

MEMORANDUM OF UNDERSTANDING

Between
The New York State Office of Parks, Recreation
and Historic Preservation
and
The Related Companies, L.P.
Regarding
The Tuxedo Reserve Planned Integrated Development Project
(Phases 1, 2 & 3)

Whereas, The Related Companies ("Company") is undertaking the Tuxedo Reserve Planned Integrated Development Project (Phases 1, 2 & 3) ("Project") in the Town of Tuxedo, Orange County, and the Village of Sloatsburg, Rockland County; and

Whereas, in conjunction with the environmental review of the Project, pursuant to the New York State Environmental Quality Review Act ("SEQRA"), and in compliance with the State Historic Preservation Act of 1980 ("SHPA"), the Company has conducted cultural resources investigations, including, field reconnaissance and archaeological testing, for the Project by completing a phase 1 Archaeological Investigation Report for phase 1 of the Project and a stage 1A Literature Search for phases 2 and 3, as detailed in the Draft Supplemental Environmental Impact Statement and to be further described in the Final Supplemental Environmental Impact Statement ("FSEIS"); and

Whereas, the Company, as part of the SEQRA and NHPA review, has also completed a visual impact assessment for the Project and the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") has

reviewed such assessment and determined that the Project will not have a visual impact on the Tuxedo Park Historic District; and

Whereas, the Company is complying with SEQRA and wishes to include the comments of the OPRHP on cultural resource issues in the FSEIS; and

Whereas, the Company will need state and federal permits for the Project, requiring review by the OPRHP in accordance with the SHPA and the National Historic Preservation Act of 1966 ("NHPA"); and

Whereas, the Company and OPRHP have reached agreement on a process for ensuring that project impacts on cultural resources are adequately identified, evaluated, and mitigated; and

Whereas, the Company and OPRHP wish to memorialize this agreement so that it can be included in the SEQRA documentation, made available for public comment, and serve as the basis for compliance with the SHPA and the NHPA;

Now, Therefore, the Company and OPRHP agree to the following stipulations for the progression of this Project:

Archaeology.

1. In conjunction with the site plan review process for phase 1 of the Project, ~~additional phase 1B~~ archaeological survey of phase 1 of the Project shall be completed by the Company for the specific purpose of identifying lithic mining, quarrying, and workshop sites within the Project's potential impact area. This component of the phase 1B work shall include a qualified

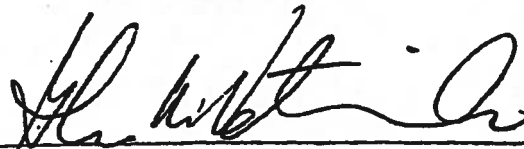
professional geologist with appropriately related experience on the project team.

2. In conjunction with the site plan review process for phases 2 and 3 of the Project, phase 1B archaeological surveys of the potential impact areas within these phases shall be completed. A phase 1B archaeological survey shall also be completed for the area around the Barnes House.
3. All archaeological investigations shall be conducted in accordance with New York State's *Standards for Cultural Resource investigations and the Curation of Archaeological Collections in New York State* (NYAC 1994), and shall be submitted to OPRHP for review and comment.
4. ~~Where practicable~~, the Company shall design the project in a manner that will avoid impacts to identified archaeological sites. A site avoidance plan (including maps showing sites in relationship to project construction, plans for temporary site protection during construction, and plans for long-term site preservation) shall be submitted to OPRHP for review and comment.
5. In any instance where an identified archaeological site cannot be avoided, the Company shall conduct a phase ²~~1B~~ archaeological investigation of that ~~site~~ BK to evaluate site significance and eligibility, and submit the results to OPRHP for review and comment. If any such site is determined eligible for the National Register of Historic Place, the Company shall prepare a Data Retrieval Plan for phase III archaeological excavations, submit the Plan for OPRHP review and comment, and implement the fieldwork component of the Plan before commencing construction in the area of the site.

Coordination:

1. The OPRHP shall respond in writing to all project submissions within 30 days of receipt.
2. The Company shall share with OPRHP any public comment received that addresses cultural resource issues related to the Project. The Company and OPRHP agree to consult and satisfactorily address all cultural resource issues raised by the public, and will amend this memorandum accordingly, if necessary.
3. If there is disagreement by either party regarding the implementation of any of the stipulations above, the Company and OPRHP agree to consult to resolve the disagreement. If the disagreement cannot be resolved this memorandum shall be terminated and the project shall proceed in accordance with the applicable statutory requirements.
4. At the time that the Company applies to other state or federal agencies for permits or approvals, the OPRHP shall develop with those agencies an appropriate Letter of Resolution or Memorandum of Agreement, consistent with the stipulations of this memorandum.

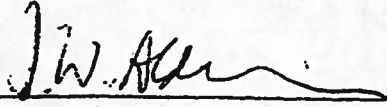
The Related Companies, L.P.



Glen M. Vetromile, Senior Vice President

March 30, 01
Date

The Office of Parks, Recreation and Historic Preservation



J. Winthrop Aldrich, Deputy Commissioner
for Historic Preservation

19 March '01

Date

4540/memorandum



New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

516-237-8643

February 26, 2007

Cece Saunders
Historical Perspectives, Inc.
PO Box 3037
Westport, CT 06880

Dear Ms. Saunders,

Re: SEQRA
Tuxedo Reserve Quarry
Data Recovery Investigation Repo
Tuxedo/Sloatsburg, Orange/Rockland Cos, NY
06PRO5280, formerly 00PRO4426 & 95PRO960

Thank you for requesting the comments of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) with regard to the potential for this project to affect significant historical/cultural resources. OPRHP has received and reviewed the Data Recovery Report you prepared for this project. This report fulfills the conditions of the Data Recovery Plan agreed to for this project.

Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely

Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology



David A. Paterson
Governor

Carol Ash
Commissioner

New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
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April 27, 2009

Cece Saunders
Historical Perspectives, Inc.
PO Box 3037
Westport, CT 06880

Dear Ms. Saunders

Re: OPRHP
Tuxedo Reserve Project, Phases 2/3 Phase 1 changes
Archaeological Review
Tuxedo, Orange County, NY
09PRO2019

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO) with regard to the potential for this project to affect significant historical/cultural resources. SHPO has reviewed the two documents you recently submitted for this project – "Phase 1B Cultural Resource Survey Addendum: Tuxedo Reserve Development Property: Development of Phase 1, Town of Tuxedo, Orange County, and Village of Sloatsburg, Town of Ramapo Rockland County, New York" and "Phase 1B Cultural Resource Survey, Tuxedo Reserve Development Property, Development of Phase 2 and 3, Town of Tuxedo, Orange County, and Village of Sloatsburg, Town of Ramapo Rockland County, New York".

Based on these reviews we offer the following comments.

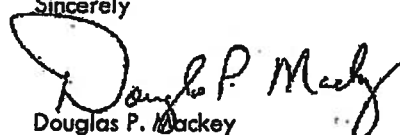
1. With regard to the addendum Phase 1B work, while we can concur with your general findings, we are concerned that several apparently sensitive areas do not show as having been tested on the project maps, nor do those maps indicate why testing was not completed. Specifically portions of areas AC (Figure 6 several areas above the 630 foot contour); and Area AG (Figure 10 within/adjacent to outlined in bold areas). Please address these areas and provide our office with additional information.
2. With regard to the Development Phase 2 and 3 areas – We recognize the discovery of three new archaeological sites within or adjacent to the areas of impact. These Sites have been assigned the following designations:

<u>Site Name</u>	<u>Unique Site Number</u>
Tuxedo Reserve Stone Quarry	A07116.000435
Tuxedo Reserve South Gate House	A07116.000436
Tuxedo Reserve Iron Mining Pits	A07116.000437
As well as previously identified: Smith –Jefferson Homestead	A07116.000321

3. We concur with your recommendations that each of the sites should be avoided or subjected to Phase-2 testing.

Please have your client submit for our review an avoidance plan for each location that illustrates how each site and a sufficient buffer area will be avoided and protected, both during construction and longer term. Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely


Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology



**New York State Office of Parks,
Recreation and Historic Preservation**

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David A. Paterson
Governor

Carol Ash
Commissioner

August 24, 2009

Cece Saunders
Historical Perspectives, Inc.
PO Box 3037
Westport, CT 06880

Dear Ms. Saunders:

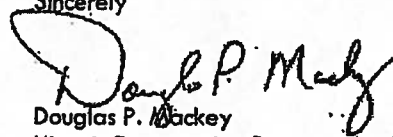
Re: OPRHP
Tuxedo Reserve Project, Phases 2/3 Phase 1 changes
Archaeological Review
Tuxedo, Orange County, NY
09PRO2019

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO) with regard to the potential for this project to affect significant historical/cultural resources. SHPO has reviewed your July 1, 2009 response to our comments of "4/27/09". This submission addresses our previously identified concerns regarding the adequacy of testing in Areas AC and AG. As identified in your submission, maps in the original report did not accurately reflect the extent of the Area of Potential Effect or the extent or previous survey within these two areas. Thank you for clarifying these concerns. The maps provided in this submission will be used to replace those currently in the report.

With this clarification, SHPO has no further concerns regarding our previous comments for these two areas. We continue to look forward to reviewing any avoidance plans that may be developed to protect historic resources identified in your report.

Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely


Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology



New York State Office of Parks, Recreation and Historic Preservation

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David A. Paterson
Governor

Carol Ash
Commissioner

July 26, 2010

Nils Gerling
Town Planning Board
One Temple Drive
Tuxedo, NY 10987

Dear Mr. Gerling

Re: OPRHP -- SEIS review
Tuxedo Reserve Project, Phases 2/3
Tuxedo, Orange County, NY
09PR02019

The State Historic Preservation Office (SHPO) has recently received three letters related to the archaeological investigations and Supplemental Environmental Impact Statement (SEIS) associated with the proposed Tuxedo Reserve project. It does not appear that we received a copy of, or notice of publication for, the SEIS, however the letters from concerned local citizens alerted us to its publication. These letters are from Stephen Gross, a concerned local citizen; Ed Lenik, a professional archaeologist that has previously worked on this project, and Carol Griggs, the dendrochronology specialist at Cornell University who has submitted work for this project. In these letters each author raises issues about the SEIS that they believe are inaccurate or in error and each has some valid concerns. In this letter I will address a number of points which we believe need to be addressed from the letters and the SEIS itself.

A primary area of concern is the potential presence of rockshelters which may contain important cultural sites. The sites of concern were originally identified by Mr. Lenik and he continues to have some concerns. The SEIS seems to suggest that all concerns have been addressed by the work which Mr. Lenik had carried out, however his own letter serves to illustrate that concerns remain. Several issues about the rockshelters need to be considered. First, several are outside of the proposed building envelopes of the current project and therefore were not examined in subsequent archaeological reports. The SEIS indicates that our office expressed no concerns about those sites. While that is technically accurate, it is because they were not addressed in the reports submitted for our review, which is all that SHPO was commenting on. Mr. Gross points out that while these locations are outside of the proposed building envelope, they are still very close to proposed development and are likely to suffer from secondary or indirect impacts once access to the area is improved. He indicates that an Area of Potential Effect/Impact should include any to be affected by a project in any way. SHPO concurs with this assessment -- we have seen several cases where just this type of secondary impact has occurred and we have suggested that the potential be addressed at other locations. For example, the Merritt Park project in Dutchess County where an important rockshelter site has been identified and "avoided"

by direct impacts. However, as past experience had shown, such areas are attractive places for young people to play in and utilize for other purposes, resulting in extensive damage. Therefore we recommend that consideration be given to this potential and the town concurred, ultimately leading to professional investigation of the site to mitigate adverse impacts caused by the nearby housing.

A second issue regarding the possible rockshelters is the SEIS claim that "Disturbed rockshelters would never qualify for further levels of recognition" (page 3.4-2 - Response 4.11). This statement is not correct. While it is true that heavily disturbed sites are unlikely to be considered National Register Eligible, there are many sites that have some degree of disturbance which may still qualify. The only way to determine if a site would qualify is to have sufficient investigation carried out to document the level of disturbance and assess the research potential that deeper levels of the site may hold.

There is a concern expressed in the SEIS that the full length of the Continental Road should be examined for items associated with its use. While it is possible that individual travelling along the road dropped occasional items, SHPO would not concur with a call to test the entirety of the road for such items. Our concern would be more with the road itself, documenting its location and construction methods in any areas where it may be impacted. It seems from the SEIS that changes in the proposed development may result in damage to portions of the road not previously considered, and we would suggest that details of that work be provided so that potential impacts can be assessed.

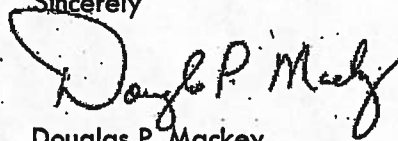
There remains concern about the origin and nature of a section of corduroy road that is not associated with the Continental Road. The applicant responded to previous concerns we had expressed by having this specific area examined by their archaeologist, who visited the site with Mr. Gross to insure that they were inspecting the area of his concerns. Several methods of investigation were utilized, including excavation, visual inspection of the road and its construction techniques and an attempt to use dendrochronology (tree ring dating) to identify the construction date. In the initial study, Dr. Griggs, seems to suggest that at least parts of this road system date to the 20th -21st Century. However, as here recent letter expresses, upon further reflection and consideration, she is less secure in that assessment than she was initially. Her current position is that the road may well date to before 1950, or even back to the 19th century. After reviewing each of the lines of investigation discussed in the SEIS it is the opinion of the SHPO that the following limited conclusions can be made regarding this road segment -

1. It is not part of the Continental Road system. The construction techniques employed and log diameters suggest that this section of road was built at a later date.
2. The segment may be associated with early carriage trails or with later access to interior portions of the property. In either case, the archaeological information to be gathered from further examination of the road seems to be minimal. While the presence of the road should be documented on project plans, it is unlikely that additional archaeological investigation of road would be productive. Had the road been part of the Continental Road system, its uniqueness would have been an argument for preservation of the segment, however, 19th and 20 century carriage trails are found in much greater abundance, and while recognition that the road existed in this area would be helpful in understanding the flow of "traffic" in the park, the road itself does not have the same importance as a Continental Road segment would have.

Finally, Mr. Gross points out that previous correspondence from our office indicates that we have yet to receive and review details on how identified sites will be avoided. While this is true, the SEIS does acknowledge this and indicates that the applicant will continue to consult with SHPO (OPRHP) on possible impacts to those sites as more detailed plans are developed. SHPO recommends that the town be well aware of this need and include compliance with that need to continue consultation as part of any approval it may give for the project.

I hope that you find these comments helpful during your review of this project. Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely



Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology

Cc: Cece Saunders, HPI (e-mail)
Julian Adams, NYSOPRHP (e-mail)
Erik Kulleseid, NYSOPRHP (e-mail)
Carol Ash, Commissioner, NYSOPRHP (e-mail)
Stephen Gross (e-mail)
Carol Griggs (e-mail)

HISTORICAL PERSPECTIVES INC.



Memorandum:

July 27, 2009/10

Response to OPRHP - - SIES Review July 26, 2010
Tuxedo Reserve Project, Phases 2/3
Tuxedo, Orange County, NY
09PRO2019

INTRODUCTION:

In a letter from the New York State Office of Parks, Recreation and Historic Preservation/State Historic Preservation Office (SHPO), archaeologist Douglas Mackey addressed concerns for three archaeological resource types in the Tuxedo Reserve Phase 2/3 study areas. These include 1) the potential for rockshelter sites near, but not in, the area of proposed impact; 2) an assessment of a portion of the Continental Road in the area of proposed impact; and 3) the potential for a portion of a corduroy road related to the Continental Road to exist in the area of proposed impact. In addition, Mr. Mackey's letter indicated that SHPO has not yet received details on how identified sites will be avoided and indicated that SHPO did not receive a copy or notice of publication for the DSEIS. Each of the foregoing items is addressed below.

1) ROCKSHELTERS

SHPO's comments: *A primary area of concern is the potential presence of rockshelters which may contain important cultural sites.* References undated letter authored by archaeologist Ed Lenik.

Lenik's comments: *Although the three additional rockshelters (two near Bog Meadow and one near Mountain Lake) I noted in my earlier comment (4-13) are outside the current APE and may have been disturbed, I feel that they should be tested and evaluated. As noted above, I find potential in disturbed shelters... Therefore, I request that the Town of Tuxedo require testing of these three additional untested rockshelters and appropriate mitigation if any of them are found to have research potential.*

Response:

As per Ed Lenik's letter responding to sections 4-1 and 4-13, there are three referenced rock shelter sites in the Phase 2/3 tracts that have been looted; each has experienced a degree of prior disturbance, however it is possible that each may maintain potentially important archaeological deposits. There are two courses of action that can be pursued to address each of these sites:

- 1) Undertake archaeological testing and possible data recovery if warranted; or,
- 2) Establish proactive measures to protect each potentially important site from further looting and/or disturbance from development.

Archaeological testing is in itself a destructive process. The testing and excavation of the rockshelters would essentially cause permanent disturbance to and removal of each of the rockshelter sites.

As site disturbance is not imminent, site avoidance and protection is an appropriate alternative to maintain whatever is left of each site, *in situ*, leaving them intact for future archaeological investigation. A strategy for the successful preservation of an archaeological site *in situ*, should be accompanied by a long-term preservation management plan that sets in motion specific activities, such as maintenance and monitoring. Such measures could include signage warning of danger or some other critical reason for site avoidance. The site locations could also be fenced off to keep out intruders. Legal mechanisms can also be employed to place land-use restrictions on the rockshelter sites so that future development is not an option. Working with the Town of Tuxedo, Tuxedo Reserve would be willing to negotiate mechanisms for ensuring that the three rockshelter sites are kept undisturbed in perpetuity.

2) CONTINENTAL ROAD

SHPO's comments: There is a concern expressed in the SEIS that the full length of the Continental Road should be examined for items associated with its use....Our concern would be more with the road itself, documenting its location and construction methods in any areas where it may be impacted.

Response:

The analysis for the Continental Road and potential impacts will be coordinated during subdivision review when development plans, utility routes, and grading plans are more finalized. At that point in time, an assessment of impacts to the road will be provided and mitigation plans, if warranted, will be proposed.

3) POTENTIAL CORDUROY SECTION OF CONTINENTAL ROAD

SHPO's comments: There remains concern about the origin and nature of a section of corduroy road that is not associated with the Continental Road. After reviewing each of the lines of investigation...it is the opinion of the SHPO that the following limited conclusions can be made... It is not part of the Continental Road system....The segment may be associated with early carriage trails.

Response:

The presence of the road is currently documented on all plans as an existing woods trail, consistent with other woods trails which existed on the site prior to Tuxedo Reserve's ownership.

4) PLANS FOR SITE AVOIDANCE

SHPO's comments: ...previous correspondence from our office indicates that we have yet to receive and review details on how identified sites will be avoided.

Response:

Related Companies will continue to consult with SHPO on possible impacts to those sites as more detailed plans are developed. Procedures for site avoidance, if possible, will be developed and submitted to SHPO. If avoidance is not possible, then further archaeological study may be required, as per NYSOPRHP standards

5) RECEIPT OF DSEIS

SHPO's comments: ...It does not appear that we received a copy of, or notice of publication for, the SEIS.

Response:

Per the requirements of SEQRA, SHPO was sent a copy of the notice of completion and a CD of the document on September 21, 2009. The document was sent via FedEx and signed for by B. Nolan.