustrates, other areas in New Jersey and out on Long Island are already beginning to address this important segment of the community.
Accordingly, we would like to file and process a Rezoning Petition to pursue the Project. This would involve invoking the Town’s Planned Unit Development ("PUD") zone, and an underlying zoning map change to R-20 zoning in conjunction with the PUD. These measures would enable Ridgewood to achieve a density that will facilitate a high quality and attractive community, with substantial areas of open space, in addition to the potential transfer to the Town of more than 14 acres of land for incorporation into the Town’s East Rumbrook Park.

Since the Project will provide housing for buyers aged 55 and older, we anticipate that no schoolchildren will live on the Property, meaning that the tax revenue generated by the Project will provide a windfall to both the Greenburgh and Elmsford school districts. Therefore, we believe that the contemplated zoning map change and the Project will benefit both the Town, the larger surrounding community and Ridgewood.

Based on important questions that we received from the Town Board, Town Staff, and members of the community with whom we have met, we wanted to present additional information about: a) the legal basis for and enforceability of age restricted, active adult housing (see attached Memorandum), and b) support for the Project that is found within the Town of Greenburgh’s recently adopted Comprehensive Plan (the “Comprehensive Plan”) (see attached Comprehensive Plan Compliance Analysis).

We would respectfully request to appear before your Board at the March 6th work session to further discuss the Project, its benefits, and how we can process this application before the Town in an open, deliberative and thorough fashion.

Conclusion

Accordingly, Ridgewood and our entire Development Team believe that the proposed Project has many benefits for the community and region. We simply ask that we be permitted to embark with your Board, the Planning Board and the Town’s professional staff on the necessary and applicable studies to provide you with real, actual empirical data to make an informed decision on this exciting and important new development project. We greatly look forward to continuing our dialogue with the Town throughout the process.

If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

ZARIN & STEINMETZ

By: [Signature]

David S. Steinmetz
Zachary R. Mintz
DSS:me
Enclosures
cc:  w/ enclosures
      Hon. Judith Beville
      Garrett Duquesne, AICP
      Mr. Aaron Schmidt
      Tim Lewis, Esq.
      David Fried, Esq.
      Mr. Jonathan Grebow
      Mr. Brett Owings
      James A. Ryan, RLA
Exhibit A
REAL ESTATE

Resort-Style Living for Graying Boomers

By MARCELLE SUSSMAN FISCHLER  DEC. 15, 2017

Developed as a place to raise a family, Long Island — like many other suburban areas that grew and thrived in post-World War II America — is graying.

While new communities on the island were built for baby boomers back when they were babies, the latest wave of new development — country club-style living in communities for people 55 and older — hopes to help ease them into their retirement years and beyond.

Age-restricted housing has been around for decades, but until recently “there hadn’t been that focus on creating a lifestyle for aging baby boomers,” said Michael Dubb, founder and chief executive of Beechwood Homes. Many of these suburban homeowners are now empty nesters who no longer need a big house, don’t want to deal with landscaping or snow removal, and want to live with others who are at the same stage in their lives, he said.

Having sold out the 720-unit Meadowbrook Pointe at Westbury earlier this year, Mr. Dubb is now building three more resort-like “active adult lifestyle communities.” The largest, Country Pointe Plainview, will have 750 age-restricted condo flats and townhomes with first-floor master bedrooms.

Prices at the gated community range from $650,000 to $1.3 million. In less than a year, 215 out of 230 units in the first phase sold off floor plans and computer
renderings before construction had even started, said Steven Dubb, a principal. The 80-acre property includes an adjacent shopping center, an amenity-laden clubhouse, two heated pools, tennis courts and a walking trail.

Just don’t call it a retirement community. “People are going there to feel young and act young,” Mr. Dubb said.

If you stay in the neighborhood where you raised your children, he said, “young people move in and you are the old people next door.” By contrast, in these new age-restricted developments, “you are not the old people next door — everybody is running around with an iPhone full of pictures of their grandchildren.”

Age is not a protected class under the Fair Housing Act, and most municipalities allow exclusive communities for older adults because of the recognized need for senior housing programs. The federal Housing for Older Persons Act of 1995 set a requirement that at least 80 percent of the units in an age-restricted community have at least one person who is 55 years or older, and requires the community to publish and adhere to certain policies.

With many baby boomers now in their 60s and 70s, the swell in senior housing “is happening everywhere in the region,” as many older adults move from single-family houses into multifamily developments, said Christopher Jones, senior vice president and chief planner for the Regional Plan Association, a Manhattan-based think tank. “It is happening nationwide.”

But more people on Long Island seem to be choosing to age in place than in other parts of the region. Since 2000, the number of people over 65 has increased by 34 percent on Long Island, compared with between 20 and 28 percent elsewhere in the region, Mr. Jones said.

Take Merle and Stephen Neidell, who initially thought they would spend the rest of their lives in the three-bedroom, three-and-a-half-bath farm ranch in Head of the Harbor that they had called home since 1985.

Instead, they sold the house for just under $1 million and, in April 2016, moved to an $895,000 three-bedroom, two-and-a-half-bath townhouse at Village Vistas, a
“55 and better” development of 43 homes overlooking nearby Port Jefferson harbor.

“It is a different lifestyle we were after,” said Ms. Neidell, 73, a retired guidance counselor. The home where they had raised their children was in “a very isolated setting,” she said. “As we are aging, we like having neighbors right nearby. Now we have as much privacy as we want, plus as much socialization as we want.”

By moving to a community where the ages range from the late 50 to early 80s, “we increased our social circle tremendously, which is great at our age,” Ms. Neidell said. “For those of us who came to Long Island in the late 1960s and are choosing to remain here, this is a perfect opportunity for us to stay.”

Mr. Neidell, 74, a retired assistant superintendent of schools, said lower taxes and maintenance costs and an elevator (used now primarily as a dumbwaiter to bring packages up and down, since they still use the stairs) were also pluses. “We felt the 55 and over was more appropriate for us at this point,” he said.

Jim Tsunis, managing member of the Northwind Group, the developer of Village Vistas and similar upcoming developments in Bayport and Fort Salonga, said the communities are filling a need. “People that live here want to continue to live here, but they don’t want the costly expenses of a single-family home and the real estate taxes that go along with it,” Mr. Tsunis said. “They stay to be closer to their kids.”

His buyers are often able to split the profits from the larger single-family homes they sell to buy a condo on Long Island and another in a warmer climate, like Florida, the Carolinas or Arizona.

In Bayport, N.Y., where 85 of the 148 age-restricted townhomes that Mr. Tsunis is building are under contract, the community will have a clubhouse with indoor and outdoor pools, a fitness center, a billiard room and space for card games, fitness and yoga classes and other activities.

At the Preserve at Indian Hills in Huntington, Mr. Tsunis is applying for a zoning change that would allow him to cluster 98 age-restricted townhomes on a
150-acre property, while leaving an existing golf course intact. "There are a lot of people in the Huntington area who want to downsize and play golf," he said.

After raising their two daughters in a four bedroom, two-and-a-half-bath contemporary colonial on a third-acre lot in Farmingdale, Sherri and Joseph Azizollahoff, both 66, are looking forward to single-level living at Country Pointe in Plainview.

"We were ready for a change after 28 years," said Ms. Azizollahoff, an occupational therapist. In October 2016, they put a deposit on a two-bedroom villa in the high $800,000s that comes with a full basement and one-car garage, and are expecting to close by the end of the year. "It's not that we don't like children or younger families, but we like the idea of making friends with people that we would have more in common with." The development is close to a daughter and two grandchildren in Syosset, she said, with enough space for their other daughter and two grandchildren to visit from Maryland.

Mr. Azizollahoff, a medical sales representative, is looking forward to the gym, and cycling and jogging on the greenbelt being built around the development. "If something happened to one of us, we are better off being there than being here and isolated," he said.

By 2019, according to the National Association of Home Builders, households headed by someone 55 or older will constitute more than 45 percent of all American households. And developers nationwide hope to appeal to those graying boomers as they downsize.

In Westchester, many of the age-restricted developments are below market-rate rental housing, said Martin Ginsburg, a Valhalla-based developer who has built both affordable and luxury communities for older adults.

With 249 age-restricted active adult communities in New Jersey listed on 55places.com, many retirees and empty nesters are choosing to stay close to home when they downsize. Among the 28 communities in northern New Jersey, prices range from the low $300,000s to the mid $600,000s. In Connecticut, 39 age-restricted communities have homes that sell from below $100,000 at the 2,580-unit
Heritage Village in Southbury to the high $900,000s at the Greens at Gillette Ridge, which has 165 homes in Bloomfield. Both communities have golf courses.

The growth in age-restricted housing, Mr. Jones said, has been helped by the fact that “it is easier to get those projects approved because there is less concern about having school children that will raise school costs and property taxes.”

When the Engel Burman Group, a Garden City-based developer, approaches towns for approvals, the school districts “don’t want any more children,” said Steven Krieger, a partner. “The towns come back to us and say, ‘you have to build 55 and older housing.’” As a result, Engel Burman has built six such projects on Long Island, called Seasons communities, and 15 Bristol Assisted Living residences, which come with additional services.

“It’s a great business, because the population on Long Island is aging and continuing to age,” Mr. Krieger said. At the Seasons at Seaford, 112 two-bedroom, two-bath units, priced around $500,000, quickly sold out. And in three months, 120 of 160 units in phase one at the 256-unit upcoming Seasons at Elwood have sold.

“People on Long Island are looking for a lifestyle change and looking to remain close to their families,” Mr. Krieger said. “They want to see their grandchildren growing up. They want to continue to go to the same doctor, to the same supermarket, to the same restaurant for lunch.”

And in the new developments, he said, “all the common things that would typically be a headache for a homeowner are taken care of.”

Mitchell H. Pally, chief executive officer of the Long Island Builders Institute, said taxes for buyers in age-restricted communities are lower than they would be for those buying a single-family home.

The niche market “has exploded” for both sales and rentals developments, Mr. Pally said, estimating that 4,000 to 5,000 age-restricted units have been built on Long Island in the last five years.

In areas near downtowns and train stations, 10 age-restricted developments with a total of 1,430 units have been built since 2012, stretching from Mineola east to
Patchogue, said Eric Alexander, director of Vision Long Island, a regional smart-growth planning organization. “With this demand and an aging population,” he said, “we anticipate more projects being proposed, approved and built.”

For the last 30 years, John and Helene Cranmer, both 67, lived in a four-bedroom, two-and-a-half-bath ranch with a pool on about half an acre in Smithtown. Wanting to make a “life change,” they put a deposit on a $550,000 three-bedroom townhouse with a basement and a two-car garage at Country Pointe Meadows at Yaphank, a 55-and-older community being built by Beechwood Homes. The condo community will have 20 flats and townhouses priced from $469,000 to $574,000.

“We will be cutting our taxes by more than half,” said Mrs. Cranmer, who worked in New York City’s Department of Finance. “It offers us comparable living space at a much more affordable cost of living.” They expect to move next September.

In the meantime, they are slowly weeding through “30 years of stuff” and planning a garage sale, said Mrs. Cranmer, a former systems programmer. Looking forward to card games, mah-jongg and pizza night with new neighbors, they are feeling more secure about the future. “If something happens to one of us, the other won’t have to rush to make an extreme lifestyle change,” Mrs. Cranmer said.

With life expectancy rising, assisted living facilities catering to octogenarians and beyond are also popping up. While 55-and-older communities offer independent living for active adults of a certain age, assisted living is for those who don’t need nursing care, but who can no longer manage completely on their own and need help with things like meal preparation, getting dressed, taking medications and social activities.

“You can’t build assisted living facilities on the island fast enough,” Mr. Pally said. According to New York State Department of Health data, Long Island currently has 89 assisted living facilities, and another seven are in the works.

“There are a lot more people in their 80s and 90s who require some sort of assisted living,” said Mr. Jones, of the Regional Plan Association. “That will only increase over the next few decades.”
In Commack, N.Y., Gurwin Jewish is taking reservations for Fountaingate Gardens, a continuing care retirement community with 176 independent living apartments on a campus that will offer residents a continuum of care, as assisted living and nursing become necessary.

The Engel Burman Group has 15 Bristal assisted living complexes on Long Island, in Westchester and in Bergen County, N.J., with more in the pipeline, Mr. Krieger said.

The average age of residents in assisted living is 88, up from 82 in 2000. Ninety percent move from within four miles, and many have friends from the same neighborhood. Most are settling close to their adult children.

As older parents age, “kids are moving their parents back close to them,” Mr. Krieger said. “The parents are constantly moving back from Florida and the Carolinas.”

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A version of this article appears in print on December 17, 2017, on Page RE1 of the New York edition with the headline: The Resort Generation.

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Comprehensive Plan Compliance Analysis

The Project as preliminarily conceived and designed is, indeed, consistent with the goals and objectives of the Town’s Comprehensive Plan.

Comprehensive Plan Goal: To “provide an adequate supply of housing for the Town’s senior population.” (Comprehensive Plan, 10.8, Objective 10.2.1, p. 10-25; 10.2.2 p. 10-4).

Satisfying Project Objective: Ridgewood seeks to add 175 units of age-restricted housing, which will undoubtedly help Greenburgh satisfy this important need.

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Comprehensive Plan Goal: Housing types should provide a “spectrum of residential opportunities . . . for residents at all . . . ages.” (Comprehensive Plan, 10.1, p. 10-1; 1.5, Table 1.2, p. 1-7).

Satisfying Project Objective: Implementation of townhouse style development focused on the residential, social and recreational needs of empty nesters.

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Comprehensive Plan Goal: “Provide and enhance parks and facilities that encourage physical activity.” (Comprehensive Plan, 4.9, Policy 4.1.1.3, p. 4-9; 7.2.4 p. 7-6; 7.9, Objective 7.3.1, p. 7-30).

Satisfying Project Objective: The Project as currently designed provides for park programming, including the installation of ball fields at East Rumbrook Park, which was recommended as a part of the East Rumbrook Master Plan.

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Comprehensive Plan Goal: Preserve and enhance open spaces throughout the Town. (Comprehensive Plan, 7.9, Goal 7.3, p. 7-30). PUDs as a planning tool can and should be used to preserve and connect open spaces. (Comprehensive Plan, 7.6.1, p. 7-22).

Satisfying Project Objective: The Project would preserve and protect approximately _ acres of open space and would create a perimeter vegetated buffer around the development of no less than 200 feet in depth.

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Satisfying Project Objective: In addition to the construction of sidewalks along the Project’s road frontage on Dobbs Ferry Road, and within the site, the Buffer Area will include walking trails connecting the site and neighborhoods to the north and west to already-existing trails in East Rumbrook Park.

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Comprehensive Plan Goal: Recommendation to rezone the area to the east of the Property to an R-20 zone to correct an existing zoning boundary that bisects the parcel into two separate zoning districts. (Comprehensive Plan, Appx. E, pp. 79-80). Create appropriate zoning districts taking into account zoning map and neighborhood locations.

Satisfying Project Objective: Implement R-20 zone in conjunction with the PUD to create an appropriate site density, provide transition from R-30 neighborhood to the south of the site to the R-20 neighborhoods to the east and west, and the R-10 neighborhood to the north.

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To: Supervisor Paul Feiner and Members of Greenburgh Town Board

From: David S. Steinmetz, Esq., Helen Mauch, Esq., Zachary Mintz, Esq.

Client: Ridgewood Real Estate Development – Elmwood Country Club Property
        Age Restricted Housing – Legality and Enforceability

Date: March 2, 2018

Active Adult Housing

Housing and demographic data show that there is a strong demand for active adult lifestyle communities in Westchester and surrounding areas, as adults age 55 and over are moving from single-family houses to multi-family developments. This demographic is attracted to developments which enable empty nesters to remain in the community in which they raised their family, and stay close to their children and grandchildren, without incurring the costly expense and extensive efforts of maintaining a single-family home.

Ridgewood’s proposed age-restricted development would comply with the Federal and State Fair Housing Act, as well as Federal Housing for Older Persons Act (HOPA) and be “intended and operated for occupancy by persons 55 years of age or older.” (see 42 USC § 3607[b][2][c]). The Ridgewood Project would satisfy the following three requirements under HOPA:

(i) at least 80 percent of the occupied units must be occupied by at least one person who is 55 years of age or older;

(ii) the housing community must publish and adhere to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing community must comply with rules . . . for verification of occupancy, which shall—

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the type(s) of policies and procedures relevant to a determination of compliance with the requirement of clause (ii).
Memo

Intent to provide housing for persons age 55 and older may be established by including the HOPA requirements in Ridgewood’s declaration of covenants and restrictions (“DCR”). DCRs typically provide that it is the responsibility of the homeowners association or condominium board to enforce the covenants and restrictions, and may also provide that the local municipality has the right to do so, should the association fail to fulfill its obligation.

As long as the community meets the 80% occupancy requirement and complies with the HUD verification through reliable surveys and affidavits, the community is free to define “occupancy” as it prefers, including the ability of children to spend time in the community. Ridgewood has a successful business model for age-restricted communities, and intends to include in the DCR:

- A restriction on the amount of time that children under the age of 18 may stay overnight to no more than 90 days in a 12-month period. (This would prohibit children from living year round in the development, but would allow grandchildren of residents to stay for the summer).

- A restriction on occupancy in at least eighty (80%) percent of homes in the development to individuals 55 years or age or older, except for the following: children and grandchildren residing with their parents or grandparents where one (1) of said parents or grandparents with whom the child or children or grandchild or grandchildren is/are residing is fifty-five (55) years of age or older, provided that said child or children or grandchild or grandchildren are over the age of nineteen (19) years. (This type of restriction enables college-aged students and/or adult children who are no longer using the community’s school system to reside in the development with their parents or grandparents). ¹

Residents who buy in an age-restricted community, do so with the knowledge and acceptance of the DCRs set forth in the applicable condominium offering plan. Homeowners associations, moreover, have the power to enforce DCRs and offering plans.

The Heritage Hills Experience

Many people in Westchester County associate active adult living with Heritage Hills in Somers, New York. In fact, your Board asked us to examine that development and to report on what happened with regard to those restrictions. Heritage Hills was developed in the late 1970’s and when completed, included over 2,000 residential units on 1,100 acres of land. Contrary to folklore, Heritage Hills is not an example of an age-restricted community, which suddenly and arbitrarily extinguished the age restriction contained in its deeds.

We learned that the initial deeds conveying units in Heritage Hills contained restrictions that limited occupancy to: (i) persons of the age of forty (40) years or older; (ii) a husband or wife, regardless of age, residing with his or her spouse, provided the spouse is of the age forty (40) or older; or (iii) children residing with a permissible occupant, provided the children are eighteen (18) or older.

¹ While Federal law allows for this 80/20 allocation of units, Ridgewood intends to lawfully restrict all units, or 100% of the development, so it clearly caters to the specific targeted demographic, yet still remains tolerant of grown children returning home, as necessary.
With the adoption of FHAA in 1988 and prohibition on discrimination based upon familial status, the legality of the Heritage Hills deed restrictions was called into question. Enactment of FHAA constituted a changed condition which rendered the Heritage Hill age restriction incapable of accomplishment. According to the attorneys representing Heritage Hills at that time, Heritage Hills had to either come into compliance with FHAA or eliminate the invalid deed restrictions. Heritage Hills elected to eliminate the restrictions on occupancy. Indeed, similar age-restrictions which pre-existed the enactment of FHAA and discriminated based on familial status were struck down as invalid. See Westwood Community Two Ass’n v. Lewis, 687 So.2d 296 (Fla. Dist. Ct. App. 1997)(per curium).

The belief that an active adult community may suddenly and arbitrarily extinguish occupancy restrictions is completely unfounded. Such notions find no support in the Heritage Hills example, or under the law which authorizes enforcement of occupancy restrictions by governmental agencies, municipalities, home owners associations, and aggrieved persons. Like any covenant, occupancy restrictions in a recorded declaration of covenants and restrictions may only be extinguished if all beneficiaries agreed to release it. Moreover, if an age-restricted project were to convert to non-age restricted, it would need to go through the requisite SEQRA process.