

The Regular Bi-Monthly Meeting of the Town Board of the Town of Tuxedo held on Monday, September 22, 2008 at the Tuxedo Town Hall, One Temple Drive, Tuxedo, New York, was called to order by Supervisor Peter M. Dolan at 7:35 p.m.

Town Board Members Present:	Mr. Peter M. Dolan	Supervisor
	Mr. Daniel Castricone	Councilperson
	Mr. Thomas Darling	Councilperson
	Mr. Gary Phelps	Councilperson
	Ms. Lisa Spivak	Councilperson

Town Board Members Absent: None

Other Town Officials Present: Larry Wolinsky, Town Counsel; Mr. Daniel J. Carlin, Police Chief; Ms. Bonnie Franson, Town Planner; Mr. Jeffrey Marsden, Town Engineer, Mr. Thomas J. Egan, Planning Board Attorney; Messrs. Nils Gerling and Robert Thompson, Planning Board Members; Messrs. Francis Peverly and Andrew Rogers, Zoning Board of Appeals Members; Mr. David Maikisch, Building Inspector; and Mrs. Elaine M. Laurent, Town Clerk.

The meeting was opened by a pledge of allegiance to the flag.

MINUTES

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, to accept the Town Board Minutes of the Public Hearing and Regular Bi-Monthly Meeting held on September 8, 2008, as submitted.

Adopted: AYES: [5] NAYS: [0] ABSENT: [0] ABSTAIN: [0]

MONTHLY REPORTS

All monthly reports for August, 2008 were submitted at September 8, 2008 meeting.

PUBLIC COMMENTS ON AGENDA ITEMS

Supervisor Dolan asked for public comments on agenda items. There were none.

1. Town Supervisor/Town Board Update

- **Removal of Illegal Trailers in Southfields**

Supervisor Dolan advised that two house trailers which have been situated at 1103 Route 17 in Southfields in violation of §92-2 of the Town Code have been removed and transferred to the owner's other property located in Chester. This action was taken pursuant to Summary Judgment granted by the Hon. Elaine Slobod, Acting Supreme Court Justice, Supreme Court of the State of New York, County of Orange.

- **Site Visits of Tuxedo Reserve Property**

Supervisor Dolan advised that site walks of the Tuxedo Reserve property have been conducted by the Town Board members, one on September 21 with two Board members and the other on today's date with three members.

AGENDA ITEMS #3 AND #4 WERE NEXT CONSIDERED, FOLLOWED BY AGENDA ITEM #2.

3. Resolution Granting Special Permit for Adventure Race

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Castricone, that the Town Board, in accordance with the Zoning Code of the Town of Tuxedo under Article 3, Section 98-10, Column H, Item 8-K, grants and files a special permit for use of Town of Tuxedo roads by the New York Adventure Racing Association during its Shag Adventure Race to be held on Saturday, September 27, 2008; SUBJECT TO the applicant's obtaining liability insurance coverage naming the Town of Tuxedo as additional insured and furnishing a Certificate of Insurance covering the Town of Tuxedo at least 10 days prior to the commencement of the activities; and be it

MINUTES

MONTHLY
REPORTS

PUBLIC COMMENTS
ON AGENDA ITEMS

Town Supervisor/
Town Board Update

*Removal of Illegal
Trailers in Southfields*

*Site Visits of Tuxedo
Reserve Property*

Resolution
Granting Special
Permit for Adventure
Race

AGENDA ITEMS (Continued):

3. Resolution Granting Special Permit for Adventure Race (Continued)

FURTHER RESOLVED, that all signs and route markings be removed by the applicant within seven days after the event; and be it

FURTHER RESOLVED, that all of the foregoing be accomplished to the satisfaction of the Building Inspector.

Adopted: AYES: [5] NAYS: [0] ABSENT: [0]

4. OTHER BUSINESS:

Resolution Authorizing Demand for Payment and Levy on Taxes

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Darling, that the Town Building Inspector is hereby directed to demand reimbursement from Patrick Kelly of all Town expenses, including but not limited to attorneys' fees, Town personnel labor fees and contractors' fees, associated with the various disputes between the Town and Mr. Kelly, for the period commencing from 2000 through the present, in connection with his property at 1103 Route 17, Southfields, New York, Section 5, Block 1, Lot 1; and be it

FURTHER RESOLVED, that, in the event of the failure of Mr. Kelly to provide payment of such expenses, the Town Supervisor, the Town Clerk, the Town Receiver of Taxes and the Town Counsel are hereby authorized to prepare and execute all documents, make all filings and perform all acts in order to effectuate the levy upon the 2009 taxes of Mr. Kelly for payment of such expenses.

Adopted: AYES: [5] NAYS: [0] ABSENT: [0]

2. Presentation by Tuxedo Reserve Regarding Third Amendment to Special Permit

Supervisor Dolan reminded the public that this is an informal presentation by representatives from Tuxedo Reserve regarding their proposed amendment to the Special Permit. It is not a public hearing and is intended to familiarize the Town Board and attendees with the proposed changes. After tonight, an in-depth review of the application will be made by the Town Board, the Planning Board and the Town's consultants to determine its completeness and whether additional environmental review will be required.

An official public hearing, which is the effective forum for public comment, as established by legal procedure, will be scheduled at a future date, with notice published and posted. As is the practice at all Town Board meetings, questions and comments from the public are welcome at tonight's presentation but should be kept as brief as possible.

Tuxedo Reserve representative Andrew Dance began the presentation by explaining that, following a more detailed inspection of the site, they realized that the plan needed to be revised due to topographical constraints and in consideration of water and sewer issues.

Utilizing a PowerPoint® slide show, Tuxedo Reserve representatives Messrs. Paul Milano, of Cooper Roberson Planners & Architects, and Mr. Don Powers, of Donald Powers Architects, described the proposed changes and how they would affect the development, as depicted in the slides.

Attached to these Minutes is a six-page overview of the proposed changes to the Preliminary Plan and the Special Permit as contained in the Tuxedo Reserve application for amendment.

A question-and-answer period with the public next ensued, with inquiries posed by Tuxedo Park residents Michelle & Jake Lindsay, Robert Curry, John Dawson, Kent Kroeber, Houston Stebbins, JoAnn Hanson, Barbara du Pont and Robert Silvay; Town residents Dale Mottola, Sue Scher, Andrew Rogers and Andrew Berish; Suffern resident Patsy Wooters; and Sloatsburg residents John Kwasnicki and Ann Marie Voss.

**AGENDA ITEMS:
(Continued)**

**Resolution
Granting Special
Permit for Adventure
Race (Continued)**

OTHER BUSINESS:

**Resolution
Authorizing Demand
for Payment and
Levy on Taxes**

**Presentation by
Tuxedo Reserve
Regarding Third
Amendment to
Special Permit**

BUDGET MODIFICATIONS:

There were no budget modifications.

PUBLIC COMMENTS:

Supervisor Dolan asked for comments from the public. There were none.

VOUCHERS

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the following vouchers, having been audited by the Town Board, are hereby approved for payment:

Claim numbers 1,276 through 1,334
General Fund Claim totaling \$46,613.37
Part-Town Fund Claim totaling \$10,083.60
Highway Town Wide Claim totaling \$438.08
Highway Part-Town Claim totaling \$335.04
Tuxedo Refuse District Claim totaling \$30,951.00
Hamlet Sewer District Claim totaling \$1,378.57
Total abstract amount: \$92,281.22

Authorization for Payment was thereafter signed by Councilperson Spivak, Supervisor Dolan, and Councilperson Phelps.

ADJOURNMENT

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, to adjourn the meeting at 9:55 p.m.

Adopted: AYES: [5] NAYS: [0] ABSENT: [0]

Meeting adjourned.

Respectfully submitted,

Elaine M. Laurent
Town Clerk

**BUDGET
MODIFICATIONS**

**PUBLIC
COMMENTS**

VOUCHERS

ADJOURNMENT

EXCERPT FROM TUXEDO RESERVE AMENDMENT #3 TO SPECIAL PERMIT

A. Preliminary Plan Changes:

1. Development is proposed to be eliminated from certain areas which had been previously approved for development in order to better protect certain habitat areas. Those lots are proposed to be created in areas near Mountain Lake and in the northern portion of Phase 3 which are more appropriate for development.
2. Generally, the amount of land disturbance is reduced and the proposed development is more compact. No increase in the number of lots or units is proposed.
3. Improved pedestrian-oriented places are proposed and the vehicular orientation of the project's design is reduced.
4. Parking methods are proposed that are more sensitive to existing grades and require less earth movement.
5. Tuxedo Reserve is negotiating a potential land swap with PIPC, If agreement is reached on such a swap, then the following Preliminary Plan changes would be proposed:
 - (a) Add the South Gate Road parcel to the PID;
 - (b) Move some of Tuxedo Reserve's allowed development to the South Gate Road parcel and improve the layout on other lands within Tuxedo Reserve, with NO increase in density or overall number of units/lots permitted; and
 - (c) A revised emergency connection to South Gate Road would be provided.

B. Active Adults:

1. The designated active adult community to be developed in Phase 2 would be eliminated. Instead designated active adults units are proposed to be within East Terrace and the Commons as part of Phase 1.
2. The unit types for Active Adult occupancy would be switched from all cottage and carriage units to a mix of condominiums, townhomes, carriage, cottage, and village units.

C. Lot Flexibility:

1. The existing special permit lot flexibility provisions that create a complex numerical formula for flexibility between phases and between lot type is proposed to be eliminated.

2. Instead, flexibility would be governed by the Smart Code, which is discussed in greater detail below. Maximum/minimum lot type and counts would continue to be delineated in the Special Permit by Phase.

D. Lot Mix, Unit Type, Bedroom Count:

1. The minimum number of non-age restricted single family residences is proposed to be reduced from 693 to 671. And the maximum number of non-age restricted multi-family units is proposed to be increased from 305 to 327 (including townhomes and multi-family).
2. The minimum number of age-restricted single family residences is proposed to be reduced from 197 to 59. And the maximum number of age-restricted multi-family units is proposed to be increased from 0 to 138 (including townhomes and multi-family).
3. It is proposed to separate the consideration of townhomes from multi-family flats and duplex condominiums for unit count purposes.
4. It is proposed that townhomes would be included as approved unit types in all phases of development, not just Phase 1.
5. It is proposed that carriage homes would be included as approved unit types in all phases of development, not just Phase 2.
6. It is proposed that the calculation of bedrooms be revised and simplified so that each unit/lot type is assigned a single maximum number of bedrooms: Estate = 4, Manor = 4, Village = 4, Cottage = 3, Carriage = 3, and Townhome = 2; Multi-family units would vary. This would not result in any increase in non-age restricted bedrooms from that authorized in the Special Permit.

E. Commons Non-Residential Development:

1. The amount of neighborhood commercial in the Commons is proposed to be increased from 3,000 square feet (deli) to 30,000 square feet in order to provide space for such uses as a deli, bank, café, restaurant, dry cleaner, boutique shop, and professional offices. In addition, 3,000 square feet of commercial is proposed at the southern entrance in Sloatsburg for a farmer's market.
2. The amount of recreational/amenity uses is proposed to be increased from 39,200 square feet (fitness, day care, business center, Active Adult recreation, pool & racquet, and welcome center) to 70,000 square feet (in order to add a larger private club, larger welcome center, and new neighborhood amenity buildings, plus a branch of the library).

3. Live/work spaces are proposed to be authorized as part of the commercial development in the Commons.

F. Smart Code:

1. The applicant proposes that the various standards regulating the design of the Project be included in a single set of standards and guidelines known as the Smart Code. The Smart Code is proposed to be part of the Special Permit and would govern form and size of development (such as height, setback, etc.), as well as street standards, architectural guidelines, landscape guidelines, and streetscape requirements. In essence, the Smart Code, or "form-based code" establishes a single manual governing all development in Tuxedo Reserve. Please note that the street standards are based on those that were developed during the preliminary subdivision review process for North Ridge.
2. The Smart Code is proposed to establish comprehensive standards for each of the seven types of "neighborhoods" in Tuxedo Reserve to assure that each type is developed with the same community character and is subject to the same standards and regulations.
3. The Smart Code is proposed to contain certain overlays to address specific unique concerns for particular geographic areas or neighborhoods.
4. The Smart Code is proposed to refine the height limitations in the Commons by authorizing a certain number of floors with maximum allowable floor heights.

G. Sequence of Construction; Phasing

1. The sequence of construction is proposed to be changed in order to allow the start of the project to include construction of the Commons, given its importance in place-making for the overall project.

H. Road Design and Alignment

1. Quail Road (south of Commons) is proposed to be realigned to culvert over an ACOE stream rather than to cut through ACOE wetland at the former "crescent."
2. The secondary connection from Quail Road (south of Commons) to Phase 2 development area is proposed to be removed.
3. A single, primary internal intersection of Collector and Major roads at the village green in the Commons is proposed.

4. A new road type, "Country Lane," is proposed to be added with a 20'-wide cartway and 50'-wide ROW.
5. Grading alongside roads to occur within the ROW is proposed to be authorized subject to the standards in the proposed Smart Code.
6. It is proposed that the Planning Board be empowered to approve waivers to any street standard identified in the Performance Standards or the proposed Smart Code so long as the Planning Board finds that the waiver is consistent with creation of the type of community character approved in the Special Permit and the Town Highway Superintendent approves of the waiver.

I. Lot and Building Standards

1. A 50' wide cottage lot type with alley-loaded condition is proposed to be added in neighborhood center conditions.
2. A 70' deep townhouse lot type with tuck-under parking condition is proposed to be added to the plan where grade changes within the lot permit this type of parking.
3. The minimum lot area is proposed to be modified to reflect the product of minimum lot width by minimum lot depth.
4. The FAR table is proposed to be revised to allow a range of maximum conditioned space at established thresholds of lot sizes.
5. Tower houses are proposed to be authorized on severely sloping lots in the Mountain Lake area.
6. Additional provisions are proposed to address uphill and downhill lots, especially how the height of an uphill house is measured.
7. It is proposed that the maximum height of buildings in the Commons shall be measured to the midpoint of the ridge and the eave.

J. Architectural and Landscape Guidelines

1. Two additional architectural styles are proposed: English Arts & Crafts and Gothic.
2. Provisions are proposed to be added to clarify the various architectural elements that are permitted and not permitted.

3. A refined list of allowed plantings as well as plant lists is proposed for the front and rear of houses.
4. A refined list of allowed fence and wall materials is proposed, as well as which ones are appropriate in various neighborhood conditions.
5. It is proposed that the guidelines be clarified to provide that no road shall be shifted or realigned for the sole purpose of preserving existing trees and that most lots will require clear cutting in the location where homes will be located.
6. It is proposed that the role of the ARB during the subdivision and site plan review process be clarified to confirm that the ARB's review at that time is limited to the application of the various elements of the Design Guidelines that apply to infrastructure items such as park benches and lighting fixtures.

K. Stormwater

1. It is proposed that decentralized stormwater management techniques for water quality and detention in less dense development areas be authorized.
2. It is proposed that not detaining stormwater for the site's major watershed area based on DEC's regulations for 4th Order Streams be authorized.

L. Wetlands

1. It is proposed that the special permit be clarified to confirm that Tuxedo Reserve's approved amount of wetland and buffer area disturbances refer to disturbance of jurisdictional wetlands and their buffer areas, not non-jurisdictional wetlands. Note: It is proposed that the foregoing would not preclude the Town from requiring protection of non-jurisdictional wetlands to the extent that such non-jurisdictional wetlands contain endangered species, threatened species, or species of special concern and wetland protections are needed to protect the habitat for such species.

M. Library

1. It is proposed that the construction of a 5,000 square feet library facility be authorized that would be leased or donated to the Tuxedo Park Library. The foregoing is proposed in addition to donating 0.5 acres of land in the Commons to the Tuxedo Park Library.

N. Recreation

1. It is proposed that Tuxedo Reserve would install a track, artificial turf football field and limited parking on the school site and would cause a grant of easement to be created for the benefit of Town residents;
2. It is proposed that the requirement that Tuxedo Reserve grade three level building pads on the school site be eliminated;
3. It is proposed that there be a determination made as to the value of the active recreation facilities being provided in order to ascertain whether Tuxedo Reserve is required to pay any or some reduced amount in recreation fees to the Town.

O. LIO Parcel

1. It is proposed that the 27,000 square feet of additional proposed commercial space in the Commons be counted towards the 196,400 square feet of commercial space included under the PILOT agreement, therefore reducing the PILOT obligation to 169,400 square feet.
2. In the event of an approved transfer of the LIO parcel to a conservation organization, it is proposed that Tuxedo Reserve be authorized to negotiate an agreed upon payout schedule of the PILOT agreement, based upon a 13.75% (27,000 divided by 196,400) reduction in the PILOT amount.

P. Consultant Fees

1. It is proposed that a procedure be created to enable Tuxedo Reserve to reasonably challenge fees within 30 days of receipt of an invoice on the basis of their reasonableness. Nothing herein would change Tuxedo Reserve's obligation to pay all "reasonable" fees associated with the review of its applications and project materials.