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MEMORANDUM

TO: Michael Rost, Supervisor
Members, Tuxedo Town Board

FROM: Bonnie Franson, PP, AICP

RE: **Sterling Forest Resort and Casino – DEIS Preliminary Comments**

DATE: December 3, 2014

CC: Elaine Laurent, Town Clerk
Deborah Villanueva, Planning Board Secretary
Gail Suchman, Esq., Stroock, Stroock & Lavan LLP
Alyse Terhune, Esq., Jacobowitz & Gubits

H2M, together with its subcontracted expert consultants, is conducting a detailed substantive review of the Proposed Sterling Forest Resort (Project) Draft Environmental Impact Statement (DEIS), dated November 6, 2014, as deemed complete by the Town Board on November 10, 2014. The Town Board has asked us to prepare several important preliminary comments which will require additional detailed substantive response in the FEIS, to be presented on behalf of the Town Board at the public hearing on the DEIS and Special Use Permit application scheduled for Thursday, December 4, 2014. Further and more detailed comments will be prepared in writing on behalf of the Town Board for submission during the public comment period which ends on December 19, 2014.

1. **Security and Fiscal Impact Related to Police and Fire.** A more detailed plan of the proposed security of the facility is necessary for the Town Board to understand the full impact on its police services. It must be made clear that extensive electronic surveillance and on-site security personnel will be available in the interior of the building and parking garage as well as the exterior 24 hours a day. We need to understand the number of staff dedicated to this assignment and the coverage of the surveillance equipment. Having state or local police, whichever is applicable, onsite in a small station may greatly assist in security and the Town Board would like that considered as part of the security plan. The issue of whether the State or the Town has primary jurisdiction for the Project needs to be resolved so that a better assessment of the impact of the Project on Tuxedo police may be prepared, along with proposed mitigation for such impact. With respect to the Fire District, there is a deficit impact associated with the Project, according to the DEIS. There needs to be more detail with respect to the proposed fourth fire brigade; where will it be stationed and how will it serve to mitigate the fiscal impact on the Fire District. There are additional concerns as well, including the methodology used to perform the analyses which may underestimate impacts. The above issues will be addressed further in a separate fiscal impact memo.
2. **Lot merger.** In order to ensure that the site operates as one cohesive resort, the Special Use Permit should contain a condition requiring that all lots be merged. In this way, any proposed plan to sell any

component of the overall resort would require subdivision approval and an evaluation of the effect of any such sale.

3. **Lighting.** Photometric plans were recently submitted as part of the detailed site plan. A photometric plan is provided as Figure III.1-7. The lighting plan, however, does not appear to take into consideration the cumulative light levels at the site, when building lighting is taken into account. Page III.1-43 suggests that only light levels for ground mounted fixtures were evaluated. This evaluation should be expanded.
4. **Blasting.** Section III.2 of the DEIS addresses geology. Section III.2.2.4 (p. III.2-24) provides a generic discussion of the potential for blasting to be required and a general protocol for how blasting would be conducted. This section states that the blasting protocol is discussed in the construction section. On p. IV-25, the DEIS states that blasting noise is factored into construction noise impacts. Later, on p. IV-47, the anticipation of finding bedrock is discussed, but again only generically. Elsewhere in the DEIS, a statement is made that construction of the Water Reclamation Facility (WRF) would not require blasting. Therefore, the discussions in the DEIS of blasting are too general and potentially inconsistent.

All locations at the Project where blasting is anticipated must be mapped and described with a specific evaluation of the proximity of dwellings and other existing structures to the mapped blasting locations. This is particularly important if there is to be any blasting at or near the WRF, which will be the closest structure to adjoining residences. Using this information, a site-specific blasting protocol must be developed for the FEIS.

5. **Truck traffic.** According to the DEIS, the diamond interchange recommended by the Applicant for the proposed Interchange 15B along the New York State Thruway, as currently configured, will not be able to accommodate truck traffic. Thus, any increase traffic from truck deliveries must be accommodated on Route 17, CR72, CR84, and Route 17A. Specific truck routes and delivery/pickup times, whether coming from the south or north, must be identified and fully analyzed for noise and traffic impacts. Also, we note that the Interchange 15B has been evaluated using a “nominal” toll fee. The extent to which a toll induces travelers to use 15A, and not 15B, needs to be discussed in detail.
6. **Noise.** Significant increases in noise will be experienced as a result of the project. Significant noise levels are generated by traffic traveling to and from the resort (experienced at Laurel Ridge and Clinton Woods, s. p. III.12-13-15), snow guns (Helmstown Court, see p. III.12-26), and construction (Benjamin Meadow, Helmstown Court – see p. IV-26). Noise levels would increase within adjoining parkland areas as well. At present, mitigation includes only establishing a mitigation fund of \$25,000 per dwelling, for 36 residences within Clinton Woods and Laurel Ridge. Our noise expert, Sandstone, has advised that there are other locations within these two residential neighborhoods which are just shy of the 6 decibel increase that may also warrant mitigation. More comments regarding the adequacy of the mitigation fund will be made in our written comments. However, the Applicant should also consider other types of mitigation which will better address the noise impacts associated with the Project. In addition, further mitigation measures should be assessed to address snow guns and construction noise levels (monitoring alone is insufficient). Additional detailed discussion is required to ensure effective mitigation measures are implemented. As a baseline, the snow guns and construction equipment should have state-of-the-art noise suppression as part of their design.

In addition, the cooling tower barrier, proposed to be evaluated in the future, needs to be evaluated for the FEIS.

Lastly, we note that the Town's zoning law has performance standards for noise, which do not appear to have been addressed in the DEIS. Compliance with the zoning noise standards needs to be demonstrated.

7. **Construction hours of operation.** Related to truck traffic and noise levels above, the Applicant has indicated that it proposes to construct the facility between the hours of 8 AM and 8 PM, Monday through Friday, and 9 AM to 8 PM on weekends and holidays. We expect that this is to meet the construction schedule dictated by the State should the Applicant be designated as a licensee under the State Gaming Law. As the noise and traffic associated with daily construction are of significant concern, there needs to be more detail provided as to how and when certain outdoor construction activities will occur. There is less concern with respect to indoor construction. As stated above, it is also important to understand the truck routes and times for delivery and pickup.
8. **Parking.** Parking needs to be addressed in greater detail. Of particular concern is the availability of parking spaces near the World Fairgrounds. It is some distance to walk from the casino multi-story garage to this part of the site. Individuals will want to park as close to the Fairgrounds site as possible; if a vehicle travels to this lot and it is fully occupied, what design measures are in place for turnarounds? There is inconsistency in the discussion of how overflow parking will be handled. On p. III.11-50, the deficit of parking spaces for the World Fairgrounds is supposed to be addressed in part at the central lot "which is not in operation during the summer months." However, in the project description, it is anticipated that the ski village will be open with its restaurants and use of the ski slope for outdoor summer recreational purposes. Ease of access between all parking lots needs to be addressed to minimize additional trips on Route 17A, especially given the taper down to two lanes in this area. A shuttle system from the parking garage should be considered.
9. **Traffic Light.** The DEIS indicates that a traffic signal at the intersection of State Route 17A and County Road 84 may be warranted. Given the proximity of the intersection to Sterling Forest Fire Company, and the need to be able to control the intersection during an emergency, the Town will ask the NYSDOT to determine whether a signal can be installed, which at a minimum could be actuated by the fire company on an as-need basis.
10. **Cultural Resources.** One historic site and two archaeological sites have been identified within the areas to be disturbed. The NYS Office of Parks, Recreation and Historic Preservation will comment on the findings. Although the Applicant has indicated the Phase II report has been prepared, it has not yet been sent to the State agency for review. This needs to be done as soon as possible. The comment period must include opportunity for the agency to offer comments on the Phase II, which was a required study for DEIS completion purposes.
11. **Endangered species.** The Indiana Bat (*Myotis sodalis*), a New York and federally endangered species, was encountered on the project site based on acoustic surveys conducted in the vicinity of the casino/hotel site. (see p. III.5-19). We anticipate that the New York State Department of Environmental Conservation (DEC) and U.S. Fish and Wildlife Service will weigh in and comment on the significance of this finding. The Indiana bat population in the region has been in steep decline, due to the high mortality rate associated with white-nose syndrome – see

<http://www.fws.gov/Midwest/Endangered/mammals/inba/index.html>. The need to protect the species, and its effect on the site layout, will be a determination made by those agencies.

12. **Water reclamation facility.** There is still a question as to how 100% of the reclaimed water will be used for the Project, and what will be allowed by the Orange County Department of Health (DOH) and the DEC. Consultation with these agencies needs to occur so that the impacts to the Indian Kill Reservoir can be properly estimated, with regard to future demand, and impacts to water quality.

Thank you for your attention to these preliminary comments, presented on behalf of the Town Board. As mentioned above, further comments will be submitted by December 19, 2014.