

Notice of meeting having been posted, distributed by electronic mail, published on the Town website and provided to the *Times Herald-Record*, a Special Meeting of the Town Board of the Town of Tuxedo held on Monday, April 20, 2015 at the Tuxedo Town Hall, One Temple Drive, Tuxedo, New York, was called to order by Supervisor Michael D. Rost at 7:03 p.m.

Town Board Members Present:	Mr. Michael D. Rost	Supervisor
	Mr. Clifford Loncar	Councilmember
	Mr. David McMillen	Councilmember
	Mr. Gary Phelps	Councilmember

Town Board Members Absent: None

Other Town Officials Present: Larry Wolinsky, Esq., Town Counsel; Ms. Bonnie Franson, Town Planner; Mr. Patrick Welsh, Police Chief; Mr. Stefan Christian, Police Detective; Mr. David Maikisch, Building Inspector; Mr. Michael Reardon, Planning Board Chairman; and Mrs. Elaine M. Laurent, Town Clerk.

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

Supervisor Rost expressed his heartfelt sympathy to the two families who lost their homes to a tragic fire that occurred this past Saturday night. He stated that he is very impressed and humbled with the courage and resiliency that the families, particularly the children, are showing. He recognized the extraordinary efforts of the volunteer firefighters. Supervisor Rost then provided details of various ways people can donate to help the families who have been left homeless, noting the outpouring of support that has already been shown, and how fortunate and proud he is to be part of this community.

**PUBLIC HEARING CONTINUATION**

PUBLIC HEARING  
CONTINUATION

A public hearing continuation was held to receive comments regarding the Tuxedo Farms Amendment to Special Use Permit, separate Minutes for which have been prepared.

PUBLIC COMMENTS  
ON AGENDA ITEMS

**PUBLIC COMMENTS ON AGENDA ITEMS**

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

AGENDA ITEMS

**AGENDA ITEMS:**

**1. Resolution Approving Amendment to Special Use Permit and Preliminary Plan of "Tuxedo Farms," Formerly Known As "Tuxedo Reserve"**

Resolution  
Approving  
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and Preliminary  
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Referring to a Memorandum from the Planning Board dated April 14, 2015, a copy of which is attached to these Minutes, Mr. Wolinsky made the following explanatory statements. [Town Clerk note: transcript provided by Mr. Henry F. Haefner of The Related Co.]

*"Good evening. Since the meeting of last time, the application had been referred again to the Planning Board. The reason we recommended that that happen was to ensure that every single one of the permit amendments, both special permit and preliminary plan, had actually been looked at by the Planning Board and were on the record. We received a supplemental report from the town Planning Board dated April 4, 2015. It might be good just to start with that document and look at the items that are talked about, and then I can help answer anything that was raised here, as best as I understand it. Really there are one, two, three, four points. Bonnie was there, so she can elaborate or embellish as necessary.*

*"Point 1. 'Proposed revisions to waste water treatment capacity.' The Planning Board does not object to reducing the full capacity of the waste water treatment plant from five hundred thousand gallons per day per the proposed MOU and phasing the construction of the waste water treatment plant. The Planning Board does not object to the proposed based on capacity of three hundred and eleven thousand gallons per day.*

*"I just want to clarify. This is fine. I just want to clarify that the full capacity is not reduced in essence. This amendment is intended to allow it to be phased and it's still at full build, if there is to be a*

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*full build-out, it would be five hundred thousand gallons per day. It's being phased because the DEC will not issue construction permits but for the actual amount of development that's actually, so to speak, on the table at the moment. It won't approve a five hundred thousand gallon treatment plant on day one. The MOU addresses all that, it lays all that out. I just want to verify that.*

*"Point 2. 'Ownership of the Northern Tract.' I want to address that probably in more detail as we go forward, but with respect to the Planning Board report, the Planning Board does not object to the transfer so long as the conservation easement is placed on the entirety of the property to protect it from development, as was the original intent of the special permit and as the preservation of the Northern Tract as open space figure prominently in the SEQRA determination. The Town Board may wish to consider specific language in the conservation easement or by a separately-drafted, recorded declaration that all development rights of the Northern Tract have been extinguished or, alternately, transferred and used in the Southern Tract.*

*"Again, that recommendation pertains to moving forward with the ultimate disposition once a recipient of the Northern Tract has been identified. Let me just, while we're on the subject of the Northern Tract, let me just divert and try and elucidate and elaborate on that more. I'm not sure how exactly this got to become an economic issue in terms of taxes. Why I say that is because I've been involved in this project many years, and we dealt with the Northern Tract, and prior to the time it had been recommended that the Town be identified as a recipient, the language basically said "to a conservation organization acceptable to the Town." It might have also said PIPC as well.*

*"The fact of the matter is that most conservation organizations that I deal with and, in fact, all of them I believe, are all not-for-profits. We understood that at the time this was drafted, so we knew it was going to be a tax exempt entity with the possible exception of PIPC at the time, that this was coming off the tax rolls. Here we are in 2015 kind of making this big deal about it potentially coming off the tax rolls, whether to a conservation organization or to the Town if the Town would take it. I just want to point out that that was all covered, contemplated and addressed in the prior permit iterations.*

*"My recommendation is that it becomes relevant to the actual appointment of a recipient later down the road and whether you want a determination about that, but as far as the special permit comes, and the impacts that flow from these amendments, I don't see it as a relevant issue because it had already been addressed, that it could go to a not-for-profit.*

*"Point 3. 'Transfer of ownership of the forty-acre site to the Tuxedo Union Free School District.' There's a recommendation here that there be a reverter included in the deed. Meaning that if the school district, for whatever reason, decided not to use it, the property would revert back. I believe the intention is that the reverter will flow to the Town. I'm not sure; while reverters are generally permissible in deeds, because we're dealing with a municipal entity and the school district, I would have to clarify that that's a legal mechanism. But I think the intent of the comment and the comment itself, I think what everybody needs to realize is that it doesn't matter who owns that; that, as it stands right now, is a site that's approved for school-related use, whatever the details are of that.*

*"That is the plan. That is what the special permit requires. That is what everyone is bound to, no matter who owns it. So the ownership is less important to me than what the permit says and the plans show. Because everyone is bound by the plan, the permit is recorded against the property, there's language in the permit that people who, developers and whoever uses this, has to take subject to the requirement of the special permit. The only way that could change is if they came back to the Town of Tuxedo and required there be an amendment of that.*

*"So that's really your enforcement mechanism. We'll check into the reverter, but I don't really see it being completely necessary because the real protection is the permit than the plan. And the permit is of course, again, recorded against the property.*

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*"Point 4. 'Form of security for public improvements.' This has to do with the replacement of the language of the irrevocable letter of credit and replacing that with security. The Planning Board is saying we should consider the implications of replacing an irrevocable letter of credit with the word 'security' and recommends that we verify the applicant's representation with the bank.*

*"I happen to know that dealing with those situations, I'm not a bank, however, replacing the words 'irrevocable letter of credit' with the word 'security,' you have to read the whole paragraph. The whole paragraph there gives the Town the sole discretion on the form of security and still contains the language that security has to be evergreen. In other words, it cannot expire. So we don't run into a situation where the building goes longer than the term of the security and the security runs to, we have to worry about renewing it.*

*"There are all different forms of security that are possible. An insurance bond will probably not be acceptable to us. Putting money in a passbook that we can draw upon would probably, looking at two different extremes, would probably be acceptable, but they need to come up with a security that's acceptable, and there are ways to do that. Whether that is cheaper than a letter of credit or not will remain to be seen, but that's where we are. I'm comfortable that that language does adequately protect.*

*"Those were the comments. Moving on, this Board has been provided, through our offices, a number of draft documents which refer collectively as decision documents with respect to this application for amendment. Included in that packet was a part two and a part three of a full environment assessment form and an amended statement of the 2010 findings for SEQRA purposes, a negative declaration for SEQRA purposes, a new formatted special permit, which we would refer to from this point on if it were adopted as the 2015 special permit, and a resolution which essentially is a document that goes through the findings and the adoption or rejection of various items included in the SEQRA component. It includes the general municipal law component from the county, and it includes the findings required under the special permit, and it includes the amendments to the special permit and the preliminary plan themselves.*

*"Most of the Board members have had that to look at. I'm here to answer any questions about that, and the Board is free to discuss any of these documents tonight and take whatever action it deems appropriate."*

Supervisor Rost offered the following resolution and moved its adoption.

**WHEREAS**, on November 22, 2010, the Town of Tuxedo Town Board ("Town Board") issued the "Amended and Restated Resolution Granting Special Permit and Preliminary Plan Approval to Tuxedo Reserve" ("2010 Special Permit" and "2010 Preliminary Plan"); and

**WHEREAS**, commencing April, 2014 and continuing through to January, 2015, Tuxedo Reserve Owner LLC (the "Developer" or "Applicant")<sup>1</sup> engaged in discussions and meetings with both the Town Board and the Planning Board of the Town of Tuxedo ("Planning Board") regarding certain proposed amendments to the 2010 Special Permit and 2010 Preliminary Plan (hereinafter collectively referred to as the "Proposed Amendments"); and

**WHEREAS**, the specific Proposed Amendments identified in said discussions and meetings include:

(1) Amendment of Article XIII of the 2010 Special Permit to allow phased construction of the Sewage Treatment Plant per the requirements of New York State Department of Environmental Conservation

<sup>1</sup> Tuxedo Reserve Owner LLC is the successor to R.H. Tuxedo Development, L.P., who was issued the original Special Permit and Preliminary Plan approval in 2004. Tuxedo Reserve Owner LLC stands in the shoes of R.H. Tuxedo Development, L.P. and succeeds R. H. Development, L.P.

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("NYSDEC") and in accordance with the "Memorandum of Understanding for Construction & Operation of a New Wastewater Collection System and Sewage Treatment System" agreed to by the Applicant and the Town.

(2) Amendment of Article XXVII of the 2010 Special Permit relating to Bonding of Improvements to remove the requirement that an irrevocable letter of credit be the only acceptable form of security permitted to be posted to secure completion of all off-site and on-site public improvements and on-site common area improvements.

(3) Amendment of Article XVII of the 2010 Special Permit relating to, *inter-alia*, Town Facilities to 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.

(4) Amendment of Article XIII of the 2010 Special Permit to allow the Town to be an eligible receiver of the Northern Tract Land Gift.

(5) Amendment of Article V of the 2010 Special Permit to provide 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.

(6) Amendments to the 2010 Preliminary Plan including:

- a) Amendment to 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 project roads;
- 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; and

**WHEREAS**, on January 13, 2015, the Planning Board issued its favorable report to the Town Board pursuant to Section 98-23 E of the Town Zoning Law; and

**WHEREAS**, on March 20, 2015, the Orange County Department of Planning (the "County Planning Department") issued its report pursuant to §239-l and §239-m of the General Municipal Law; and

**WHEREAS**, the County Planning Department's report contains two binding comments which are:  
(1) inclusion of a walkway (i.e. pedestrian access) through the development connecting to the hamlet; and  
(2) ensuring modification of the Regulating Plan to include more of the site in Transect Zones T5-1 and T5-2 will not reduce the viability of the existing and future businesses in the Hamlet; and

**WHEREAS**, pursuant to 98-23K of the Town Zoning Law, public hearings were conducted on the Proposed Amendments on March 9, 2015, April 13, 2015 and April 20, 2015; and

**WHEREAS**, on April 14, 2015, the Planning Board supplemented its January 13, 2015 report; and

**WHEREAS**, a Full Environmental Assessment Form Part 1, Part 2 and Part 3 has been prepared addressing the potential environmental impacts of the Proposed Amendments; and

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WHEREAS, the Town Board has reviewed and considered the Full Environmental Assessment Form; the reports of the Planning Board; the report of the County Planning Department; comments made at the public hearings and the advice of its planning, engineering and legal consultants with respect to the Proposed Amendments.

NOW THEREFORE, BE IT RESOLVED as follows:

**1. SEORA:**

The Town Board has determined, for the reasons set forth in the Amended Statement of Findings and the Determination of Non-Significance attached hereto and incorporated herein by reference, and which are hereby adopted by this Resolution, that the Proposed Amendments, individually and cumulatively, will not result in an adverse impact to the environment.

The Town Board has further determined that, for the reasons set forth in the Amended Statement of Findings and the Determination of Non-Significance attached hereto and incorporated herein by reference, the Proposed Amendments, individually and cumulatively, do not result in adverse environmental impacts that either were not addressed or inadequately addressed in the prior environmental impact statement for Tuxedo Reserve (now known as Tuxedo Farms), and no Supplemental Environmental Impact Statement need be prepared.

**2. SECTIONS 98-23 and 98-39 of the TUXEDO ZONING LAW and LOCAL LAW #4A of 1998, as amended**

The Town Board hereby makes the following findings with respect to Sections 98-23 and 98-39 and Local law #4A of 1998, as amended<sup>2</sup>:

a) A variety of housing types and ownership capabilities have been provided.

The Project incorporates the following housing types: single family detached homes, semi-detached homes, townhouses and multi-family dwellings. The Project incorporates the following ownership types: fee simple and condominium. See also relevant housing type and ownership conditions set forth in Footnote 2.

b) Usable open space, recreational facilities and reservation for educational facilities have been provided.

As set forth in Article XIII, approximately 1,744 acres of the Project, constituting approximately 75.8 percent of the Project site, will remain as open space. The Project's Southern Tract consists of private and shared open space areas, such as neighborhood parks, and specific active recreational amenities in open space areas, such as the Project's integrated trail system. The Applicant has informed the Town Board that the Applicant is aware of the conservation values that much of the Northern Tract and the Fox Hill Tract possess. The Applicant has further informed the Town Board that it desires to preserve much of the Northern Tract and Fox Hill Tract, prevent future development, and cause the vast majority of these areas to remain as permanently-preserved open space areas. Accordingly, as set forth in Article XIII, the Applicant has offered and the Town Board has agreed that large portions of the Northern Tract and the Fox Hill Tract are to be gifted as follows: approximately 702 acres in the Northern Tract to be gifted, and restricted by a Conservation Easement, to a conservation organization acceptable to the Town, or to the or to the Town; and all of the Fox Hill Tract, except for a tract of land reserved for approximately three homes,

<sup>2</sup> Section 98-23 was amended in its entirety by Local Law #4A of 1998. Section 2 of Local Law #4A of 1998 exempted Tuxedo Reserve from review under its provisions and mandated review of the Project under the Planned Integrated Development regulations in effect

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is to be gifted to the Village of Tuxedo Park. In addition, as set forth in Article XIII, the Applicant has offered to gift to the Village of Tuxedo Park certain parcels of land in the Northern Tract and Southern Tract which will function as conservation buffers. To protect these parcels from future development, the Applicant has offered to and will impress all the lands to be donated with Conservation Easements, thereby assuring that the donated lands will remain permanent open space. The requirement for a Conservation Easement shall not be applicable to any lands gifted to the Palisades Interstate Park Commission ("PIPC"). To the extent that these lands are transferred to the Town for open space purposes, the gifting of such lands shall not reduce or eliminate the Applicant's obligation to pay recreation fees.

The Applicant has also offered and agreed to gift to the Town, prior to the issuance of the first certificate of occupancy, Lot 9-1-19, comprised of approximately 41.8 acres, and Lot 9-1-22.11, comprised of approximately 3.1 acres, which are lands located outside the Project along the Ramapo River and owned by the Applicant.

The Applicant has also agreed to restrict by Conservation Easement approximately 163.4 acres of the shared open space on the Southern Tract as depicted on the 2015 Preliminary Plan.

The Applicant has offered and agreed to donate to the Town, prior to the issuance of the first certificate of occupancy for a unit in Phase 2 of the Project, one acre of land in Phase 2 of the Project at the location designated on the 2015 Preliminary Plan.

The Project includes a parcel with the minimum size of 40 acres on the Southern Tract to be gifted to the Tuxedo Union Free School District for the construction of a public school and/or athletic fields. Land area in excess of 40 acres will be preserved as open space and restricted by a conservation easement.

The Project provides its residents with various active recreational opportunities that include but are not limited to: an integrated trail system programmed for biking, jogging and walking; a ten-acre central park with passive and active recreational programming; neighborhood pocket parks with playgrounds and courts; a community center with tennis courts, platform tennis courts, pool, and changing rooms; and a fitness center located in the Commons.

As provided in Article XVII, the Applicant shall pay recreation fees in accordance with the applicable requirements of the Town's zoning and subdivision regulations at the time that a building permit is issued for construction of a unit.

**c) Maximum preservation of outstanding topographical, geological and water resource features of the site has been assured.**

The Project has been designed to maximize the preservation of existing topographic, geologic and water resource features on the site. A maximum of approximately 14% of the Project site will be disturbed by development activity. All disturbance areas are subject to a comprehensive set of Performance Standards specifically addressed to stormwater management; grading, earthwork and steep slope protection; erosion and sediment control; tree surveys; water quality testing; and environmental compliance. Specific and strict blasting procedures have also been incorporated into the Performance

immediately prior to the adoption of the Local Law. Local Law #4A of 1999 was amended by the Town Board by adoption of Local Law #5 of 2010 concurrent with the approval of the 2010 Special Permit which authorized a revised unit mix for the Project. Section 2 of Local Law # 4A of 1999, is amended by Local Law #5 of 2010 to prescribe the following development standards and limits for Tuxedo Reserve:

"5. 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 764 units shall be single family detached and semidetached. 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."

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Standards. There shall not be any disturbance on the Project site of: (a) more than 1.75 acres of wetlands under the jurisdiction of the ACOE or the NYSDEC; and (b) more than 3.13 acres of buffer area adjacent to NYSDEC jurisdictional wetlands on the entire Project site. There will be a disturbance of a maximum of .03 acres of NYSDEC jurisdictional wetlands and .43 acres of buffer area adjacent to NYSDEC jurisdictional wetlands to accommodate a 12' emergency vehicle access.

d) The development is staged in a manner that provides for an orderly transition of land from to occupied use.

As provided in Article IV, the Project will be constructed in three overall phases over an approximately 12 year period. Phase 1 entails construction of 731 dwellings consisting of 341 single family detached and semi-detached homes, 78 townhomes, 312 multi-family units and 98,500 square feet of neighborhood non-residential uses; 197 of the Phase 1 residential homes and units will be for active adults. Phase 2 entails construction of 200 single family detached and semi-detached homes, 27 townhomes, and 3,000 square feet of neighborhood non-residential uses. Phase 3 entails construction of 223 single family detached dwelling units, 14 townhomes, and 1,500 square feet of neighborhood non-residential uses.

In order to assure that Tuxedo Farms is developed in accordance with the community character represented by the Developer and accepted by the Town Board, the Project shall be developed in accordance with the Smart Code, its associated Regulating Plan, and the other components of the Design Standards. The Smart Code establishes comprehensive planning standards for the various building and lot types allowed in each Transect Zone that comprises the Project, and the Regulating Plan delineates the physical location of each Transect Zone.

Regarding the LIO Parcel in the Northern Tract, the Applicant has the option to: (1) develop 196,100 square feet of office/light industrial/flex space thereon during any phase of the Project; (2) transfer the LIO Parcel to PIPC in exchange for other lands contiguous to Phase 3 of the Project, as described in greater detail in Article XXX; or (3) sell the LIO Parcel to the Town for one dollar as authorized in Article XXI.

The Project shall be constructed according to the Development Phasing Plan and Construction Phasing Plan per the provisions of Article IV.

e) All general design requirements and standards for planned integrated development have been met.

The 2015 Preliminary Plan demonstrates that the following development standards for the proposed planned integrated development have been met: The Project contains the required minimum area. The Project meets required ownership criteria. The Project will be served by a private water system and public sewage treatment system. The project meets the special permit criteria of §98-39 of the Zoning Law, as described herein. All uses proposed by the Project are permitted uses. Adequate ownership provisions have been identified for common owned property. The Project is subject to architectural review in accordance with Town of Tuxedo zoning law and the Architectural and Landscape Design Guidelines for the Project.

As established in the 2015 Preliminary Plan, this Special Permit, and the Design Standards, all required design standards for a Planned Integrated Development have been met, including, but not necessarily limited to, standards relating to lot area and yard requirements, height limitations, street design, access, building area, boundary setbacks, buffer areas and transitional uses, off-street parking and loading and multiple residence and attached-dwelling structure design and density requirements. Those PID design standards that have been permissibly modified by the 2015 Preliminary Plan, this Special Permit, and the Design Standards, provide for the harmonious location of structures and will ensure that such structures will not be detrimental to adjacent development.

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This Special Permit restates the approval by the Town Board of the layout and design of a sub-phase of Phase 1 of the Project known as North Ridge, as well as the approval of certain conditional waivers and modifications from the 2004 Special Permit for North Ridge (as enumerated in Paragraph 2 of Schedule B of the Planning Board's Conditional Preliminary Approval for North Ridge), all of which was set forth in the Town Board Resolution dated February 25, 2008 amending the 2004 Special Permit and 2004 Preliminary Plan. The conditional waivers and modifications for North Ridge, as enumerated in Paragraph 2 of Schedule B of the Planning Board's Conditional Preliminary Approval for North Ridge, are hereby reconfirmed, except to the extent that such waivers and modifications are now moot because such a waiver or modification is not needed under the Design Standards.

**f) Adequate mechanisms have been identified for the control and governance of common property.**

As provided in Article XXIV, common property will be owned by the Tuxedo Farms Homeowners Association ("TFHOA"). Creation of the TFHOA, as well as any individual condominium association formed for the Project, is subject to review and approval by the New York State Attorney General pursuant to the provisions of the Martin Act. The TFHOA is required to comply with this Special Permit.

**g) Appropriate Project specific design standards have been developed.**

This Special Permit, the 2015 Preliminary Plan, and the Design Standards, set forth the specific planning standards, architectural and landscape design guidelines, and performance standards for the various development areas within the Project. The Design Standards include the Smart Code and its associated Regulating Plan. The Smart Code is an integrated manual which includes, but is not limited to, regulations governing lot and bulk standards for the Project, regulations governing street arrangement and design, and off-street parking and loading requirements. The Design Standards include Architectural and Landscape Design Guidelines which include, but are not limited to, the various architectural styles and their associated design elements which are permitted in the Project. The Design Standards include Performance Standards which include, but are not limited to, detailed engineering and construction specifications for the Project. The Performance Standards address stormwater management; grading, earthwork and steep slope protection; blasting; road standards; sanitary sewers; water supply; erosion and sediment control; tree surveys; water quality testing; and environmental compliance.

**h) All proposed structures, equipment or material are readily accessible for fire and police protection.**

This Special Permit, the 2015 Preliminary Plan, and the Design Standards, demonstrate that all structures are generally located in a manner that is readily accessible to police and fire protection services. In addition, there are two emergency access points within the Project: South Gate Road and Mountain Road. The TFHOA is required to allow the police access to patrol the Project's private roads. The Planning Board will further review emergency access for police and fire in connection with its review of individual subdivision and site plan applications for the Project and will consult with the police department and fire district upon each subdivision and site plan application submission.

**i) The proposed use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.**

The Project complies in all respects with the applicable PID regulations and has evolved after extensive review over many years. The Project is located on a vast expanse of territory. Its building development is

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clustered and surrounded by large areas of protected open space. The substantial open space buffers that have been created protect adjacent properties and negate adverse impacts on their orderly development.

j) Pedestrian and vehicular circulation to and from the proposed development and the assembly of persons in connection therewith will not be hazardous or inconvenient to or in conflict with the normal traffic of the neighborhood.

A complete traffic study has been done for the Project and was updated in connection with the Application, as set forth in the 2009 Technical Memorandum. Traffic mitigation has been identified and made a condition of this Special Permit as attached in Appendix J. This mitigation includes an extensive Traffic Monitoring Program to monitor vehicle trips generated from the Project. In the event the Traffic Monitoring Program reveals deterioration in the levels of service and Project traffic generation beyond fixed thresholds, development will be stopped until mitigation is accelerated or new suitable mitigation is identified and put into place so that all significant traffic impacts are mitigated below significant impact thresholds.

k) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site is such that the proposed development will not hinder or discourage the appropriate development and use of adjacent land and buildings.

Building and site features will be regulated by this Special Permit, the 2015 Preliminary Plan, and the Design Standards. The Smart Code and its associated Regulating Plan establish a comprehensive set of integrated planning standards that collectively determine overall community character and assure that the location and height of buildings, walls, fences, and other structures are appropriate and compatible with adjacent land and buildings. The Architectural and Landscape Design Guidelines set forth additional design criteria to assure both continuity and creativity in the Project's design to further ensure no adverse impacts or impediments to the appropriate development of adjacent land and buildings.

l) The development standards and limits set forth in Local Law No. 4A of 1999, as amended, have been met.

The Project consists of 1,195 housing units of which a minimum of 764 units are single family detached and semi-detached. The Project's housing mix complies with the requirements of §98-23 F (7) set forth in Local Law #4A of 1999, as amended by Local Law # 5 of 2010.

**3. GML Compliance – COUNTY PLANNING BOARD REPORT:**

The two binding requirements contained in the County Planning Board's GML report have been met.

While the Regulating Plan has been modified and the T5-1 and T5-2 Transect Zones have been somewhat expanded, no additional commercial square footage is proposed or permitted, as the quantum of commercial square footage will continue to be capped by the 2015 Special Permit. The Project's impacts on the Hamlet were extensively addressed in the environmental impact statement done for the 2010 Special Permit. Nothing with respect to the Proposed Amendments alters the conclusions contained in that document. Moreover, nothing in connection with the Proposed Amendments alters the Hamlet Revitalization obligation set forth in Article XX of the 2015 Special Permit.

The walkway referenced in the County report can and will be connected to the remainder of the development so that there is pedestrian access from the development to the Hamlet.

**4. AMENDMENTS TO 2010 SPECIAL PERMIT:**

The Town Board hereby approves the following amendments to the 2010 Special Permit:

Resolution  
Approving  
Amendment to  
Special Use Permit  
and Preliminary  
Plan of "Tuxedo  
Farms," Formerly  
Known As "Tuxedo  
Reserve"  
(Continued)

**AGENDA ITEMS (Continued):**

**1. Resolution Approving Amendment to Special Use Permit and Preliminary Plan of "Tuxedo Farms," Formerly Known As "Tuxedo Reserve" (Continued)**

Resolution  
Approving  
Amendment to  
Special Use Permit  
and Preliminary  
Plan of "Tuxedo  
Farms," Formerly  
Known As "Tuxedo  
Reserve"  
(Continued)

a) Article V of the 2010 Special Permit entitled "DESIGN STANDARDS; SMART CODE WAIVER" is hereby amended by adding the following new paragraph:

*E. The 2015 Preliminary Plan, which incorporates the Regulating Plan, is included as Appendix C of this Special Permit. Appendix O contains the 2010 Layout Plan which shows illustratively the approximate locations intended for residential and nonresidential uses, streets, open space, and infrastructure. The Planning Board may refer to the 2010 Layout Plan during site-specific subdivision and site plan review for guidance as to the approximate locations of uses, streets, and infrastructure, but is bound by the Preliminary Plan in Appendix C. The Southern Tract Street Hierarchy Layout Plan in Appendix O, and the Landscape Regulating Plan contained in the Landscape Design Guidelines, are Layout Plans which may be varied and revised to comply with the Preliminary Plan in Appendix C.*

b) Article XIII of the 2010 Special Permit entitled "OPEN SPACE" is hereby amended by subparagraph B with the following:

*B. Northern Tract: Pursuant to the offer of the Applicant, open space areas on the Northern Tract shall be gifted or otherwise restricted by conservation easement as depicted on the Preliminary Plan as follows: approximately 702.28 +/- acres to be gifted, and restricted by conservation easement, to a conservation organization acceptable to the Town or to the Town; and 50.26 +/- to be gifted to the Village of Tuxedo Park as a Conservation Buffer. The terms of such gifts shall require that the open space gifted can never be developed for any purpose and that the donees agree to comply with and be bound by the terms and conditions of this Special Permit. All of these lands shall be encumbered by a Conservation Easement. Such Conservation Easement shall be granted to a land trust or other open space protection entity acceptable to the Town. The attorney for the Town shall be provided with copies of all documents of agreement and transfer for review and approval to ensure donor and donee's compliance with the applicable provisions of this Special Permit. The requirement for a Conservation Easement shall not be applicable to any lands gifted to the Palisades Interstate Park Commission.*

c) Article XV of the 2010 Special Permit entitled "TUXEDO UNION FREE SCHOOL DISTRICT" is hereby amended by replacing subparagraph A with the following:

*A. Prior to the issuance of the first building permit for the Project, the Applicant shall:*

*1. offer to donate the 42 +/- acres depicted on the 2015 Preliminary Plan as a future school site and/or site for athletic fields, playing fields, or other recreation facilities, to the TUFSD. In the event that the TUFSD ever declines or rejects the offer of the donation of the parcel, the Applicant shall then offer the parcel to the Town;*

*2. undertake, at its own expense, any environmental remediation of the parcel necessary for the intended use of the parcel; and*

*3. comply with the terms and conditions set forth in the letter agreement between the Applicant and TUFSD dated June 2, 2014, accepted July 1, 2014, attached hereto as Appendix K and made a part hereof.*

d) Article XVII entitled "RECREATION AND TOWN FACILITIES" is hereby amended by replacing subparagraph F with the following:

*F. Based on the Town's articulated need, the Applicant and the TFHOA shall lease to the Town, for one dollar per year for 30 years, 3,000 square feet of garage/storage space with two dual bays (for a total of four), to be built by the Applicant at such time and at such location as proposed by the Applicant and approved by the Planning Board in consultation with the Highway Superintendent. The garage shall be used by the Town for storage for equipment and materials needed to fulfill its*

**AGENDA ITEMS (Continued):**

**1. Resolution Approving Amendment to Special Use Permit and Preliminary Plan of "Tuxedo Farms," Formerly Known As "Tuxedo Reserve" (Continued)**

*maintenance responsibilities in Tuxedo Farms. The Town and the TFHOA shall maintain appropriate all risk insurance on the building and the equipment therein, naming each other as additional insureds.*

e) Article XIX entitled "SANITARY SEWER" is hereby amended by replacing subparagraph A with the following:

*A. Southern Tract: Prior to issuance of the first building permit, the Applicant shall either:*

*1. obtain approval from the NYSDEC of a new sewage treatment plant in the Tuxedo hamlet to replace, on the same site, the existing sewage treatment plant at the end of Contractor's Road (the "Replacement Sewage Treatment Plant") and comply with the following conditions.*

*a. Such Replacement Sewage Treatment Plant shall at full capacity be capable of accommodating all sewage flow from planned development on Tuxedo Farms's Southern Tract and the users and property owners served by or entitled to be served by the Town's existing sewage treatment plant facility.*

*b. Such Replacement Sewage Treatment Plant shall be designed for an advanced tertiary level of treatment capacity.*

*c. Prior to the issuance of the first certificate of occupancy, such Replacement Sewage Treatment Plant shall be constructed at the Applicant's sole cost and expense in the manner authorized and detailed in the Memorandum of Understanding for Construction & Operation of a New Wastewater Collection System and Sewage Treatment Plant, dated December 29, 2014, and incorporated in Appendix J; or*

f) Article XXVII of the 2010 Special Permit entitled "BONDING OF IMPROVEMENTS" is replaced in its entirety with the following:

*Prior to the issuance of any building permit for the Project and prior to commencement of construction or disturbance of the Project Site, the Applicant shall post an irrevocable security in an amount and form acceptable to the Town to secure the completion of all offsite and on-site public improvements and on-site common area improvements required in connection with the development. This security may be posted on a development phase or sub-phase basis and may be reduced as construction proceeds in accordance with applicable procedures in the Town's local laws. The security posted is required to be "evergreen."*

**5. AMENDMENTS TO 2010 PRELIMINARY PLAN:**

The Town Board hereby approves the following amendments to the 2010 Preliminary Plan:

a) The one-acre parcel designated as Town of Tuxedo Tax Lots 14-1-23 and 14-1-24 are hereby incorporated into the Project.

b) The location of the Cottage and Apartment neighborhoods shall be swapped such that the Cottage neighborhood is now to be located in Upland Park and the Apartment neighborhood in North Ridge and adjustment of the Regulating Plan to reflect same.

c) Relocation of the Greeting Center from the North Entrance to the Commons.

d) The Regulating Plan shall be amended to be consistent with the 2010 Special Permit's flexibility provisions.

**AGENDA ITEMS  
(Continued)**

**Resolution  
Approving  
Amendment to  
Special Use Permit  
and Preliminary  
Plan of "Tuxedo  
Farms," Formerly  
Known As "Tuxedo  
Reserve"  
(Continued)**

**AGENDA ITEMS (Continued):**

**1. Resolution Approving Amendment to Special Use Permit and Preliminary Plan of "Tuxedo Farms," Formerly Known As "Tuxedo Reserve" (Concluded)**

e) Permission to relocate an isolated section of sewer main outside the existing alignment of the project's roads.

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

g) Inclusion of all three development tracts as part of the Preliminary Plan.

h) The above amendments shall be reflected in a new Preliminary Plan to be designated as the "2015 Preliminary Plan" and all references in to the approved Preliminary Plan in the Special Permit shall be to the 2015 Preliminary Plan. The 2015 Preliminary Plan shall specifically include the 2010 Preliminary Plan sheet of the wetland locations and disturbance areas.

**6. ADMINISTRATIVE DIRECTIONS:**

a) Simultaneous with the adoption of this Resolution, a new Special Permit designated as "2015 Special Permit - Tuxedo Farms" shall be issued in the form attached hereto. This Special Permit shall replace and supersede 2004 and 2010 special permits and any amendments thereto.

b) The Applicant shall prepare the 2015 Preliminary Plan prior to any application for subdivision or site plan approval of any portion of the project. In the event any such application is currently pending, it shall not proceed until the 2015 Preliminary Plan is prepared and determined by the Town Planner to be consistent with this Resolution and the 2015 Special Permit.

The adoption of the foregoing resolutions was seconded by Councilmember Phelps and duly put to a vote on roll call, which resulted as follows:

<b>ON ROLL-CALL VOTE:</b>	Councilmember Clifford Loncar	<u>          Aye          </u>
	Councilmember David McMillen	<u>          Aye          </u>
	Councilmember Gary Phelps	<u>          Aye          </u>
	Supervisor Michael Rost	<u>          Aye          </u>

Supervisor Rost then stated for the record that there seemed to be a perception that there is ill will between the Town and PIPC. He does not see any sign of this from any of the Board members and does not feel this way himself.

**OTHER BUSINESS:**

**Resolution Granting Special Sign Permit for Chamber Event**

**RESOLVED**, motion made Supervisor Rost, seconded by Councilmember Phelps, that the Town Board hereby issues a special use sign permit, for the period of April 24, 2015 through May 9, 2015, to the Tuxedo Chamber of Commerce for a sign measuring 10" x 2.5' to be placed in front of the Tuxedo Train Station to advertise its joint mixer/Spring kickoff with MyHarriman.com to be held on May 9, 2015; **PROVIDED, HOWEVER**, that such sign be removed by May 10, 2015.

<b>ON ROLL-CALL VOTE:</b>	Councilmember Clifford Loncar	<u>          Aye          </u>
	Councilmember David McMillen	<u>          Aye          </u>
	Councilmember Gary Phelps	<u>          Aye          </u>
	Supervisor Michael Rost	<u>          Aye          </u>

There were no further items of Other Business to come before the Board.

**AGENDA ITEMS  
(Continued)**

**Resolution  
Approving  
Amendment to  
Special Use Permit  
and Preliminary  
Plan of "Tuxedo  
Farms," Formerly  
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Reserve"  
(Concluded)**

**OTHER BUSINESS**

**Resolution  
Granting Special  
Sign Permit for  
Chamber Event**