

Elaine Laurent

From: Elaine Laurent [townclerk@tuxedogov.org]
Sent: Thursday, February 24, 2011 3:40 PM
To: 'Alyse Terhune'
Subject: RE: LL 4 or 4A of 1998 or 1999
Attachments: DOC022411.pdf

Local Law #4 of 1998 was adopted by the Town Board on December 21, 1998 and filed with the NYS Secretary of State on December 28, 1998, after which date it was sent to General Code for inclusion in the Tuxedo Town Code. General Code noticed that the words "shall be submitted" were missing from Section 98-23 (P) [see attached], and a revision to the law properly inserting that phrase was filed with the Secretary of State on March 1, 1999 as Local Law #4A of 1998. It appears that confusion arose because of the 1999 filing date. However, the accurate title is 4A of 1998, as I advised Andrew Dance.

- Elaine

From: Alyse Terhune [mailto:adt@Jacobowitz.Com]
Sent: Thursday, February 24, 2011 3:08 PM
To: Elaine Laurent
Subject: LL 4 or 4A of 1998 or 1999

Elaine – I am trying to get to the bottom of the claim that there was no LL 4A of 1998 or 1999. That was the PID revision, which I remember as being in 1998 (I don't remember the number as 4 or 4A). I'm having our file pulled so I can check what our files actually say, but can you shed any light on this apparent mix-up?

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2/24/2011

TOWN OF TUXEDO
LOCAL LAW #4 of 1998
PLANNED INTEGRATED DEVELOPMENTS AMENDMENTS

BE IT ENACTED by the Town Board of the Town of Tuxedo, Orange County, New York as follows:

Section 1 Chapter 98 of the Code of the Town of Tuxedo, entitled "ZONING," is hereby amended by deleting §98-23 in its entirety and replacing it with the following:

§98-23. Planned integrated developments.

- A. Intent. It is the intent of these planned integrated development (PID) regulations to provide flexible land use and design through the use of performance criteria on designated areas of land to incorporate a variety of residential-use types with nonresidential uses as a planned unit. Such a planned development is to be designed and organized so as to permit the site to function without necessarily requiring the supportive services of adjacent neighborhoods. This section encourages innovations in residential development so that the demands for housing may be met by a greater variety of housing types and design and planning of structures with the benefit of preservation of environmentally constrained and ecologically sensitive land as well as the incidental benefit of more efficient land use in such developments.
- B. Objectives. In order to carry out the intent of this section, a planned integrated development shall achieve the following objectives:
- (1) Accommodate the need for a variety of housing, including small and large lot single family detached residences, townhomes, condominiums and rental apartments in a manner that provides optimal protection of the rural character of the Town of Tuxedo.
 - (2) Provide usable open space, recreational facilities and reservation of land for educational facilities in accordance with these regulations and with the Subdivision Regulations of the Town of Tuxedo.
 - (3) Provide accessory facilities within the site where appropriate, subject to these regulations and the Subdivision Regulations of the Town of Tuxedo.
 - (4) Preserve water bodies, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography, significant geological features, and other areas of scenic and ecological values.
 - (5) Prevent soil erosion and minimize flood hazards.
 - (6) Permit the innovative and staged development of land which allows for an orderly transition of land from vacant to occupied use.

- (7) Allow the development of an appropriate mix of residential and nonresidential uses in a manner that protects the Town's fiscal base at all stages of the PID's buildout.
- (8) Establish an estimated population within a PID development that is consistent with the Town's desire to limit the Town's total population, including the Village of Tuxedo Park, within a range of 10,000 to 13,000 persons.

C. **Approvals required.** Whenever any planned integrated development is proposed, and before any permits for the erection of a permanent building in such development shall be granted and, before any subdivision plat or part thereof may be filed in the office of the County Clerk, the developer or his authorized agent shall apply for and obtain a special use permit from the Town Board, a site plan approval from the Planning Board and, if necessary, a subdivision approval from the Planning Board.

D. **Special use permit standards.** An application for a planned integrated development must meet the standards set forth in §98-39 of this Chapter and the general and specific design standards set forth below.

E. **Planning Board Review.** Upon receipt of a special use permit application for a PID, the Town Board shall refer the application to the Planning Board for its review and comment. The Planning Board shall report to the Town Board during the course of the Town Board's review of the special use permit application. In no event shall the Planning Board submit any report later than the filing of the SEQR Final Environmental Impact Statement prepared for the PID application.

F. **General design standards for planned integrated developments.** A PID application for special use permit is subject to approval by the Town Board. An applicant applying for a special use permit shall meet the following general design standards:

- (1) **Location of planned integrated developments.** Planned integrated developments are allowed in certain districts subject to §98-9, Table of General Use Requirements, and §98-12, Table of Bulk Requirements.
- (2) **Minimum area.** The minimum area necessary to qualify for a planned integrated development shall not be less than one thousand (1,000) contiguous acres. For purposes of these provisions, property within the bounds of the proposed PID which is separated only by a road or utility easement shall be deemed to be contiguous.
- (3) **Ownership.** The tract of land proposed for PID development may have one or more owners, and every application shall require the written consent of all individuals, firms, associations, syndicates, partnerships, or corporations with proprietary interest in the effected land, authorizing the applicant to act on behalf

of the owner or owners in connection with all matters pertaining to the PID application. In the case of multiple ownership, a plan once approved shall be binding on all owners, their successors and assigns.

- (4) Utilities. Planned integrated developments shall be served by public water and sewage treatment systems. Such systems shall be constructed in accordance with standards and specifications adopted by the Town or, in their absence, such other standards and specifications applicable to public water and sewage treatment systems approved by the Town Board.
- (5) Permitted uses. The following uses are permitted within a planned integrated development:
 - (a) Residential uses, which may be single family detached, single family attached (town homes), and multifamily dwelling units. Dwelling units shall have a minimum of one bedroom, provided however, that the Town Board may permit studio apartments as part of a senior care facility. Studios shall not be permitted as part of a mixed use.
 - (b) Accessory commercial, service, and nonresidential uses. Accessory commercial, service and other nonresidential uses shall be required in a planned integrated development in accordance with Section 98-23F(8) below. Residential and nonresidential uses are permitted throughout a planned integrated development except in areas zoned R-1 (refer to §98-23F (6)(b)).
 - (c) Mixed uses may be permitted, subject to approval of the Town Board as part of the special use permit, which shall be deemed to consist of structures with dwelling units in conjunction with nonresidential uses that are of a local office or neighborhood business character. The Town Board may restrict the types of nonresidential uses which may be allowed as part of the mixed use in order to protect the health, safety and welfare of inhabitants of the residential use.
- (6) Residential development density yield. Planned integrated developments shall be permitted the density yield as calculated herein. The density yield shall be expressed in density units, each unit being the equivalent of a single family detached or a three bedroom or larger single family attached dwelling unit (refer to §98-23.F(7)).
 - (a) For lands zoned LIO, RO, R-2, R-3, and R-4, the applicant shall calculate the net developable area contained within each zone in accordance with §98-14.D.(1). In order to determine the maximum number of density units derived from these zones, the net developable area of each zone shall be multiplied by the following density factors:

<u>Zoning District</u>	<u>Density Factor</u>
R-2	0.8 density units/acre

R-3	2.0 density units/acre
R-4	3.0 density units/acre
LIO	0.4 density units/acre
RO	0.8 density units/acre

(b) Supplemental dwelling credit from R-1 Districts. It is the policy of the Town of Tuxedo to protect environmentally sensitive R-1 zoned lands by allowing the transfer of development from these areas to less environmentally sensitive portions of a proposed PID. The gross acreage of the R-1 zoned lands shall be multiplied by a density factor of 0.4 density units/acre to obtain the density unit yield for R-1 zoned lands. Such supplemental credit may be granted only on condition that the total acreage of existing R-1 zoned lands from which such supplemental density are transferred be permanently designated as open space.

(7) Residential Dwelling Unit Yield. After determining the total density units which may be generated by the PID, the total number of dwelling units shall be determined in accordance with the following provisions:

(a) The following dwelling unit factors shall be used to establish yield:

<u>Density Unit</u> =	<u>1 Dwelling Unit</u>
1.0	Single family detached unit
1.0	Attached dwelling with 3 or more bedrooms
0.75	Attached dwelling with 2 bedrooms
	Multiple residence with 2 or more bedrooms
0.50	Multiple residence with 1 bedroom, Senior studio

(b) A minimum of fifty percent (50%) of the density units shall be used to calculate the total number of single family detached units that shall be constructed as part of the PID.

(c) A minimum of twenty percent (20%) of the density units shall be used to calculate the total number of 3 or more bedroom attached or single family detached units that shall be constructed as part of the PID.

(d) A maximum of thirty percent (30%) of the density units may be used to calculate the dwelling unit yield for 2-bedroom attached dwelling units or multiple residence units. Of this total, a maximum of 25 percent of these density units may be used to determine the total number of senior studio or one bedroom multiple residence units. A mixed use residential unit shall be deemed to be a multiple residence unit and shall be subject to the provisions contained in this section (d).

(8) Concurrent nonresidential development. As part of a PID, an applicant is required to

construct concurrent nonresidential development in order to ensure that the PID provides job opportunities consistent with the objectives of the Town Master Plan, and that the PID is fiscally balanced, i.e., the estimated cost of additional services to support the PID is equal to or less than the revenues generated by the PID. In order to accomplish this, the PID application shall include the following:

- (a) **Jobs/Housing Balance.** The purpose of this requirement is to ensure that a minimum amount of nonresidential development is included in a PID to create the opportunity to achieve a jobs/housing balance in the community. The Tuxedo Master Plan contemplated that a proportion of the Town's land use base would consist of office, warehouse, light industrial or research and development uses. For each density unit generated by the PID, the PID shall include 500 square feet of office, warehouse, research and development or light industrial nonresidential space. Said nonresidential space may be located throughout a PID except in areas zoned R-1. In selecting nonresidential development sites, the applicant shall consider the objectives of the Town Master Plan and the need for transportation access, parking, accessory facilities, etc., which will be required to support future nonresidential uses. The Town Board, with the advice of the Planning Board, shall review the nonresidential development sites to determine if they provide feasible opportunities for nonresidential development.
- (b) **Local Retail/Service Commercial Uses.** The applicant shall be required to provide a minimum of 25 square feet of retail or service commercial space for each density unit generated in the PID. The Town Board may waive the requirement for local retail or service commercial uses if it finds that said local retail or service commercial uses are unnecessary to service the development, and alternative locations, e.g., the existing Tuxedo hamlet, in the Town may more appropriately meet these needs.
- (c) **Alternative Uses to Achieve Fiscal Balance.** Once the applicant has illustrated feasible locations to accommodate the minimum amount of office, warehouse, light industrial or research and development uses and local retail/service commercial use as required in Sections (a) and (b) above, the applicant will conduct a fiscal impact study to demonstrate whether the PID is fiscally balanced. If the fiscal impact study demonstrates that the PID results in a net cost to the community, then the applicant shall be required to increase the amount of nonresidential development proposed in (a) or (b) above, or integrate alternative land uses in its design that will allow the PID to achieve fiscal balance. Said alternative use shall be considered integral to the PID application, and shall not require separate zoning actions to allow said use, provided the Town Board deems that the alternative use is acceptable and shall have no negative impact on the health, safety or welfare of the community.
- (d) **Reduction of Nonresidential Uses.** The Town Board may reduce the total square footage of office, warehouse, light industrial or research and development uses or retail/service commercial space by 25 percent or may allow alternative land uses in its place, provided the applicant demonstrates that the reduction or substitution will

result in a fiscally balanced PID. The Town Board may allow the PID to include "flexible land use" areas where the nonresidential use component may be substituted or reduced at a later stage of the development. For example, the Town Board may permit an applicant to designate an area for either nonresidential or residential uses, and the final decision on the development of that area will be determined at a later phase of the PID development, based on a review of the fiscal impact at that time. Flexible land use areas are only permitted in association with this 25 percent reduction or substitution of nonresidential uses contained in this section (d).

- G. Planned integrated development application procedure and approval process. The PID application procedure and approval process shall consist of the following steps:
- (1) Pre Submission conference;
 - (2) Special use permit application with accompanying land development plan, requiring Planning Board review and Town Board review and approval;
 - (3) Individual site plan and/or subdivision plan submission requiring Planning Board review and approval.
- H. Pre Submission conference. At its option, the applicant may submit a preliminary or draft special use permit application with an accompanying land development plan as defined herein in order to solicit Planning Board and Town Board comment on the application's merit. The Town Board shall refer the draft application and plan to the Planning Board for its comment. The Planning Board shall submit written comments to the Town Board within sixty (60) days of receipt of the draft application. The Town Board, upon receipt of the Planning Board's comments shall have an additional thirty (30) days to review said comments and issue its own comments.
- I. Application for planned integrated development special use permit.
- (1) Contents of the Special Use Permit Application. The special use permit application shall consist of the following items:
 - (a) A land development plan which shall include all information identified in §85-27.B. of the subdivision regulations of the Town of Tuxedo. The land development plan shall be approximately to scale, though it need not be so precise as to consist of finished engineering drawings. In addition to the items listed in §85-27.B., it shall also include the following:
 - [1] The location of nonresidential uses.
 - [2] Delineation of the various residential uses, indicating for each such area its general extent, size and composition in terms of the total number of dwelling units, approximate percentage allocation by dwelling-unit types (for example, single-family detached, duplex,

townhouses, condominiums, garden apartments, or high-rise apartments), plus a calculation of the residential density in dwelling units per gross acre.

[3] Delineation of the open space system to remain undisturbed.

- (b) A general statement as to how common open space is to be owned and maintained.
- (c) A proposed time schedule for development and, if staged, a general indication of how staging is to proceed.
- (d) Traffic impact study, identifying the potential impact of traffic generated by the proposed development on the regional roadway network.
- (e) Community services study, identifying the capacity of community services and facilities, the anticipated demand placed on such services and the potential expansion or introduction of services which may be required to service the development.
- (f) Fiscal impact study, identifying community facility, infrastructure and other associated costs required to service the development and its impact on the Town and applicable service districts. Said study shall analyze the fiscal impact at each stage of the development.
- (g) Demographic study, identifying the general and schoolchildren population likely to be generated by the planned integrated development. The applicant shall develop and utilize population and school children multipliers that utilize the most recent U.S. Bureau of Census data. The applicant shall also study and report on general and schoolchildren population multipliers and trends of comparable housing types within recently constructed residential developments within a 45 mile radius of the PID project site. In the event that there are no comparable developments within a 45-mile radius of the project site, the applicant shall submit demographic data on comparable developments within the New York City metropolitan region. The Town Board may require additional information in order to further substantiate the anticipated population impact from PID buildout in order to ensure that the proposed PID meets the goal established in Section 98-23. B (8) of these regulations. The Town Board shall be responsible for selecting the appropriate general and schoolchildren multipliers based on the data presented by the applicant and any additional data that the Town Board may utilize in its deliberations.
- (h) Drainage study, analyzing pre- and post-construction stormwater runoff conditions. The drainage study shall demonstrate a zero net rate of increase

for storm water runoff.

- (i) An explanation of the character of the planned integrated development. The applicant shall submit a table providing the calculations for determining residential and nonresidential development yield.
 - (j) Evidence that the proposal is compatible with the goals of the Master Plan.
 - (k) A market feasibility study and other possible study techniques demonstrating the short- and long-term demand for the principal proposed uses within the proposed site.
 - (l) The present ownership of all lands included within the planned integrated development.
- (2) Evidence to demonstrate the applicant's financial capacity to carry out the project and a description of previous experience with projects of a similar scale and magnitude.
- (3) Specific design standards of the special use permit. Unless waived by the Town Board, the application shall demonstrate compliance with the following additional design standards:
- (a) Lot area and yard requirements. The minimum lot size for single family detached units shall be 10,000 square feet. For other housing types, the applicant shall submit prototypical layouts and design standards for minimum lot size, frontage, yard requirements and other bulk standards at the time of special use permit application.
 - (b) Natural Features. Existing natural features, such as streams, rock outcrops, topsoil, trees and shrubs shall be preserved and incorporated in the landscaping of the development to the maximum extent practicable.
 - (c) Height limitations. The maximum height limitation shall be three-and-one-half (3.5) stories for residential uses, and four (4) stories for nonresidential and mixed uses.
 - (d) Street Design. The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to existing and planned streets, topography, and public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by said streets; whether private or public, said streets shall conform to all other street and road specifications of the town.

- (e) **Access.** All uses shall have access to a public or private street except residences which need no front on a street but must have access thereto via a court, walkway or other area dedicated to public use or owned and maintained by a permanent resident nonprofit civic association or corporation.
- (f) **Building area.** The location and arrangement of all structures shall be in harmony with the purposes of this special use. The location and arrangement of structures shall not be detrimental to existing or prospective adjacent development or to the existing or prospective development of the town. At a minimum, principal buildings shall be set back a minimum of twenty-five feet (25) from any Town public or private road functioning or classified as a rural, suburban or collector street, a minimum of fifty (50) feet from any Town public or private road functioning or classified as a major or arterial street and a minimum of one hundred (100) feet from any county or state road.
- (g) **Boundary setbacks, buffer areas and transitional uses.** Along the boundaries of a planned integrated development, provision shall be made for a combination of uses and buffer areas which constitute a transitional separation between surrounding existing and prospective uses and the proposed development. If the existing use adjoining a planned integrated development is industrial, the screening required in this chapter shall be provided at the perimeter of the district where the proposed planned integrated development is to be constructed, to screen such residential development from glare, uses or other influences having a potentially adverse impact on the planned integrated development. Within a planned integrated development, compatibly designed and transitional buffer areas and screening between uses and structures shall be provided. The PID application shall also be reviewed with regard to its potential effect on adjoining parkland and the activities that occur therein. Where necessary, the Town Board may also require that proposed PID uses be set back sufficiently from the property boundary to protect said parkland.
- (h) **Off-street parking and loading requirements.** The minimum off-street parking and loading requirements for any uses or structures in a planned integrated development shall be at least equal to the minimal requirements stipulated for such uses or structures in this chapter.
- (i) **Special considerations.** Multiple residence and attached dwelling structures shall conform to the design requirements of §98-22H(7)

unless waived by the Town Board.

- (j) Common property in the planned integrated development. Common property in the PID is a parcel or parcels of lands, a privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. Satisfactory arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreation areas. Common property shall adhere to the regulations contained in 98-24 of this zoning chapter.
 - (k) Underground Utilities. To improve the quality of the environment and to reduce inconvenience during bad weather, utilities, including electric and cable, shall be installed underground.
 - (l) Utilities and Drainage Facilities. Utilities and drainage facilities shall be designed in accordance with industry standards and best management practices and planned, installed and operated in a manner acceptable to the Town Board.
 - (m) Additional site development standards. In addition to the standards set forth in this section, the applicant shall also comply with the appropriate design, site development plan and performance standards of this chapter and the Subdivision Regulations. However, where a conflict exists between the development standards contained in this section (i.e., §98.23 et seq.) and any of the above, this section shall govern.
- J. SEQR. A special use permit application for a planned integrated development shall be deemed to constitute a Type I action, which may require the submission of a draft environmental impact statement. The special use permit application shall not be deemed complete until the Town Board has either adopted a negative declaration under SEQR or has accepted a DEIS as complete.
- K. Public hearing. The Town Board shall hold a public hearing within sixty-two (62) days from the day the special use permit application is deemed complete. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five (5) days prior to the date of the hearing.
- L. County Planning Review. At least ten (10) days before the public hearing, the Town Board shall mail notices thereof to the applicant and to the Orange County Planning Department as required by §239-m of the general municipal law, which notice shall be accompanied by a full statement describing the special use permit application.
- M. Decision making. The Town Board shall render its decision on the special use permit within

sixty-two (62) days after the close of the public hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

The decision of the Town Board shall be filed in the Office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

- N. **Conditions.** The Town Board, at its discretion, may attach any reasonable conditions on an approved PID special use permit as necessary to assure conformance of the PID with the intent and objectives of these regulations.
- O. **Planning Board approval of site specific site and/or subdivision plans.** An application for site plan and/or subdivision approval made in accordance with this zoning chapter and/or the subdivision regulations of the Town shall be submitted to the Planning Board within six (6) months of special permit approval. The special use permit shall expire if a site plan and/or subdivision plan is not submitted within one (1) year of special use permit approval. Special use permit approval shall expire if construction has not commenced within three (3) years after the date of the special use permit approval.
- P. **Community appearance and architectural review.** The PID shall become subject to community appearance and architectural review upon application for site plan and/or subdivision approval; and the entire plan, showing such detail as shall enable an Architectural Review Committee, or in its absence, the Planning Board, to review said plan shall be submitted simultaneously with the site and/or subdivision plan application.
- Q. **Requests for changes to the land development plan.** If in the course of detailed site development and/or subdivision review it becomes apparent that certain elements which have been approved by the Town Board are not feasible, the Planning Board shall refer said changes to the Town Board for its review. The Town Board shall determine whether said improvements are minor and are generally consistent with the approved special use permit, or whether said improvements are major and require reapproval of the special use permit. Said determination shall be made by resolution of the Town Board within sixty (60) days after referral by the Planning Board.
- R. **Staging.** Site and/or subdivision plans shall be submitted for each stage of the planned integrated development in accordance with the staging plan approved as part of the special use permit. Any application for site plan and/or subdivision plan approval that does not adhere to the approved staging plan shall require reapproval of the special use permit by the Town Board, including the refiling and approval of an amended staging plan. The Town Board, in its deliberations, shall consider how the revised staging plan effects the previously considered fiscal impact and the provision of utilities or community facility improvements.
- S. **Financial responsibility.** No building permit shall be issued for construction of a planned integrated development until the required improvements are installed or performance bonds or other financial guarantees and/or sureties as required by the Town Board are posted in a form acceptable to the Town Attorney in accordance with the procedures specified in §274-a of Town Law for site plans and §277 of Town Law relating to subdivisions.

Section 2 The pending application for a Planned Integrated Development known as "Tuxedo Reserve" shall be exempt from the Planned Integrated Development regulations in this Local Law and shall continue to be reviewed in accordance with the Planned Integrated Development regulations in effect immediately prior to the adoption of this Local Law. Notwithstanding this provision or anything to the contrary in the Planned Integrated Development regulations in effect immediately prior to the adoption of this Local Law, the Tuxedo Reserve Planned Integrated Development shall be subject to the following specific development standards and limits:

1. No more than 1,195 residential dwelling units may be constructed on the Tuxedo Reserve Planned Integrated Development of which no more than 180 units shall be rental and no less than 866 units shall be single family detached and semi detached. An additional 180 dwelling units may be constructed provided those units are constructed for senior citizens and persons in need of congregate care or assisted living.

2. Under no circumstance shall the housing mix in the Tuxedo Reserve Planned Integrated Development be less than the minimum required under §98-23 F. (7) of this Local Law.

3. Nothing contained herein shall be construed as any approval of the pending application of Tuxedo Reserve. Said application is subject to all applicable environmental and land use processes and approvals.

Section 3 This law shall take effect immediately.