

The Suburb That Resisted Condos

By ELSA BRENNER

LOOKING back three decades, Richard E. Burns, New Castle's supervisor in the mid-1970s, remembers a bucolic suburb dotted with tidy single-family homes on one- and two-acre lots. Mr. Burns also recalls the day that Mitchell Berenson, a local developer, came before the Town Board with what was then considered an audacious proposal to build 117 town-house condominiums within New Castle, in the hamlet of Chappaqua.

Mr. Berenson's proposal was rejected, because the town's zoning law in 1975 did not allow for multifamily housing. But he sued, and his case ended up in the state's highest court — which two years later found zoning to be exclusionary not only in New Castle but also in other northern and central Westchester towns where multifamily housing was not permitted. According to the ruling, the primary goal of a zoning law "must be to provide for the development of a balanced, cohesive community."

Applauding the court decision at the time, a headline in *The Patent Trader*, a local newspaper, read, "A Town Is Not a Club." Now, as the former town supervisor watches another zoning storm gathering force in Chappaqua, he says the criticism implicit in those words has never been addressed in the community.

But it may now have to be. *Berenson v. New Castle*, which is considered a watershed decision and has been cited as precedent in zoning battles since 1977, is poised to come full circle back to its birthplace — a community that, despite its loss in that 30-year-old case, remains almost devoid of multifamily housing.

The developer that now owns the Reader's Digest campus, 114 acres of manicured countryside in Chappaqua and at the heart of New Castle, was rebuffed in 2006 on a proposal to build multifamily housing on the site. But since then the developer, Summit/Greenfield, has submitted a new proposal for the Chappaqua Crossing project — this time evoking the 1977 lawsuit by including housing expressly designated as "affordable."



BARTON PARTNERS ARCHITECTS

PLAN B

A rendering of the Chappaqua Crossing proposal for the old Reader's Digest site — the developer's second one.

Acknowledging the possibility of a stiff fight ahead for zoning approval, Felix T. Charney, the president of Summit Development, whose company is in partnership with Greenfield, said he had hired John S. Marwell, a partner in the Mount Kisco law firm that represented Mr. Berenson in the 1970s.

'Exclusionary' zoning versus affordable housing.

"We wanted to get experts who had prior experience with this," Mr. Charney explained, "because when we first approached the town and said, 'How about affordable housing?' they told us it was not one of their preferred uses."

Mr. Marwell says the developer's application complies with the town's zoning requirements. And as for other requirements, the Westchester Housing Opportunity Commission, established by the County Board of Legislators in 1994 to set affordable-housing guidelines, says that New Castle should have 255 units of affordable housing by 2015.

New Castle's supervisor, Barbara S. Gerrard, described the developer's first

proposal as having been "much too large for our community."

Now that a new one has been submitted, she said, officials will "look at it again and decide with fairness." The Town Board is "just in the very early stages" of reviewing it, she added.

The proposal envisions 222 condominium units of market-rate age-restricted housing; 32 units of affordable work-force housing for residents, town employees and emergency service volunteers; and 24 age-restricted affordable units.

More commercial tenants are also being proposed: These days Reader's Digest rents some of the space in its 700,000-square-foot former headquarters, a gracious Georgian-style colonnaded building that has marked the suburban countryside here for close to seven decades.

Summit/Greenfield bought the campus for \$59 million in 2004; Chappaqua Crossing would occupy 64 of its 114 acres. The developer is seeking a variance to increase the number of other companies allowed to share the commercial space with the Digest.

Opponents, as ever, object to having more people and buildings in the hamlet, especially on the elegant Reader's Digest campus.

A group of about 20 people opposing

the plan says on its Web site, newcastleld.org, "We residents of New Castle like our overdevelopment one house at a time, thank you!"

One of those opponents, Steven V. Mullaney, a banker who lives near the Reader's Digest campus, described Chappaqua as "a family-oriented place very much in love with its children and its schools."

Mr. Mullaney said he and his wife, Linda, who have four school-age children, were worried that the complex would create traffic problems and draw more children to the area, overburdening the schools.

But then there are those who would welcome more affordable choices in town. Christopher Turchyn, a New Castle garbage hauler, says the chance to live in a work-force housing unit at Chappaqua Crossing would afford his 9-year-old daughter the opportunity to attend classes in a top-rated school district. Mr. Turchyn, an Army reservist who will soon leave for duty in Iraq, now rents a studio apartment in Briarcliff Manor. His daughter, who lives with his former wife in Wappingers Falls, is attending school there.

"I would like to have a home to come back to in a place like this, so my child can attend the Chappaqua schools," he said.

Retirees like Shelagh Bosch, who had a career as a schoolteacher, also express support for the development. "The word 'affordable' is especially important to seniors on limited incomes," said Mrs. Bosch, who has lived in Chappaqua for 45 years with her husband, Karl, a manufacturer, also retired.

"We'd like to know that when the time comes to sell our home, we will be able to stay rather than move away to someplace else, like some of our friends have had to do."

But Mark S. Tulis, a town supervisor in the early 1990s and former county legislator, described the plan in a letter last fall to the Town Board as the "wrong project in the wrong town and massively too large."

Also, he said, alluding to the hiring of Mr. Marwell by the developer, "utilizing the affordable-housing argument is an attempt to panic the town into an approval to avoid future Berenson litigation."