

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

Supervisor Barber noted:

Albany County Planning Board on February 18, 2016

Notification was to defer to local consideration. The Board has found that the proposed action will have no significant countywide or intermunicipal impact.

Advisory opinion: Due to the significant increase in residential density that was granted with the original rezoning the need for sidewalks and pedestrian connections is important. The Town should work with the applicant to resolve the issues with building the sidewalk along SR 20; rather than allowing relief from the previous condition of approval for the project.

The Town should also be aware of the precedent setting nature of allowing significant changes to conditions of project approvals.

Additionally, we have a Town Planning Board Advisory Opinion dated February 24, 2016. The project is recommended for the following reasons: Eliminate the 55 year old age restriction and reserve decision on the sidewalk until the applicant can provide further information to develop feasibility and accurate cost estimate.

I also have a copy of the Application for the change in zoning along with a narrative of support and a long environmental assessment form under SEQRA and a plot plan for the project.

Mary Beth Slevin, on behalf of Mill Hollow II:

The relief that we are looking for from the Town Board is driven by changes that have occurred in the marketplace, changes in the financial world. In 2008 the real estate and financing markets changed significantly. In 2013, while attempting to get financing, the new owners also invested their own money to try and move forward. They invested over \$6,000,000 back into the project and over \$1,000,000 into the Town Senior Center. The other money was invested for infrastructure, including sewer and water improvements which will benefit future residents of this project but also Town residents generally. This project has provided a Senior Center which is significantly larger by 32% and significant with more details. The applicant has made their commitment to this project but relief is needed in order to proceed. The sidewalk project today is estimated at over \$250,000 when it was estimated ten years ago to be around \$60,000. We are asking the Town to recognize the additional improvement the applicant has made to the Senior Center, an additional 2,000 square feet than originally proposed.

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

Supervisor Barber questioned Ms. Slevin if she believed no SEQRA review was required because there was no material change in the project. Ms. Slevin responded that she believes the SEQRA review is required but the SEQRA requirement can be reaffirmed because there is no significant change in the project.

In reply to another question asked by the Supervisor, Ms. Slevin replied she believes the SEQRA determination can be made regardless whether the sidewalk is done or not, there isn't a change in the impact because, if the sidewalk is not done, there simply is a reduction of impact.

Supervisor Barber asked if the applicant has contacted D.O.T. (New York State Department of Transportation) and getting a survey of their work, in the right of way. Ms. Slevin advised they had and they were supplied with some preliminary information and are trying to get better information because it is really definitive. In speaking with Steve Feeney he was going to try to get some more specific information, more detailed than what they would be able to acquire themselves.

It is the Supervisor's understanding this matter was going back to the Planning Board for a final determination about the sidewalk. Ms. Slevin replied it was a suggestion from the Planning Board. This is like a preliminary advisory opinion, they tabled discussion on the sidewalk pending further information.

Supervisor Barber had questions on the lease itself then they had some conversations when they scheduled the Public Hearing as to whether or not you would be able to come up with a lease that reflects the actual area being leased as it's greater than what was stated in the Local Law but also talked more about use of the upstairs space. Ms. Slevin replied she did supply a copy of the lease that was proposed to the Town Attorney and she has started a preliminary review with Steve Feeney. She has not received any comments back on those documents. The Supervisor will get it from the Planning Board Chair.

Supervisor Barber asked if regarding the offering plan has the Senior space being identified as 18% of the entirety and, therefore, the Town in essence would be picking up 18% of the care and cost of a condominium, whether or not that whole scenario can be put aside and basically have the Town be more of a tenant as opposed to an owner, or as a unit participant. Ms. Slevin said they can work through it with the Town. They are amenable to a long-term lease as opposed to the Town becoming an owner. Once she has comments back from the Town as to how they would like that structured, they will be happy to work with the Town on that.

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

Supervisor Barber shared that as part of the inducement for granting relief on the age requirement, we'd be looking at the lease and making certain that we have meaningful access to the upstairs space and basically other terms that were in the old lease. The lease could be amended by the manager of the condominium and the hours of limitation were up to 3:00. He continued that he would like to see what the lease looks like and what is the relationship of the Town in terms of the condominium association before we give final approval to the change in the Local Law.

Councilwoman Centi wanted to know how the sidewalk cost went from \$63,000 to \$250,000. She asked if there were specifications that had changed over the years. Ms. Slevin replied there's no specifications that changed, she thinks the preliminary estimate was just that, probably a preliminary guestimate. Once the real numbers were crunched, to take a look at what it would actually cost to construct, and that's what Steve Buck did, that's when the reality of those numbers came to light. The other issue is constructability, we talked about that a little bit at the Planning Board meeting. The Planning Board did recognize that constructability, feasibility is a significant issue. You may think Route 20 is somewhat flat through that area, the area where it has to be constructed there are very significant gullies, some are five to six feet deep. It isn't just an issue of cost, it's also of feasibility which we've tried to evaluate.

Supervisor Barber asked Steve Buck if there was any discussion by the Planning Board of the possibility of staging the construction of the sidewalks over time based on the number of units being built. Mr. Buck identified himself as the managing member of Mill Hollow II, LLC. Regarding a no-cost lease or the transfer of title, the whole idea is to meet the requirements of the local law. They will accept any language that stays within the spirit of the original agreement. If the Town would like to maintain the footprint of the space they are going to occupy, we can just carve that out in the lease and turn over that maintenance to the Town. It would not be a percentage of anything. We would just have to make sure that the language reflects that in the lease. He's just looking for relief approval tonight on the age restriction and handle the sidewalks as a separate submission once they have more information.

Mr. Buck continued most sidewalk projects are straight forward, you stay within the right-of-way and the cost is affordable. Through due diligence, after completing the Senior portion, they discovered there are significant issues to

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

overcome as to the location, they cannot fit within the right-of-way. There will have to be takings by the Town, as we cannot do that as a private developer.

Councilman Pastore commented the purpose of tonight's meeting is to review both conditions that currently exist. Mr. Buck responded that he would like to bisect those conditions. Our Town Planning Board believes more time needs to be spent on the sidewalk issue. Councilman Pastore asked Mr. Buck if the Town Board waives the age restriction, but upon further review, the sidewalk restriction is not waived, does that create a continuing financial hardship for you as the developer? Mr. Buck said they will get done whatever they need to get done on the sidewalks. He would like the Board to consider that this project is right on the cusp of delivering the most significant public benefit in the Senior Center that he thinks the Town has ever seen. It is a heavy burden they are carrying and the first matter to help them is to get the age restriction lifted tonight. They can then have productive conversations with lenders who have already affirmed that they will lend on that. If the developer ended up with the cost of the sidewalks in its entirety, he would ask that it be extended to a much later date. The performance on the project cannot withstand the implementation of the sidewalks. It would mean the developer would have to take additional moneys from other resources to get the sidewalks done. Worst case scenario would be once the project was 75% built out, at that point in time they would have to provide all of the sidewalks as in the original local law. He is just asking that the Town continue to work with him hand-in-hand so it doesn't continue to be a financial drain. If the sidewalk issue could be set aside, we could find out what all the implication issues are regarding drainage, bridges over waterways, that would give the developer more time to deliver good information back to the Planning Board and the Town Board.

Councilwoman Slavick asked if there are two buildings built to date. One four-unit is built to date with two units rented and the two model units.

Councilwoman Centi asked Mr. Buck if, when he comes back to the Board, will he show the Board the alternative that was suggested relative to hooking up with 20 West. Mr. Buck said there is an approximately 120 foot run that would connect in the back corner that abuts 20 West.

Supervisor Barber opened the Public Hearing for comment.

Sandra Slusar of 217 Landbridge Drive pointed out where her house and driveway are on the map. She commented the poster board no longer reflects the area. She added since 20 West was built there no longer is farmland or trees and she pointed

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II**  
**SCHEDULED MARCH 15, 2016 – 7:45PM**

out where her driveway goes. She was told by Steve Masullo that it was an emergency access area where all the gavel is.

She commented that she understands the developer put quite a bit of money into the Senior Center when they purchased the parcel. She asked why he did that. Supervisor Barber requested Ms. Slusar make her comments to the Board. Ms. Slusar continued since there was nothing there yet, it seems like he was doing a favor putting the extra money into the Senior Center. What was that for? Why was that done before putting in any of the other units. Is it supposed to be used in the state that it is in now because it doesn't really look finished. It may be finished. She doesn't know who had the influence to change the original plan and why it was changed. She would like to question if you're getting rid of the 55 and over does that now change it to put apartments in, instead of condominiums? Back to the sidewalk, if you're putting apartments in and opening it up to families, there are a lot of young families in 20 West using the sidewalks all the time with their strollers and dogs. They wouldn't have access to a sidewalk on Route 20 to get to Hannaford and whatever else. Would that mean they would be coming back through a sidewalk that we did not know was suppose to be there, in the back? We are not too excited about an apartment complex because the economy changed. Wondering why they bought the property in 2013 if there were all of these questions and problems, why didn't he look into it a little more before he bought it. Now it seems he wants to change things because he's losing money. Are people going to be charged for using the Senior Center? If it is going to be opened up to the public, if it is not going to be a Senior community, are you going to let the community members in there use it use it for birthday parties or retirement parties, yoga classes and whatever else they want to do? You're calling it a Senior Center, is it just for seniors?

Annie Mirochnick, a resident of 20 West and Sandy Slusar's neighbor. She realizes the real estate bubble was a nightmare for the whole United States. Initially this property was bought in 2006 and changed ownership in 2013, is that right? It was confirmed by the Board. She explained one does due diligence when they buy a property. Just because they lost money that will affect our real estate values in this neighborhood. In terms of ownership versus renting it is much different. With renters, how would you protect against noise? You have a residential neighborhood next door, how would you protect visually, the view, would you plant trees or put in a wall? Who are the rentals for? Is it rental or condominiums? If you remove this age limit of 55 or older, why do you have to make it rental property. Regardless of what you build, will you put in some greenery dividing the property line because it is just bare and open. She pointed

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

out a small access road and asked if people would just come into the neighborhood? While living in an apartment building in Town there was noise, car alarms going off, dogs barking. It is right there, right next to 20 West. Are you planning a through street linking 20 West, Landbridge to drive to the property? When was this project built, was it 2013? Why is the Senior Center coming to fruition now, is it really just for Seniors? Is it accessible to people of all ages. Will it have tennis courts, a swimming pool. Is it like the YMCA by Meadowbrook? Is it essentially going to be the YMCA and Meadowbrook, just like that where you have an apartment complex and the YMCA. It's a great place to live when you are renting. It's different when you are in a neighborhood right next door. How come these issues are coming up now from 2006? Once again, if you remove the age limit from 55, people who are 55 and older can still walk. Sidewalks are imperative in whatever residential format you have. Once again, you have a neighborhood with lots of different people out and about walking all the time. There should be sidewalks in whatever residential format this becomes. Hopefully not renting, hopefully condominiums. Is the Senior Center free? Is it subsidized by taxes? Is it part of Medicaid? What services are being offered? Thank you very much.

Eric Green representing Thomas and Debra Green who live at 5080 Western Turnpike

They live in what is shown here as a field. They are surrounded by this project on three sides. The main thing that needs to be stated here today is that the developers have broken several promises they've made to the residents of the Town as well as to the Town Board. They were promised arborvitae trees all around the property to shield them from the construction site. That has not been done, not to mention the eyesore that this project has been for the past ten years. There has been silt fence around three sides of their property which hasn't been maintained properly per DEC regulations. There is an open pit on the south side of the entrance drive that has been five to ten feet off their property for at least the last eight years. It needs to be filled in immediately. He is not aware if the project is still being monitored by the DEC. Is it an active site, no one knows. Once all of the water infrastructure was completed, the water pump station was suppose to be taken out of service and demolished. That has not been done yet. As mentioned before, the 55 and older requirement was a promise made by the developers. He thinks this is one of the major reason this project got through the Town Board, because that is a great use of that type of land out there. Now for you to eliminate the 55 year and older requirement because the developers are unable to sell their properties, is a ridiculous concept and he cannot believe it's on the Board right now. They are the ones that got themselves into this mess. The design is a poor design. There are

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II**  
**SCHEDULED MARCH 15, 2016 – 7:45PM**

garages in the middle of houses on either side. Don't you think they would rather have their garage attached to their house? The three units that are partially built, the one that is built, if someone is sitting in their driveway, someone in the unit next door cannot get out of their driveway. They cannot reverse because the driveways are so close together. So what happened here is that the developer tried to put a plan in place to absolutely maximize their profit, by increasing density on the land that is available. One of the first points his father made ten years ago is that the community center as well as the pond are not useable space and that is why the amount of housing and density was increased for all the other areas. He doesn't understand how it got passed in the first place and still is. He thinks if the developers want to finally turn a profit on this project, they need to redesign the entire layout, so that it appeals to 55 and older people. For you to break out the sidewalk aspect of this project, as a separate item is another thing I cannot understand. Whether they are 55 or older or they are families with strollers or dogs, they want to have a sidewalk. For the original developer to tell you the estimate for the sidewalk was \$60,000, and that more than quadrupled to \$250,000, means they did not do their due diligence. He stated that he is in the construction business and if he stated to a Town Board that he was going to build a sidewalk, you would make sure that we did that. For them to look at that road of Route 20 and not know that there were gullies and other water infrastructure that had to happen for them to build those sidewalks, means they are not qualified to be in the position they are in.

Annie Mirochnik, 213 Landbridge Dr. - Further advised that the previous speaker made a very good point about the possibility for redesign if that is on the table. If you are removing an age limit in order to keep it condominiums, there could be a beautiful property where people have less yard, and that way it could be for the busy family that works at G.E. It's a great area that we live in and you have local commerce that these people who live in these properties and who hopefully own these properties will work in. Is it going to be a townhouse, or condominium and is there a story limit? How tall are the trees going to be in order not to see the stories? If redesigning is not on the table, it sounds like it should be redesigned. During construction you have a whole neighborhood right next door. Twenty West was done in phases not to have this happen.

Attorney Mary Beth Slevin returned to the podium. No changes are proposed for the approved plan for this project. There are requirements for landscaping, for interior sidewalks they are still part of the project. She doesn't want the Board or public to think that any of those things are going to be changed. The plan remains the plan that was approved. The only thing that we requested some relief from is

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II**  
**SCHEDULED MARCH 15, 2016 – 7:45PM**

the age restriction and some modification to the sidewalks. With respect to some of the other issues that were raised, there are some visual impacts, some potential noise impact, those are all the same under the project that will hopefully be built as the project that was approved. The fact there are some components of the project that are incomplete, that is why it is not done and why the developer is in front of the Board requesting relief. When the new owners came in in 2013, there was a evolution in the real estate market that was going on. It isn't just the financing constraints they are confronted with, it is also the fact there are other projects that have come onto the market in the interim. Unfortunately it is ten years and what lenders find there is sufficient supply in the market for over 55 age units. They are not willing to commit to financing for this kind of project. In order for this project to be completed it is imperative, and in order for the Senior Center to be realized, it is imperative that age restriction relief be provided. Whether it is condominiums or apartments, it was always contemplated that it was going to be an either or. The HOA documents that were proposed, in 2006 that were reviewed by the Board at that time, demonstrated that there was a reservation about the ability to potentially rent the units versus sell the units. Literally, the only changes stated are changes in the age restriction and in my application of the sidewalk requirement.

Steve Buck returned to the podium. To comment on some of the concerns of the neighbors, he's sorry but there would be a construction zone in order to get the neighborhood built. As for the Senior Center it is strictly for the use as the Town sees fit to use it. It is to fulfill the mandate to comply with the Local Law. As far as landscaping goes, it will be as stated for the approved project. He does not foresee the traffic flow being any different. Just to be clear, he intends to bring the project back to a for sale condominium project. He foresees that, hopefully, 75-95% of the renters will end up purchasing so it is a condo project. Right now the reason they are looking for relief is the market and the finance ability of the project. Without the waiver of the age restriction, you will be looking at a pretty sad site for awhile. As a general overview, the project is not particularly changing, except for the age limit within the project. If there is anything else that the Town Board would like me to expound on from the comments, he'd be happy to fill in the blanks.

Supervisor Barber asked Mr. Buck about the comment referring to a water pump station being demolished. He replied the Pump Station that was decommissioned is now a gravity flow down through the project into the 20 West pumping station. That property belongs to the Town and the building belongs to the Town. Mr. Buck confirmed that it is currently decommissioned as a pumping station and is just basically a gravity flow through and not within their purview to do anything



**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

with that building because he does not have ownership of it. Certainly the Town could consider demolishing that building. It is not necessary at this point in time.

Councilwoman Slavick asked Mr. Buck to comment about the open pit. He responded that it has only been there about ten months and it's built appropriate for OSHA requirements for the construction site. He said he can take a look at it and address it if necessary. We could make it much more visually appealing. Additionally in response to Councilwoman Slavick's question if it is a pond or an open pit, Mr. Buck explained at different parts of the sight, so that there isn't run off into adjacent properties, they'll put a depression into the grading. This way it captures the water and it doesn't run off onto adjacent properties.

Councilwoman Slavick asked why are these units going to be rented instead of purchased? Mr. Buck replied, they had marketed for sale condos for 24 months and they were unable to reach the threshold of 13 sales to make the Homeowners Association active. At this point in time the market has rejected the product because right now there are several projects of 55 plus and there are several products that are going back to open market because there a glut in the 55 product. Mr. Buck confirmed for Councilwoman Slavick that if the 55 age restriction was waived, the units would be for rent.

Councilman Pastore asked if the marketability of these units is affected at all if it is for rent versus for sale with the age restriction? Mr. Buck replied the market has rejected the sales so that is completely off the table. As a rental, because there is such a glut in the 55 plus market of products, banks are not willing to finance 55 plus projects. Without the age restriction, that's where it becomes feasible for the banks to do the financing.

Councilwoman Centi commented this entire project is going to be for rent. Mr. Buck confirmed that.

Supervisor Barber said he would like to do a couple of things. First he would like to figure out what is going on with the lease. He understands it has been shared with the Town Attorney and the Planning Board. He feels it is important for the Board to have an understanding of what the use of that space will be.

Additionally, while looking at a change in the age restriction, the Local Law needs to be changed, too, as it restricts the Senior Center to 4,000 square feet and it should be 5,500. He is not interested in biforcating, he would like to get it all done at one time. His suggestion is the Board come back in two weeks and make the

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II**  
**SCHEDULED MARCH 15, 2016 – 7:45PM**

decision at that time. Along the lines of the sidewalk, speaking right now after hearing comments and watching the Planning Board meeting, the role of the sidewalk is to get people from this development to logical destinations whether it be to Hannaford, Town Hall or whatnot. It's not simply to get into 20 West and find a way over to other streets. He'd like to know if it's going to be a timed installation or triggered based upon building permits. Getting back to the lease, he wants to make it clear that this is a Senior Center, it's not going to be a tennis club, it's not going to be other activities, it's going to be whatever takes place in the building, in this space right here. It is going to be transferred over to a dedicated space so that we're not constantly breaking down rooms, there's going to be a dedicated lunch area and whatnot. It might include yoga, but he doesn't know exactly what takes place here. Councilwoman Slavick added it's going to be daytime activities. The Supervisor agreed. It's not going to be converted into a Youth Camp or something like that. It's going to be for Seniors. For these reasons, he'd like to clean up the Local Law filing, make sure the right provisions are being modified and make the decision at the April 5 meeting. The applicant is cooperative and wants that part done. We just need to get it down on paper and make sure we agree.

Mr. Buck said he accepts the fair criticism about the due diligence on the sidewalks. Right now they are trying to prevent the project from completely failing. They want to deliver on all of their promises. He feels that they've delivered on all of the promises they made since taking over the project. Any promises out there they want to fulfill it and make good on it. At the end of the day they'll get the sidewalk issue resolved and taken care of, however, because of the difficulties there are with the drainage, there is going to be a lot of close coordination with the Town on how they actually achieve it.

Supervisor Barber feels if we can get passed the sidewalk issue the rest of it can fall into place. He wants people to understand about the lease, in particular, because the Senior Department has worked with the Applicant and they've looked at the interior of the space and have a better understanding on how they can best use the space and provide for the programs that take place here and expand the programs down the road. Mr. Buck and his group have been very cooperative with working with Town staff and in reaching that goal.

Mr. Buck wants to extend out an olive leaf to the neighbors. They want to be good neighbors. The Buck Group has only developed A+ projects in the 56 year history of the company. They've always had a great relationship with their neighbor, they famously take care of their products, they want their product to look better than

**NOTES FROM RESUMPTION OF PUBLIC HEARING ON MILL HOLLOW II  
SCHEDULED MARCH 15, 2016 – 7:45PM**

their neighbors product. Whatever they can do to facilitate any reasonable request, we'll go out of our way to do that. We want to make it a successful project for the Town and ourselves. That way it will be a win/win situation. Whatever they can do to that end, they'll always listen.

Councilman Pastore suggested that Mr. Buck follow up with the neighbors about their concerns and issues.

Ms. Slevin asked who should she follow up with in terms of the lease. Supervisor Barber directed her to our Town Attorney and Steve Feeney and others will be chiming in as well.

Annie Mirochnik approached then spoke again that not a lot of people are saying anything and they are hearing new information. She feels she's a good neighbor and so is Sandy (Slusar). They are very blessed and lucky to live there. She and her husband worked very hard to live there. The promise was made that these would be condominiums. People could purchase them. She does corporate immigration law and business is booming. Immigration is an indicator of global commerce. We're in a relatively decent size city, and it's booming. Albany is expanding, there's a lot of good things going on here. In 2013 20 West got snatched up by all the residents. People couldn't wait to live there. You have an unfinished product. She wants to buy a condo, but they are not finished plus there is the age limit. She's not 55 years old. She just wants to reiterate this point, why can't we remove the age limit and make them condos. It is a completely different animal. About rental property, how long will it take you to earn your money back? How many years will you have it as rental property before it transitions back to condominiums. Will they be maintained? Is there a condo association? How much will the leases be? How much will a 3 bedroom, 2 bath apartment be? Will it be exorbitantly more than Meadowbrook, just down the road by the Guilderland Library? Near the YMCA, those were nice. These are things we should be thinking about. They're important. Thank you.