



MEMORANDUM

TO: Ken English, Supervisor
Members, Tuxedo Town Board

FROM: Bonnie Franson, AICP CEP, PP

RE: Tuxedo Farms Special Use Permit (SUP) – School Fiscal Impact Review

DATE: **October 14, 2022**

CC: Marisa Dolbaum, Town Clerk
Larry Wolinsky, Esq./Howard Protter, Esq, Town Board Attorneys

In 2022, Related Companies submitted an application proposing changes to the approved Tuxedo Farms Planned Integrated Development (PID) development which would increase the total number of dwelling units on the Southern Tract from 1,195 to 1,609 dwelling units, and which would also result in a significant change to the mix in the housing products. The Project has been evaluated in accordance with the regulations implementing the New York State Environmental Quality Review Act, to determine what additional SEQRA analyses are warranted, given the proposed amendments. At the request of the Town Board, this NPV memorandum specifically addresses the SEQR analyses and comments raised with regard to Tuxedo Farms and its effect on the Tuxedo Union Free School District (TUFSD).

A. Background

As background, the Special Use Permit (SUP) approved for Tuxedo Reserve, now Tuxedo Farms, has evolved since the first SUP and preliminary plan were approved by the Town Board in 2004. The following summarizes briefly what has previously been approved as part of the Special Use Permits as it relates to the TUFSD.

2004 Special Use Permit

The 2004 Special Use Permit included a Letter of Intent dated July 15, 2004, which set forth the Applicant¹'s agreement in principle, and which provided a package of contributions to the Tuxedo Union Free School District (see **Attachment A**). At that time, the anticipated impacts to the TUFSD were as follows:

- Introduction of 427² public school students. The analysis used multipliers developed from use of 1990 Census data. ***Greenwood Lake students were part of the TUFSD's enrollment*** at that time.
- The Tuxedo Reserve 2003 Final Environmental Impact Statement (FEIS) concluded, after consultation with the TUFSD, that a **new high school** may be required.
- The demand for a high school would have occurred whether the PID was constructed, or an as-of-right single-family detached residential subdivision was constructed in lieu of the PID, as per

² As per the 2010 FSEIS, using the 2000 Census data, the total number of students would increase to 458 students.

the FEIS. The FEIS stated that 800-900 single-family detached dwelling units could have been constructed.

- The Applicant would gift **40 acres** on the Southern Tract to the TUFSD for the construction of a new public school in close proximity to Euvrard Field. The concept plan presented to the school district was for the construction of a new high school. The 1999 DEIS indicated a 10-15 acre tract of land would be dedicated for construction of the new school.
- To defray the costs associated with the new school, the Applicant would rough grade the site, carry out any environmental remediation, and bring utilities to the perimeter of the school building. Remediation was based on a small debris pile of household waste that had been deposited in the vicinity of the school site, which has since been closed.
- The conveyance would occur at such time that the TUSFD elects to proceed with construction of a building or athletic fields.
- The Applicant reserved the right to construct an athletic field on the School Site at its own cost.
- The school field has been a pre-existing documented need since 2003-2004.

2010 Special Use Permit

The 2010 Special Use Permit Application was the subject of a Supplemental Environmental Impact Statement (SEIS). The SUP substantially revised the layout of the development.

- The student population was updated utilizing 2000 Census data. Based on use of updated student multipliers, it was anticipated that the revised project would generate 427 students³. Greenwood Lake students were still part of the TUFSD enrollment.
- At the time the SEIS was prepared, it stated that a new high school may not be needed based on discussions with the TUFSD. Appendix J of the 2010 Special Use Permit included the prior Letter of Intent dated July 15, 2004.
- As per the SEIS, based on a series of meetings with the School Board in June, July and August 2008, the School Board expressed its need for more athletic fields and opined there would be a decreased likelihood that a new high school would be needed in the future.
- The TUFSD and the Applicant discussed the Applicant constructing a parking lot and athletic field instead of grading pads for a future school. Regardless, the 2004 Letter of Intent was incorporated into the adopted Special Use Permit.
- As per the 2010 FSEIS, the value of improvements for the Applicant to construct an athletic field and parking instead of preparing site for buildings was estimated to be \$4.95 million, or a benefit of \$412,500 annually over the 12-year build period.

2015 Special Use Permit

The 2015 Special Use Permit project modifications were not significant in comparison to those made in 2010. With regard to the TUFSD, The Special Use Permit indicates a 42-acre site could be used for a school site and/or site for athletic fields, playing fields or other recreation facilities, to be given to the TUFSD⁴. It also states that if the TUFSD declines or rejects the offer of the donation of the parcel, the Applicant shall then offer it to the Town. The Special Use Permit still required that any remediation be

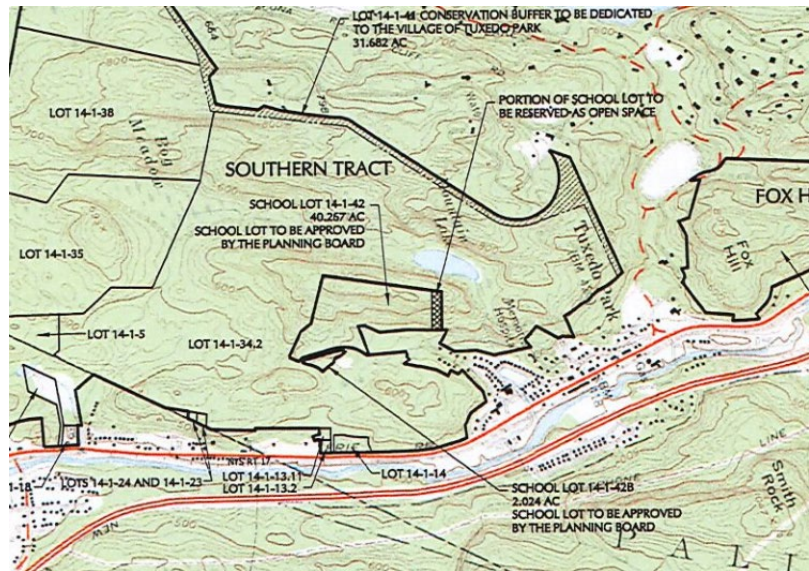
³ Appendix D, Tuxedo Farms FSEIS, November 1, 2010, Table D-23.

⁴ 2 acres of the site was to be kept in open space as per the preliminary plan.

undertaken by the Applicant at its own expense. Appendix K of the 2015 Special Use Permit included a new Letter of Agreement between the Applicant and the School Board:

- The student multipliers were vetted, and it was determined that the 427 students would be generated by the Project.
- Applicant to offer as a gift the 42-acre parcel to TUFSD on or before the building permit is issued for the project.
- Cash contribution of \$1,250,000 payable on or before the first building permit is issued for the project.
- Cash contribution of \$1,250,000 payable on that date which is twelve months from the first payment above.

The school lot that was included in the 2015 preliminary plan is shown below; as per Appendix Q, the well site is not located on the future TUFSD donated property.



The 2015 Special Use Permit and Preliminary Plan remains in effect.

The current tax map below shows the school tax parcel in its current configuration – the image below has been reoriented to compare with the preliminary plan except above. The tax parcel is not consistent with the proposed lot area shown on the most current configuration. Subsequent to adoption of the preliminary plan, the tax parcel below will be revised to ensure the water tank is not on the parcel to be offered to the school.

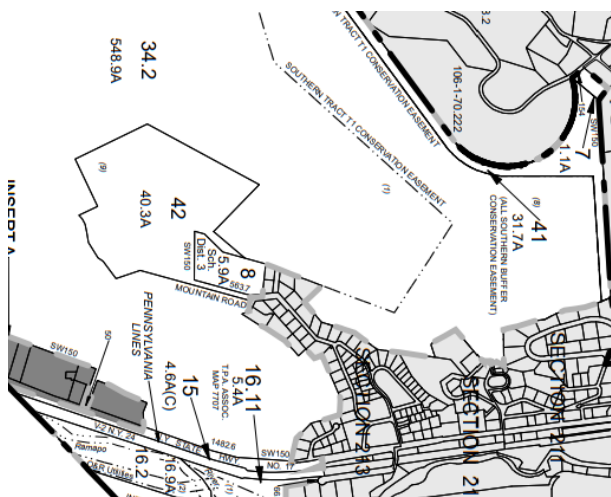


Table A. Summary of Adopted Special Use Permits			
	2004	2010	2015
Tuxedo Farms Public School Students	458 (using 2000 Census data)	427	427
Tuxedo Public School Enrollment	634 (2004-2005)	623 (2010-2011)	247 (2015-2016)
School Site	40 acres Southern Tract	42 acres Southern Tract, with 2 acres to remain as open space	42 acres Southern Tract, with 2 acres to remain as open space
School Site Location	Southern Tract next to Euvarde Field	Southern Tract next to Euvarde Field	Southern Tract next to Euvarde Field
School Facilities			
High School Site	X	X	None
Rough Grading	Yes	Yes	None
Environmental Remediation	Yes	Yes	Completed
Greenwood Lake Students Part of Enrollment	Yes	Yes	No
Cash Contribution	None	None	\$2.5 million

As per the above, note that the proposed Tuxedo Farms public school enrollment has been declining:

- 2004: 458
- 2010: 427
- 2015: 427
- 2022: 319 – see discussion below

B. 2022 Revised Tuxedo Farms Special Use Permit Amendment Application

In 2022, the Applicant submitted an application with changes to the proposed project which would increase the total number of dwelling units on the Southern Tract, and change the unit mix, which is being evaluated in accordance with the regulations implementing the New York State Environmental Quality Review Act. The impact evaluation is set forth in a Technical Memorandum prepared by AKRF, **last revised October 12, 2022.**

Public hearings on the amended special use permit were held on **June 16, 2022**, and **June 23, 2022**, to solicit public comment. During final review of the Special Use Permit Amendments, the Tuxedo Union Free School District submitted comments regarding its evaluation of the Technical Memorandum. Based on these comments, AKRF revised the Technical Memorandum, and also prepared a Response Memo addressing the School District's comments. The intent of this memorandum is to assess whether the Technical Memorandum and Response memo address the TUFSD comments. This review memorandum specifically considers the following:

- Tuxedo Farms District Operational and Facilities Impact Study, dated **September 6, 2022**, prepared by the Tuxedo Union Free School District (Powerpoint presentation, or "PPT");
- Letter to Larry Wolinsky, Esq., submitted by David S. Shaw, Esq., Legal Counsel to the Tuxedo Union Free School District, dated **September 19, 2022** (or "Shaw letter"); and
- Technical Memorandum prepared by AKRF, last revised **October 12, 2022**;
- Response Memo from AKRF, dated **October 12, 2022**.

It is important to note that the Technical Memorandum has been continuously vetted by the Town Board and its consultants and revised several times during the application review process. Thus, many of the SEQR comments raised by the Town Board and consultants have been addressed already in the Technical Memorandum.

C. School Impact Analysis

In reviewing the potential impacts to the Tuxedo Union Free School District, the following parameters have been considered:

- Schoolage and Public School Age Children Generation – how many students will be introduced into the TUFSD from the project
- Fiscal Impact – what is the Revenue versus Costs to the School District
 - Revenue Components:
 - Market Value (MV) – What is the proposed Market Value of the revised Project
 - Equalization Rate (ER)/Assessed Value (AV) – to derive the Property Tax Revenues from the Proposed Project, the Market Value (MV) is converted to Assessed Value (AV), using the Equalization Rate (ER).
 - Other Non-Property Tax Revenues
 - Cost Components:
 - Operational Marginal Costs
 - Capital Construction Costs
- Adequacy of the Proposed Project Site as per the Capital Needs Identified by the TUFSD

1. Public and Nonpublic Students

Prior Environmental Impact Statements and Technical Memoranda used 1990 and 2000 Census data to derive student multipliers that were used to predict the number of children generated by the Project. These multipliers are now over 20 years old.

To estimate students, the AKRF Technical Memorandum uses student generation multipliers from the neighboring state of New Jersey, as per the document “Who Lives in New Jersey Housing?” prepared by David Listokin and Alexandra Voicu (November 2018⁵) from Rutgers University. The multipliers are based on demographics for “Newer (or Newer Built)” housing. In the study, that category applies to housing units built in New Jersey over the period 2000-2016. In Table I-6, the demographic multipliers were used for housing that is above median housing values. For the senior units, the demographic multipliers used were for all housing units which are non-age restricted, thus they are likely to overestimate the population from this housing product. However, for the single-family detached 2-bedroom product, a multiplier was not provided in the report, so the multiplier for an attached single-family dwelling was utilized. The total number of students and public school students is **404** students, with **319** being public school students – 21 percent are estimated to attend nonpublic schools based on these multipliers.

Table B provides the total public and nonpublic enrollment, and the TUFSD enrollment. Nonpublic school enrollment can include students attending private school, students that are home schooled, students attending full day BOCES programs out of the district, etc.

Table B. Comparison of Public and Nonpublic Enrollment - TUFSD				
School Year	Total Public and Nonpublic Enrollment with the TUFSD	Total TUFSD Enrollment	Percent <u>Public</u> School Enrollment to Total Public and Nonpublic Enrollment	Percent <u>Nonpublic</u> School Enrollment to Total Public and Nonpublic Enrollment
2020-2021	384	225	58.5	41.5
2019-2020	425	222	52.2	47.8
2018-2019	422	222	52.6	47.4
2017-2018	457	235	51.4	48.6
2016-2017	463	240	51.8	48.2

Based on a comparison of public to nonpublic schoolage children within the district, the percent that attend nonpublic schools in the TUFSD is higher than the the Rutgers 2018 multipliers. ***The 2018 multipliers provide a reasonable estimate of the number of students that would attend the TUFSD.***

The TUFSD Shaw letter indicated that 377 new students would be generated, of which 18 would be special education students requiring placement; Appendix B indicates there would be 359 “kids” – this would appear to total 377 students noted in the Shaw letter. The October 2022 Technical Memorandum has been updated to substitute 30 townhomes and multifamily units for 30 single-family detached dwellings; it also updated the student estimate by calculating the schoolage children that would attend public schools.

⁵ <https://bloustein.rutgers.edu/wp-content/uploads/2015/03/NJDM-updated-2018.pdf>

Note that the TUFSD estimate does not reflect the recent revision to the Tuxedo Farms project, which has increased the number of single-family detached dwelling units by 30 (and reduction of other housing product to maintain 1,609 dwelling units) and uses the estimate of total schoolage children, not public schoolage children.

Based on the foregoing, and review of the past methodologies used to derive the number of students, the public schoolage children estimate provided in the AKRF Technical Memorandum appears to be reasonable.

2. Fiscal Analysis

a. Market Value

At the direction of the Town Board and its consultants and as part of the application submissions, the Applicant was required to submit an updated Market Study to assess the market value of the revised project. A consulting report was prepared by Otteau Group for U.S. Home Corporation (dba Lennar), dated March 30, 2022. It is noted that this report provides data for the for-sale housing only. As per communications with AKRF, Related Companies provided the data for valuation of the rental units, capitalization rate and vacancy rates consistent with past methodology. The monthly rental values for 1-bedroom units were estimated at approximately \$2,950 and 2-bedroom units at approximately \$3,360.

The TUFSD questioned the validity of the market values and requested that market values be vetted by the Town of Tuxedo Tax Assessor. As per correspondence dated October 3, 2022, the Tax Assessor concluded: *“I have reviewed the consulting report for the Tuxedo Farms Development which estimates the full market values of the properties for the proposed construction. The estimated market values appear to be in line with comparable sales located in the Town of Tuxedo along with similar competing markets. Obviously, these projected market values could change do to future financial market conditions.”*

Given the TUFSD’s comments, NPV requested that AKRF perform a sensitivity analysis to determine how much the total market value could be reduced and still result in a fiscally positive outcome. As per Table 19 of the Technical Memorandum, the market value of the project could be reduced by 25 percent and would still result in net annual revenues to the TUFSD.

As per the Town Assessor, it has been concluded that the Market Value is reasonable.

b. Equalization Rate

As per the NYS Office of Real Property Tax Services, an equalization rate is New York State's measure of a municipality's level of assessment. See below box⁶.

⁶ https://www.tax.ny.gov/pdf/publications/orpts/under_eqrates.pdf

Why is equalization necessary?

Equalization is necessary in New York State because: (1) there is no fixed percentage at which property must be assessed; (2) not all municipalities assess property at the same percentage of market value; and (3) taxing jurisdictions, such as most school districts, do not share the same taxing boundaries as the cities and towns that are responsible for assessing properties. Most of the state's more than 700 school districts distribute their taxes among segments of several municipalities, many of which have different levels of assessment. The number of municipal segments in a school district can range from one to fifteen or more.

What is an equalization rate?

At its simplest, an equalization rate is the state's measure of a municipality's level of assessment (LOA). This is the ratio of total assessed value (AV) to the municipality's total market value (MV). The municipality determines the AV; the MV is estimated by the state. The equalization rate formula is:

$$\frac{\text{Total assessed value (AV)}}{\text{Total market value (MV)}} = \text{Equalization rate}$$

Equalization rates do not indicate the degree of uniformity among assessments within a municipality. (More information regarding uniformity is available in the pamphlet, Publication 1112, *Fair Assessments – A Guide for Property Owners*.)

What does your equalization rate mean?

- An equalization rate of 100 means that the municipality is assessing property at 100 percent of market value.
- An equalization rate of less than 100 means that the municipality's total market value is greater than its assessed value.
- An equalization rate of greater than 100 means that the total assessed value for the municipality is greater than its total market value.

There would be no need for equalization if all municipalities assessed all property at 100 percent of market value every year.

The equalization rate is used to derive the assessed value for a project. As per the Technical Memorandum, AKRF used the equalization rate being applied for the 2021-2022 tax year which was the most recent tax data available at the time the Technical Memorandum was prepared – the ER was 16.2 percent, as per below image.

Entered	Posted	Total	Tax Amount	Penalty	Surcharge	Via	Type
10/7/2021	10/1/2021	\$14,616.53	\$14,616.53	\$0.00	\$0.00	Mail	Full Payment

Tax Bill #	SWIS	Tax Map #	Status
000760	335003	214-1-5	Payment Posted
Address	Municipality	School	
Route 17	Tuxedo	Tuxedo Ufsd	

Owners	Property Information	Assessment Information
Tuxedo Reserve Owner LLC	Roll Section: 1	Full Market Value: 1185200.00
Katlyn Amell	Property Class: Res vac land	Total Assessed Value: 192000.00
460 W 34th Street Fl 7 New York, NY 10001	Lot Size: 10.20	Uniform %: 16.20

The TUFSD has raised two comments regarding the equalization rate. In the PPT, it is stated that the equalization rate is “off by over 20 percent using 2023 estimates, which is the most current information we have.” The analysis attached to the TUFSD Shaw letter uses an equalization rate of 0.12. However, for the 2022-2023 school year, the ER is 13.55. The tax rate for the applicable tax year has increased to \$76.585 per \$1,000 assessed valuation.

Table C. Equalization Rates and Tax Rates		
Tax Year	Equalization Rate	Tax Rate/ \$1,000 Assessed Value (\$)
2021-2022	16.2	\$76.128
2022-2023	13.55	\$76.585

While the equalization rate for the 22-23 school year is 16.3 percent less than the prior year, the total annual tax revenues is 15.9 percent lower, as the tax rate was revised upward. There is an interplay between the tax rate, market values, and the equalization rate – if a budget is held constant from year to year, and the equalization rate decreases (because market values have increased), the tax rate will increase to collect the same tax revenues. The equalization rate has decreased in 22-23 as a result of increases in the market valuation of properties in Tuxedo. In order to update the revenues that would be generated by the project, the market values for the project would have to be reviewed and would likely increase.

The Town of Tuxedo Assessor has stated that *“the report uses the 2021 equalization rate of 16.20% (that I find to be reasonable) which does not appear to reflect the inflated prices of the recent COVID 19 pandemic. Prior equalization rates are:*

*2018: 16.60%
2019: 16.55%
2020: 16.18%”*

As per the Town of Tuxedo Tax Assessor, the 13.55 equalization rate is an outlier, and the 16.2 equalization rate is reasonable. ***Thus, adjustments are not needed to the determination of assessed value.***

c. Other Non-Property Tax Revenues

For fiscal year 2021-2022, the Town of Tuxedo received \$1.05 million in annual state aid revenue. The TUSFD, in the Shaw letter, determined that the additional state aid that would result from the Project would be \$25,649.13 annually. The AKRF Tech Memo states that it has eliminated all state aid from the estimate of revenues to the school district resulting from the Project. ***This represents a worst-case analysis and is reasonable.***

d. Operational Costs

Consistent with all prior SEQR methodologies for this project, the AKRF Technical Memorandum used a marginal cost per student analysis to project the operational costs associated with the project – this analysis was established in 2004 with the school district. Specifically, the line item costs are evaluated, and certain line items increase proportionately with the increase in students, and others are held constant (e.g., administrative costs) which do not change based on an increase in enrollment. The results are provided in Table 16 of the AKRF Technical Memorandum.

The TUFSD evaluated the operational costs to the school district by considering the total number of students that would be generated by the Project, and then by determining the specific personnel and transportation costs that would be added to operations.

The TUFSD also provided a marginal cost analysis, identifying the number of personnel that would be needed, defined the specific costs of special education students, transportation costs, and miscellaneous costs (cleaner, nurse, etc.). Note that the TUFSD used the 377 schoolage children number in its estimates, not the public schoolage children number of 319 students in the October 2022 Technical Memorandum. The following is a comparison of the annual operational costs in the AKRF Technical memorandum and the TUFSD-Shaw letter.

Table D. Comparison of Operational Costs		
Component Costs	TUFSD	AKRF Technical Memorandum
Reg Ed – 8 teachers	\$960,000	
Special Ed – 2 teachers	\$240,000	
Outside Placements – Spec Ed (18 students, \$100,000 each)	\$1,800,000	
Transportation Costs	\$135,402	
Vans for Special Ed (4)	\$259,200	
1 cleaner	\$65,000	
1 nurse	\$95,000	
Landscaper	\$75,000	
Utilities	\$38,742	
Specials	\$40,000	
Total Annual Operational Cost	\$3,708,344	\$3,239,758
Total Revenues (as per AKRF Memo, and as vetted by Tax Assessor)	\$11,041,787	\$11,041,787
Net Revenue/(Deficit)	+\$7,333,443	+\$7,802,029

Based on the comparison below, there is an approximately \$469,000 annual difference between the two operational cost estimates. There is surplus property tax revenue, using TUFSD's estimate of costs.

e. Capital Costs

The most significant difference between the TUFSD and the AKRF school fiscal analysis regards assumptions related to capital costs. The TUFSD has expressed that a new elementary school will be needed based on the students to be generated by the Tuxedo Farms development. The TUFSD has not submitted background data of the current capacity of the school by grade to vet this conclusion. The Technical Memorandum incorporates the cost for a new elementary school in its analysis. The following is noted, regarding the total amount of land required for an elementary school. As per the NYCRR Part 155.1(c), Educational Facilities under Title 8, Chapter II, Subchapter J⁷:

⁷ https://www.p12.nysed.gov/facplan/Laws_Regs/8NYCRR155.htm

“(c) Sites for the erection or enlargement of facilities shall be approved by the commissioner, provided they have been selected with reasonable consideration of the following factors:

(1) size and location of a site shall be consistent with the long-term building plans of the district;

(2) sites shall be educationally adaptable with consideration for situation of building and development of the grounds for outdoor educational program and related activities, without excessive initial or development costs, and shall provide the following minimum usable acres, unless otherwise approved by the commissioner:

(i) elementary schools (kindergarten through sixth grade): three acres base plus one acre for each 100 pupils or fraction thereof.”

With 150 elementary school students generated by Tuxedo Farms (AKRF Response Memo), and an existing enrollment of 95 students, the capacity for a new school would need to be 245 students. This equates to a 6-acre campus for an elementary school. The TUFSD has also expressed a need for ballfields. The standard used by the TUFSD to conclude that the 10.6 acres is only 25 percent that needed to meet standards for a building with adequate space for fields (TUFSD PPT) is unknown. While the NYSED provides guidance on recreational facility need and design, particularly for high schools, it does express any mandates. The 1976 publication is still used for general site selection and planning⁸. The following is an excerpt for elementary schools and includes recommended space for outdoor recreation. The amount of area is based on a one-story building.

⁸ https://www.p12.nysed.gov/facplan/documents/SchoolSiteStandards_1976.pdf

Table I. Basic acreage requirements for typical elementary schools

Required for:	200 Pupils		600 Pupils		800 Pupils	
	Square Feet	Acres	Square Feet	Acres	Square Feet	Acres
Building ^a	200 × 90 sq. ft. = 18,000	$\frac{1}{2}$	600 × 90 sq. ft. = 54,000	$1\frac{1}{2}$	800 × 90 sq. ft. = 72,000	$1\frac{1}{2}$
Approaches (drives, walks, and service areas)		$\frac{1}{2}$		$1\frac{1}{2}$		$1\frac{1}{2}$
Grounds		1		$1\frac{1}{2}$		2
Parking ^b	10 teachers and admin. 10 visitors 20 × 300 sq. ft. = 6,000	$\frac{1}{8}$	30 teachers and admin. 15 visitors 45 × 300 sq. ft. = 13,500	$\frac{1}{4}$	40 teachers and admin. 20 visitors 60 × 300 sq. ft. = 18,000	$\frac{1}{2}$
Outdoor physical education						
Kindergarten ^c	5,000	$\frac{1}{8}$	10,000	$\frac{1}{4}$	20,000	$\frac{1}{2}$
Primary ^d						
Apparatus		$\frac{1}{4}$		$\frac{1}{4}$		$\frac{1}{2}$
Circle games		1		$1\frac{1}{2}$		2
Intermediate						
Court ^e		$\frac{1}{4}$		$\frac{1}{2}$		$\frac{1}{2}$
Organized games ^f		2		3		4
Total recommended		$5\frac{1}{4}$		10		$13\frac{1}{2}$
Minimum acceptable usable acreage in New York State School Site Standards (see graph I)		5		9		11

^a Enrollment times reasonable square feet per pupil^b Day-to-day parking—no provision for extended community use^c Fenced-in kindergarten play area^d Circle games, apparatus, running and chasing, and hard-surface areas^e Court area—volleyball, handball, dropball^f Organized team games—touch football, softball, soccer, speedball

Various comments have been raised about the appropriateness of the 40-42 acre site. That amount of land is not needed to accommodate even a high school campus, as per the NYCRR Part 155.1(c). The amount of land needed is likely closer to 12-15 usable acres for the school, parking and ballfields. Based on the Applicant's past consultations with the TUFSD, a school facility can be accommodated at the lower elevations of the proposed School property shown on the preliminary plan, where it has been planned since 2004. ***The 2008 concept plan (p. 11 of the TUFSD PPT) shows how the building, parking, and a ballfield can be accommodated on the same school site as depicted in the current 2022 preliminary plan. Table E summarizes the TUFSD's expressed needs.***

Table E. TUFSD Capital Building and Field Needs

Number	Classrooms
6	K-5 grades, one each
1	Self-contained special education
1	Pre-Kindergarten
?, at least one	Music, Stem, Art classrooms
7-8	TUFSD projected need of 8 additional classrooms as per PPT; Shaw letter indicates 7 are needed.

Table E. TUFSD Capital Building and Field Needs

\$2,613,500 annual debt service	As per TUFSD, does not include extraordinary cost of clearing and grading. Shaw letter states the “cost of constructing a new school building...would yield an annual additional expense of \$2,613,500 in debt service costs...” The letter states there are 14 classrooms in the current elementary building and 7 more would be needed, so the annual debt service appears to be for the entire elementary school building. Unit costs for the construction of the building and details not provided.
\$527,650 annual debt service	Fields – none specified, in terms of type or number – indicates elementary and secondary school needs. Would benefit entire enrollment.
Note: the TUFSD does not provide assumptions regarding term of the bond or the interest rate.	

Table F. TUSFD Estimated Annual Cost to Prepare the Donated Property

\$3.465 million (not \$5 million) (as per PPT)	Clearing – 462,000 sf, July 31, 2008 development drawings – NPV notes that the drawings were for a high school, not an elementary school which may require fewer improvements - \$7.50/SF
\$8.6 million (not \$13 million) (as per PPT)	Rock Removal – 43,000 CY, at \$200/CY
\$2,657,357 annual additional cost for “massive preparation” of site	The TUFSD does not provide assumptions regarding number of years of a bond, or the interest rate. Only indication is it may be a 5-year period.
Note: the amount for clearing and rock removal does not add up, using TUFSD unit costs. The difference is \$12.065 million versus \$18 million, or a 50 percent increase from the value determined using the unit costs. One possibility is that the TUFSD inflated the 2008 costs to 2022. Supporting data as to how the annual additional cost was derived is not provided.	

In general, the cost for the clearing and grading appears to be high. It is our understanding that a NYSDOT guidance states that \$250-\$300/CY is the cost for chipping and removal; past construction history for the site indicates blasting would likely be performed. We requested that AKRF obtain the costs associated with the clearing and grading activities which have already occurred on the project site to compare to the estimate provided by the TUFSD. The Applicant did confirm that the 43,000 CY of work seemed reasonable based on prior site work. Per data provided by Related Companies, the following costs are estimated:

Table G. Estimated Preparation Costs – Related Companies Data	
Construction Cost	Construction Task
\$12-\$15 per CY, or \$645,000	Blasting for previous work was around \$8.50 per CY. Current cost estimates are \$12-15 per CY
\$7,000 to \$7,500 per acre, or \$79,500	Clearing/stumping/grubbing (assume 10.6 acres)
\$1.50-\$3.00 per CY, or \$129,000	Embankment Fill
\$4-5 per CY, or \$215,000	Mass Earth
\$1,068,500	Total (assuming this applies to all 43,000 CY, just for order of magnitude)
\$4.30 per CY, or \$184,900	Prevailing Wage Estimate calculation, as per AKRF
\$1,253,400	<u>Total</u>, with Prevailing Wage

The below are annual costs estimated by the TUFSD.

Table H. TUSFD Annual Capital Cost - Total	
\$2,613,500	Building
\$527,650	Fields
\$2,657,357	Additional cost for preparation
\$5,798,507	Total <u>Annual</u> Cost (term and interest rate unknown)

The following summarizes the estimate for construction in the Technical Memorandum and the Response Memo:

Table I. Technical Memorandum and Response Memo - Capital Costs	
Technical Memorandum	
\$3,383,900 total	Building for 7 classrooms (10,412 SF, \$325/SF), Total Cost
\$326,012.67 annual	Annual Debt Service Cost, using 15-year bond and 5 percent interest rate (without one-time benefit and value of donated land). This does not account for field construction.

Table I. Technical Memorandum and Response Memo - Capital Costs		
Response Memo - Capital Costs (61% of the total cost representing Tuxedo Farm's percent of total enrollment)		
	\$1,594,235	New Elementary School
	\$321,867	Fields
	\$1,620,999	Land clearing and grading
	\$3,537,101	Total
	\$3,211,088	Net Difference between TUFSD and Technical Memorandum Annual Capital Cost

Note that the TUFSD earthwork costs are also not in line with what was proposed in 2010, which was vetted by the Town's special consultant at that time, RES Group. As per the 2010 FSEIS, the value of improvements for the Applicant to construct an athletic field and parking instead of preparing site for buildings was estimated to be a total of \$4.95 million, or a benefit of \$412,500 annually over the 12-year build period.

3. Summary

Table 7 below from the Response Memo provides the summary of the net revenues/costs, using the TUFSD estimates – supporting calculations and background data did not accompany the TUFSD estimates, especially for capital costs.

The Tax Assessor has vetted the market values and the equalization rate. The proposed annual property tax revenues are reasonable.

The difference in operational costs between the Technical Memorandum and the TUFSD submissions amounted to approximately \$469,000 net annual cost – this is not considered significant, relative to the amount of estimated property tax revenue generated by the project. Also, the October Technical Memorandum did not incorporate non-property tax revenues in the analysis.

The primary departure in the cost estimates is related to the earthwork, fields and building. The earthwork costs that the school district provided are conclusory and not substantiated by supporting data, and may be out of range, based on actual earthwork estimates for the Tuxedo Farms site provided by the Applicant. Likewise, there is not any supporting data for building and field construction costs, and the annual debt service appears to be high. As mentioned previously, assumptions regarding the term of any bond and interest rate have not been provided by TUFSD. Regardless, utilizing the TUFSD's estimates, and assigning the proportional cost (percent of Tuxedo Farm public students to the total public school enrollment) of the capital improvements to the Tuxedo Farms project, the project would be tax positive⁹. In addition, the TUFSD is receiving a one-time \$2.5 million community benefit payment from the Applicant, and a one-time donation of land for a school and fields valued at \$646,000, which is

⁹ The fiscal impact analyses for the Tuxedo Reserve and Tuxedo Farms projects have assigned a proportion of the capital cost of school facilities to the development since the 1999 DEIS.

not accounted for in Table 7. At this time, using TUFSD data and consistent with the fiscal impact methodologies that have been employed during SEQRA review since 1999, there is sufficient “buffer” between the project’s revenues and costs to result in a net positive fiscal impact to the school district.

Table 7

**Summary of Annual Net Revenues/(Annual Costs) to
TUFSD at Full Build-Out of 2022 Proposed Project (in 2021 Dollars)**

	Annual Net Revenue/(Cost) of 2022 Development Program Using TUFSD Projected Costs in Full	Annual Net Revenue/(Cost) of 2022 Development Program Using Proportional Share of TUFSD Projected Costs
Projected Revenue ¹	\$11,041,787	\$11,041,787
Projected Costs ²	(\$3,708,344)	(\$3,708,344)
Net Revenue/(Annual Cost)	\$7,333,443	\$7,333,443
Annual Debt Service for Elementary School, Fields and Land ³	\$5,798,525	\$3,537,100
Net Revenue/(Annual Cost) with Debt Service on Proportional Share of Construction Costs	\$1,534,918	\$3,796,343
Notes: ¹ TUFSD revenue estimates include property tax revenues; they do not include State Aid or Transportation Aid. ² See Table 6. ³ See Table 5.		

Attachment A

**LETTER OF INTENT
R-H TUXEDO DEVELOPMENT, L.P.
625 Madison Avenue
New York, New York 10022**

July 15, 2004

TUFSD School Board
One Tornado Drive
Tuxedo Park, NY 10987

Attention: Mr. Robert Yates, President

Re: School Site at Tuxedo Reserve
Final Terms of Proposed Contributions to
Tuxedo Union Free School District

Ladies and Gentlemen:

This letter of intent sets forth the revised terms of the agreement in principle upon which the undersigned, R-H Tuxedo Development, L.P. ("Tuxedo Reserve") would be willing to make a package of contributions to the Tuxedo Union Free School District (the "School District"). If the terms and conditions set forth in this letter of intent are acceptable to the School District, please confirm such acceptance by dating and executing the enclosed copy of this letter and returning it to me at The Related Companies, L.P., 625 Madison Avenue, New York, New York 10022.

The terms and conditions of the agreement in principle are as follows:

1. School Site: Tuxedo Reserve agrees to gift to the School District a site of approximately 40 acres (the "School Site") as delineated on the Proposed School Site Plan, revised and dated December 1, 2003, and prepared by Langan Engineers. The School Site will be situated immediately adjacent to the proposed Tuxedo Reserve master-planned community (the "Project").
2. Concept Plan: A High School Concept Plan (the "Concept Plan"), dated March 2, 2000, was prepared by our architects to illustrate an example of how the site will accommodate a high school. It is important to note, that this plan is based on our thoughts on the scope and program of a high school, and contemplates a school that will accommodate the current high school classes and increased student population from Tuxedo Reserve. The School District, through its own planning, design and review process may arrive at an altogether different plan, however.

3. Utilities: Tuxedo Reserve agrees to "deliver" the site to the School District with all utility connections including water, sewer, electric, gas and cable and, additionally, Tuxedo Reserve agrees to pay for the cost to extend these utilities into the school site, to the closest edge of the school building.
4. Excavation Cost: In recognition that the School Site will have extraordinary costs associated with handling the rock outcroppings present on property, Tuxedo Reserve agrees to pay for the costs associated with drilling, blasting and rough grading to provide level "tiered" building areas. The Concept Plan shows three major tiers to accommodate the school and two playing fields. The rough grading of the three tiered areas will be undertaken by Tuxedo Reserve with proper construction methods, techniques, practices, and in accordance with NYSED and/or other regulatory agency construction guidelines, to ensure that these areas are suitable for their intended use and provide sufficient weight-bearing capacity for these uses. Costs associated with retaining walls, that are required by NYSED and/or other regulatory agencies to provide stable tiered areas, will be borne by Tuxedo Reserve.
5. Storm Water: Tuxedo Reserve, in its planning and design of the Project, will ensure that the anticipated storm water flows to be generated by the school facilities will be provided sufficient drainage capacity with adequate connection to off site retention areas.
6. Environmental Assessment: Tuxedo Reserve has provided you with an environmental assessment of the site proposed by EcolSciences, dated May 21, 2003, which indicated no significant environmental conditions exist on this site. Any obligation on the part of Tuxedo Reserve to remove hazardous materials now appears to be no longer necessary.
7. Construction Oversight and Implementation: If the School District so requests, Tuxedo Reserve agrees to undertake the bidding, selection and oversight of the contractors that will perform the blasting and rough excavation work. Both parties recognize that savings are likely to be realized, both in terms of cost and timing, if Tuxedo Reserve oversees this work. If retained, Tuxedo Reserve will deliver to the School District, a construction-ready School Site, for which the School District will pay a construction management fee. Such fee will be calculated as a percent of the blasting and rough excavation contract cost in accordance with industry standards.
8. Design Controls: It is understood that the proposed school be designed in both an architectural style and with a site layout, that is complementary to Tuxedo Reserve. At the outset of the planning and design process for any school or athletic facility/field contemplated for the school site, the School District and Tuxedo Reserve agree to work together jointly and in good faith, to prepare both concept and design development drawings that will be in substantial conformance with the styles as expressed in the Design Guidelines for Tuxedo Reserve, and

also in substantial conformance with the overall design and planning concepts for this project. Final decisions on the selected designs and plans will be solely the School District's. It is also understood that the construction quality that will be sought for the new school facility, will be of quality similar to the high school expansion that was undertaken last year (2003).

9. Conveyance of Land Gift: Tuxedo Reserve will gift the School Site to the School District at such time that it elects to proceed with construction of the school facility and/or athletic fields.
10. Tuxedo Reserve Option: Tuxedo Reserve will retain the option, solely in its discretion, to construct an athletic field on the School Site at its own cost. The ability to exercise this option will occur no earlier than five (5) years from the execution of a formal agreement between the School District and Tuxedo Reserve. The athletic field will be designed in accordance with NYSED requirements and will be made available for use by the entire town in accordance with School District policy and procedures. Conveyance to the School District of the completed athletic field will be upon issuance of a certification of occupancy by the Town, for the use of the field.
11. Tuxedo Reserve Approvals: The School District understands that Tuxedo Reserve's offer to gift the School Site and provide the site improvements and utility connections is fully conditioned upon our receipt of all approvals required to commence construction of the plan for Tuxedo Reserve, as envisioned in the Final Supplemental Environmental Impact Statement dated November 2003.

It is expressly agreed by both parties hereto that this letter of intent is non-binding on either party, and neither party will have any contractual obligation to enter into the transactions contemplated hereby prior to the execution and delivery of a definitive agreement among the parties. No legal obligation is intended to be created by this letter of intent or by any written or oral statements, negotiations or promises between the parties hereto, directly or through any representatives. Moreover, this letter of intent will not create any rights based on any legal theory, it being intended that only the subsequent formal written agreement which is acceptable to you and Tuxedo Reserve, each in such party's sole discretion, executed and delivered by both parties hereto, will bind the parties with respect to any matter covered by this letter of intent.

Sincerely,

R-H Tuxedo Development, L.P.

By: Related General I, L.P.
as general partner

By: RCMP, Inc., its general
partner

By:


Glen Vetromile
Senior Vice President

ACCEPTED AND AGREED TO THIS
~~DAY OF MAY 2004~~


TUFSD School Board

By: Robert L. Yates

President

7-15-04

