

**AMENDED
FINDINGS STATEMENT**

State Environmental Quality Review Act

Pursuant to Article 8 of the New York Environmental Conservation Law - the State Environmental Quality Review Act (SEQRA), and its implementing regulations at 6 N.Y.C.R.R. Part 617, the Town of Tuxedo Town Board, as Lead Agency, makes the following amended findings:

Name of Action: Tuxedo Farms Planned Integrated Development (formerly known as “Tuxedo Reserve”)

Description of Action: Special Permit approval and Preliminary Plan approval for a Planned Integrated Development consisting of 1,195 housing units and 266,000 square feet of associated non-residential use on 2,376 acres.

Location: The Project is to be located primarily within the Town of Tuxedo, Orange County, New York, with approximately 40 acres in the Village of Sloatsburg, Rockland County, New York. Major roads generally bordering the site are Warwick Brook Road on the north, County Route 84 on the west, County Route 72 and Eagle Valley Road on the south, and State Route 17 on the east.

Lead Agency: Town of Tuxedo Town Board
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SEQRA Classification: Type I

Date Final EIS Filed: November 20, 2003

Date Final SEIS Filed: November 8, 2010

Date Findings Adopted: November 15, 2004 (EIS)
November 22, 2010 (SEIS)

I. Background:

The Town of Tuxedo Town Board (“Town Board”) is SEQRA lead agency in connection with the Planned Integrated Development known as Tuxedo Farms (“Project”). On November 15, 2004, the Town Board issued a SEQRA Findings Statement based upon its review and consideration of an Environmental Impact Statement prepared to assess the environmental impacts of the Project. Thereafter, on November 15, 2004 the Town Board approved a Special Permit and Preliminary Plan for the Project.

On November 22, 2010 the Town Board issued further SEQRA Findings in connection with proposed modifications to the Project. On that same date, the Town Board issued Amended and Restated Special Permit and Preliminary Plan approvals for the Project.

A copy of both the 2004 Findings Statement and 2010 Findings Statement are attached hereto and incorporated herein by reference.

Amendment of the SEQRA Findings is now necessary due to proposed amendments to the 2004 Amended and Restated Special permit and Preliminary Plan Approvals. Specifically, the purpose of these Amended Findings is to describe the required modifications and determine whether they present the potential for a significant adverse environmental impact not otherwise addressed in the prior environmental reviews.

II. Proposed Amendments:

The proposed amendments to the Amended and Restated 2010 Special Permit and the 2010 Preliminary Plan are as follows:

A. Special Permit:

- a) Permit the sewage treatment Plant to be constructed in Phases as required by NYSDEC and the Memorandum of Understanding agreed to by the Applicant and the Town.
- b) Permit another form of security acceptable to the Town to secure the completion of on and off site improvements rather than mandating a single form of security (i.e. letter of credit).
- c) Permit the maintenance facility to be constructed by the Applicant to be placed at a location approved by the Planning Board in consultation with the Town Highway Superintendent.
- d) Permit the Town to be an eligible recipient of the Northern Tract land gift under the same terms and conditions set forth in the 2010 Special permit for such gift.
- e) Insert language into the Special permit that provides additional guidance to the Planning Board with respect to the review of site specific development applications and any proposed change or waiver from various Project plans and design documents that may or may not require further amendment of the Special Permit and/or Preliminary Plan.
- f) Amend 2010 Special Permit to reflect replacement of the letter of intent in the 2010 Special Permit with Tuxedo Union Free School District with the actual agreement between the Applicant and School District

B. Preliminary Plan:

- a) Amend the Regulating Plan to be consistent with the 2010 Special Permit's flexibility provisions.
- b) Swap location of cottage and apartment neighborhoods between Northridge and Upland Park.
- c) Add a one acre parcel (two tax lots) into the Project.
- d) Relocate the Greeting Center from the North Entrance to the Commons.
- e) Permit a potential relocation of a sewer main outside the existing road alignment of Quail Road.
- f) Inclusion of all three project tracts in the Preliminary Plan.
- g) Update Preliminary Plan with current NYSDEC standards relating to the construction of storm water infrastructure.

III. Findings Related to Proposed Amendments:

The Town Board hereby finds, based on the record before it, that none of the proposed amendments will result in an increase in the maximum number of units permitted; an increase in the density permitted; an increase in site disturbance or, a retraction of any previously identified mitigation measure whether such measure is related to natural environmental resources or socio-economic commitments. The proposed amendments will not result in any increase in population beyond that already projected for the Project. Nor will they alter the already approved traffic circulation plans or increase the number of trips to and from the Project.

The Town Board hereby finds with respect to the specifically identified amendments as follows:

A. Special Permit:

- a) Permit the sewage treatment Plant to be constructed in Phases as required by NYSDEC and the Memorandum of Understanding agreed to by the Applicant and the Town.

This amendment is necessitated by NYSDEC's requirement that it will not approve plant size beyond the flows projected by development phase. It does not mean that a sewage treatment plant capable of discharging 500,000 gallons per

day cannot or will not be approved for construction as development demand dictates. Nor does it mean that the discharge point is not capable of receiving up to 500,000 gallons per day of sewage flow as has been determined in previous environmental reviews. In no circumstance can a certificate of occupancy be issued for any construction requiring sewer service unless there is adequate existing capacity to accommodate the sewage flow.

The Memorandum of Understanding for Construction & Operation of a New Wastewater Collection System and Sewage Treatment System is an implementation document that is consistent with the Special Permit. It also presents a viable financing mechanism for construction of the sewage treatment plant through the Local Development Corporation which through the required Sewer Transportation Corporation and Sewer District will recover all costs associated with construction from the Developer and Project.

This amendment is primarily administrative in nature and, the addition of the Memorandum of Understanding provides a more protective framework for construction of the new sewage treatment plant. Therefore, no significant impacts have been identified.

- b) Permit another form of security acceptable to the Town to secure the completion of on and off site improvements rather than mandating a single form of security (i.e. letter of credit).

This amendment is necessitated by the financial markets which make irrevocable Letters of Credit very costly and there may be other less costly forms of security that are equally protective. The amendment merely gives the Applicant the ability to identify an alternative form of security acceptable to the Town that the Town deems as protective as a Letter of Credit. The form of security must remain "evergreen".

Inasmuch as the Town remains in control of the form of security, no significant impact is identified.

- c) Permit the maintenance facility to be constructed by the Applicant to be placed at a location approved by the Planning Board in consultation with the Town Highway Superintendent.

Construction of the maintenance facility is an obligation required by the 2010 Special Permit. The Planning Board has

requested it be able to participate with the Highway Superintendent in determining the facilities ultimate location. The Special Permit is proposed to be revised to accommodate that request. Ultimate siting will be in an area already proposed for disturbance and development and will be buffered from residential use. Consequently, no significant impact is identified.

- d) Permit the Town to be an eligible recipient of the Northern Tract land gift under the same terms and conditions set forth in the 2010 Special permit for such gift.

This amendment merely allows the Town to be an eligible recipient of the Northern Tract land gift. It does not alter the requirement for such gift to be subject to a conservation easement nor development restrictions imposed on such gift. Therefore, the impact of the Town becoming an eligible recipient of the gift is not significant.

- e) Insert language into the Special permit that provides additional guidance to the Planning Board with respect to the review of site specific development applications and any proposed change or waiver from various Project plans and design documents that may or may not require further amendment of the Special Permit and/or Preliminary Plan.

This amendment is solely administrative and is designed to clarify for the Planning Board those cases in which a proposed future plan or program amendment or waiver would require referral back to the Town Board for amendment of the Special Permit. It does not substantively alter what may or may not be waived or changed and therefore does not result in any significant impact.

- f) Amend 2010 Special Permit to reflect replacement of the letter of intent in the 2010 Special Permit with Tuxedo Union Free School District with the actual agreement between the Applicant and School District.

In the letter of intent between the School District and the Applicant attached as Exhibit K to the 2010 Special Permit it was disclosed that a final agreement would be forthcoming. That agreement has been reached and is memorialized in the letter between the Applicant and the School District dated June 2, 2014. The letter of intent will now be replaced with the June 2, 2014 letter Agreement. The letter Agreement

implements the terms of the letter of intent except that (a) the Applicant will provide a financial payment to the District in lieu of doing site work and (b) an additional +/- two acres as reflected on the 2015 Plan will be offered to the School District. The Town will also now be designated as a recipient of the offer of land to the School District if, and only if, the School District decided for whatever reason to decline the offer.

The changes embodied in the June, 2014 letter Agreement and the potential for the Town to be a recipient of those lands in the unlikely event the School District declines them, will not result in a significant environmental impact. Uses of all lands that will be offered remain subject to the 2010 Preliminary Plan no matter who owns them. There will be neither net loss of lands designated for open space nor any expansion of site disturbance.

B. Preliminary Plan:

- a) Amend the Regulating Plan to be consistent with the 2010 Special Permit's flexibility provisions.

This is an administrative item to ensure consistency between the Regulating Plan and flexibility provisions. It implements what has already been reviewed and approved and has no environmental impact.

- b) Swap location of cottage and apartment neighborhoods between Northridge and Upland Park.

This amendment to the Preliminary Plan is driven by market and design considerations. While unit types are being switched between locations there will be no increase in units and no additional or new site disturbance as a result of this switch. No adverse environmental impacts have been identified.

- c) Add a one acre parcel (two tax lots) into the Project.

The parcel added adjoins an area already approved for development. It will not permit additional units or density both of which are capped under the Special Permit. No adverse environmental impacts have been identified.

- d) Relocate the Greeting Center from the North Entrance to the Commons.

This amendment is driven by the desire to locate the Greeting Center within the developments hub of activity. The center will remain the same size as proposed. The relocation is to a site already designated for development and disturbance. The former site will remain open space. No adverse environmental impacts have been identified.

- e) Permit a potential relocation of an isolated section of sewer main outside the alignment of the project's roads.

As a result of site conditions, the sewer main intended to be within the road alignment of Quail Road, may require relocation outside that alignment. Such relocation would not result in additional site disturbance nor impact the sewer demand of the project in any way. No environmental impacts have been identified.

- f) Inclusion of all three project tracts in the Preliminary Plan.

This is an administrative item with no environmental impact.

- g) Update Preliminary Plan with current NYSDEC standards relating to the construction of storm water infrastructure.

The Special Permit requires compliance with all other agency permit requirements. Since the 2010 Special Permit approval, the NYSDEC has updated its standards with respect to the construction of storm water infrastructure. The Preliminary Plan must be modified to reflect that compliance. Compliance will not implicate areas not already proposed for storm water collection or treatment and will be more protective of the environment. No adverse environmental impact has been identified.

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IV. Effect on Previous Findings:

The Findings Statements issued by the Planning Board on November 15, 2004 and November 22, 2010 including all of their applicable findings, mitigation measures and conditions remain in full force and effect except as may be modified herein.

V. Certification of Amended Findings

Having considered the Draft and Final EIS, the Draft and Final SEIS and having considered the written facts and conclusions and specific findings contained herein as well as the prior findings incorporated by reference herein, all relied upon to meet the requirements in the of 6 N.Y.C.R.R. Part 617, this Amended Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met;
2. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement; and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

Dated: April 20, 2015

Town of Tuxedo Town Board
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By: Michael Rost, Town Supervisor