

**RESOLUTION APPROVING AN AMENDED SPECIAL USE PERMIT
FOR THE TUXEDO FARMS PLANNED INTEGRATED DEVELOPMENT**

WHEREAS, on November 15, 2004, the Town Board of the Town of Tuxedo, as Lead Agency, adopted a State Environmental Quality Review Act (“SEQRA”) Findings Statement and issued a Special Permit and approved a Preliminary Plan for the Tuxedo Farms Planned Integrated Development (“Project”) (previously called Tuxedo Reserve), encompassing approximately 2,247 acres in the Town of Tuxedo (and a portion in the Village of Sloatsburg); and

WHEREAS, the Town Board issued amended Special Permits, SEQRA Findings, and related approvals for the Project in 2010 and 2015; and

WHEREAS, the Project is grandfathered into the Planned Integrated Development regulations in existence at the time the Special Permit was first issued (“Grandfathered PID Regulations”) and

WHEREAS, in or around November 2021, Tuxedo Reserve Owner LLC (“Applicant”), the developer of the Project, applied to the Town Board, and thereafter has engaged in discussions with the Town Board and other involved and interested agencies, regarding certain proposed amendments to the Project’s Special Permit and Preliminary Plan (collectively, all the modifications to the Project described in this Resolution are referred to as the “Proposed Amendments”); and

WHEREAS, the Proposed Amendments are intended primarily to facilitate an adjustment in the Project’s unit mix distribution to meet current market demand for what is known as “Missing Middle” housing; and

WHEREAS, Missing Middle housing is a range of housing typologies that are typically smaller and more moderately priced than a single-family home to meet the needs of downsizing seniors, as well as first-time home buyers; and

WHEREAS, the Proposed Amendments would retain the character of the Project as a walkable planned community, comprising several residential neighborhoods centered around a mixed-use town center known as the Commons; and

WHEREAS, the Proposed Amendments also include updated Design Standards (*i.e.*, Smart Code, Performance Standards, and Architectural and Landscape Design Guidelines) to accommodate the new development program, and to permit additional building materials; and

WHEREAS, the Proposed Amendments further include an amendment to Local Law 3 of 2011 to reflect certain caps and minimum requirements on unit counts; and

WHEREAS, the Proposed Amendments would increase the total unit count (including age-restricted) from 1,195 to 1,609, and increase the total bedroom count from 3,324 to 3,574 (with a maximum bedroom count inclusive of age-restricted units capped at 3,620 based on sewer and water capacity); and

WHEREAS, more specifically, the Proposed Amendments to the 2015 Special Permit and Project, include, but are not limited to, the following:

1. Remove the requirement to build 764 single family homes and replace it with a requirement to build 269 single family detached homes and not less than 174 duplex units;
2. Increase the maximum unit count from 1,375 to 1,609;
3. Increase the non-age restricted maximum bedroom cap from 2,860 to 3,070;
4. Remove references to the Palisades Interstate Parks Commission (PIPC) swap alternative as it is no longer contemplated;
5. Update the definition of multi-family to exclude attached home concepts such as townhomes and stacked townhomes;
6. Revise the timing and amount of the Hamlet Revitalization Funding Program payments (the amount of the Grant Fund would increase from \$1,000,000.00 to \$1,100,000.00, and the Loan Fund would be eliminated);
7. Modify the library agreement to permit shared use between the Applicant and Town (and Library) of a new, approximately 4,000sf community event building in the Commons to be constructed by the Applicant, with an option for the Town to acquire the building;
8. Modify the PILOT payment schedule regarding the 88.78 acres of LIO zoned land depicted on the 2022 Preliminary Plan;
9. Remove the requirement to build the project in three phases in strict sequence to allow a more thoughtful and flexible development phasing to meet the market demands and allow construction of Active Adult community sooner;
10. Update the Preliminary Plan and Regulating Plan to:
 - a. Show new master plan with planned unit types;
 - b. Adjust certain Transect Zone designations to allow more smaller homes and allow concentrated development around center of community; and
11. Update and replace the Design Standards as needed to allow proposed home types to meet the market demand and latest building materials while maintaining the quality and desired aesthetic character of the Development; and

WHEREAS, during the course of the Town Board's review, the Applicant submitted various technical information and data required by the Town Board, including, among other things, (i) Technical Memorandum, prepared by AKRF, (ii) 2022 Preliminary Plan, which consists of a set of 23 drawings, including Surveys, Zoning Plan, Regulating Plan, Public and Private Road

Hierarchy Plans, Conceptual Stormwater Management Plan, and Concept Plan, prepared by Langan Engineering and Hart Howerton, (iii) updated Design Standards, prepared by the Applicant and its consultants, and (iv) Traffic Assessment of Proposed Modifications to Tuxedo Farms, prepared by Philip Habib & Associates (collectively, “Application Materials”); and

WHEREAS, the Town Board, together with its independent planning and traffic consultants (Nelson Pope Voorhis and Nelson & Pope, respectively), the Town Engineer, and the Town Attorney reviewed the Application Materials when they were originally submitted in November 2021, and as they were revised and re-submitted during the review process, to determine whether the Application Materials complied with the Grandfathered PID Regulations applicable to the Project; and

WHEREAS, the Town Board held approximately ten (10) work session meetings, which were duly noticed and attended by members of the public, to discuss and provide comments on the Application Materials and the Proposed Amendments to the Special Permit and Project; and

WHEREAS, the Town Board’s and Applicant’s respective professional consultants and attorneys also worked together outside these work session meetings to further discuss and revise the Application Materials to make sure all the necessary SEQRA, PID, and other information was provided to the Town Board; and

WHEREAS, the Applicant submitted revised Application Materials to the Town Board and its consultants on several occasions, including, but not limited to, January 27, 2022, March 10, 2022, and May 26, 2022; and

WHEREAS, the Town Board and its consultants independently reviewed all iterations of the Application Materials to ensure they were complete and in a form suitable for acceptance by the Town Board; and

WHEREAS, the Town Board conducted Public Hearings on the Proposed Amendments to the Special Permit and Preliminary Plan on June 16, 2022 and June 23, 2022, at 6:00 p.m., at the George Grant Mason Elementary School, Multipurpose Room, 11 Hillside Avenue, Tuxedo, New York, at which time those wishing to comment on the Proposed Amendments were afforded an opportunity to be heard; and

WHEREAS, the Public Hearing Notice was published in the Times Herald-Record, mailed to each owner of surrounding parcels of property and the Village of Sloatsburg, and was posted on the Town website; and

WHEREAS, the Town Board voted to close the Public Hearing on the Proposed Amendments to the Special Permit on June 23, 2022; and

WHEREAS, the Town Board has listened carefully to all the comments and questions raised by the commenters at the Public Hearings, including, but not limited to, representatives of the Tuxedo Union Free School District (“TUFSD”), as well as comments that were submitted during the written comment period, which ended on July 7, 2022; and

WHEREAS, the Town Board also referred the Proposed Amendments to the Town of Tuxedo Planning Board (“Planning Board”) and the Orange County Planning Department (“OCPD”) as required by law; and

WHEREAS, on June 6, 2022, the Planning Board issued its report to the Town Board pursuant to the Town Zoning Law; and

WHEREAS, on July 25, 2022, OCPD issued its report to the Town Board pursuant to General Municipal Law Sections 239-l, 239-m, and 239-n; and

WHEREAS, the OCPD report contained a binding comment to reinstate review of the Project with the New York State Department of Transportation (“DOT”), and to complete any supplemental traffic studies determined by DOT and Orange County Department of Public Works (“OCDPW”) to be necessary to assess traffic impacts along NYS Route 17 and affected local and County roads; and

WHEREAS, on August 22, 2022, a virtual meeting with representatives of the Town, the Applicant and its traffic consultants, OCPD, OCDPW, and DOT was held to discuss OCPD’s transportation-related comments in its report; and

WHEREAS, following the meeting, the Applicant submitted additional information and analyses to DOT and OCPD, including a commitment to upgrade three (3) traffic signals to operate Adaptive Signal Control Technology (“ASCT”), anticipated to be at the intersections of NYS Route 17 and Seven Lakes Drive, Municipal Plaza, and Eagle Valley Road; and

WHEREAS, on September 2, 2022, DOT and OCPD issued e-mails stating that given the additional technical information provided and the Applicant’s commitment to install ASCT at three area intersections, their respective transportation-related concerns had been addressed and the Town Board could complete its traffic review under SEQRA; and

WHEREAS, at the request of TUFSD, on September 6, 2022, representatives of the Town Board and TUFSD conducted a meeting in-person, during which the TUFSD shared a presentation entitled “Tuxedo Farms: District Operational and Facilities Impact Study,” which was submitted to the entire Town Board on September 8, 2022; and

WHEREAS, on September 19, 2022, the TUFSD, by its attorney, submitted a follow-up letter to the Town Board via the Town Attorney setting forth additional comments; and

WHEREAS, the Town Board also received correspondence from Deputy Minority Whip Karl A. Brabenec, and Village of Tuxedo Park Mayor David McFadden, relating to the TUFSD; and

WHEREAS, the Town Supervisor also conducted discussions with NYS Senator James Skoufis regarding the TUFSD; and

WHEREAS, the Proposed Amendments would not change any terms of the 2015 Special Permit that relate to the TUFSD, including the Applicant's total payment of \$2.5 million and donation of approximately 40 acres of land to the TUFSD (in addition to annual tax revenues generated by the Project); and

WHEREAS, the Town Board reviewed and analyzed the TUFSD's comments and concerns, and asked the Applicant's and the Town Board's own independent consultant to review and respond to all the information submitted by the TUFSD; and

WHEREAS, the Applicant, by its planning consultant, AKRF, prepared and submitted to the Town Board an updated Technical Memorandum, together with a supplemental letter ("Supplemental School Letter"), both of which are dated October 11, 2022, addressing all the TUFSD comments; and

WHEREAS, the Town Board's planning consultant independently evaluated the TUFSD comments and the Applicant's responses, and issued a Memorandum, dated October 14, 2022, concluding, among other things, that the Applicant's responses to the TUFSD's comments are reasonable, and that the Project would result in a positive fiscal benefit for the TUFSD ("Town School Memorandum"); and

WHEREAS, the Town Board, together with its planning consultant and the Town Attorney, has carefully considered all the TUFSD comments and the technical information submitted in response by the Applicant's and the Board's consultants; and

WHEREAS, in the course of its continued review of the Proposed Action and in order to secure a better unit mix for the project, the Town Board requested that the Applicant commit to replacing 30, 1-3 bedroom Multi-Family and/or Townhouse units with 30 single-family homes (anticipated to be 4 bedrooms each); and

WHEREAS, such change in single-family homes would increase the number of bedrooms by 60 (average of 2 additional bedrooms per each of the 30 units), for a maximum of 3,574 bedrooms, while maintaining a maximum unit count of 1,609; and

WHEREAS, on October 19, 2022, the Applicant submitted a Report prepared by Murphy Burnham & Buttrick Architects, further addressing certain comments of the TUFSD, and demonstrating that there is a range of potential feasible approaches for accommodating the projected growth in enrollment in TUFSD ("MB&B Report"); and

WHEREAS, on October 20, 2022, the Town Board conducted a Special Meeting that focused exclusively on comments raised by the TUFSD, and included a discussion by and among the Town Board, Applicant and TUFSD ("TUFSD Special Meeting"); and

WHEREAS, the Town Board has further reviewed and considered the reports of the Planning Board and OCPD, comments made at public work sessions and Public Hearings, written comments, DOT and OCPD correspondence, submissions by TUFSD, and the discussion during the TUFSD Special Meeting; and

WHEREAS, the final set of Application Materials reviewed and considered by the Town Board and its consultants consist of the following: (i) Technical Memorandum, with Attachments (including the Supplemental School Letter), prepared by AKRF, last revised October 11, 2022 (“2022 Technical Memorandum”),¹ (ii) Preliminary Plan (set of 23 drawings), prepared by Langan Engineering and Hart Howerton, last revised September 8, 2022 (“2022 Preliminary Plan”), (iii) updated Design Standards, prepared by the Applicant and its consultants, last revised September 16, 2022, and (iv) MB&B Report, dated October 19, 2022; and

WHEREAS, the Town Board has considered the advice and recommendations of its planning, engineering, and legal consultants with respect to the Proposed Amendments, including, but not limited to, (i) Memoranda issued by Nelson Pope Voorhis (planning consultants), dated March 22, 2022, April 1, 2022, May 11, 2022, and October 14, 2022, (ii) Memorandum issued by Nelson & Pope (traffic consultants), dated April 2, 2022, and (iii) Memorandum issued by Town Engineer, dated March 24, 2022; and

WHEREAS, on or about October 24, 2022, the Town Board, as Lead Agency, adopted an Amended Findings Statement pursuant to SEQRA for the Proposed Amendments to the Project, including, but not limited to, the amendments set forth in Local Law No. 5 of 2022 described below (“Amended Findings Statement”); and

WHEREAS, on or about October 24, 2022, the Town Board approved Local Law No. 5 of 2022, which provides that Paragraph 1 of Section 2 of Local Law No. 3 of 2011 is amended to read as follows: “1. No more than 1,609 residential dwelling units may be constructed on the Tuxedo Farms Planned Integrated Development of which no more than 500 units shall be multi-family units and no less than 269 units shall be single family detached units and no less than 174 shall be duplex units.”; and

WHEREAS, a form of an amended Special Permit entitled “2022 Special Permit Tuxedo Farms” (“2022 Special Permit”) has been presented to the members of the Town Board for their review and consideration; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board finds that the Application for the Proposed Amendments to the 2015 Special Permit meets the objectives set forth in Section 98-23B of the Grandfathered PID Regulations, including for the following reasons:

[1] Variety of housing types and ownership capabilities have been provided.

The Project’s housing types, which have been modified to meet the demand for “Missing Middle” housing, include single-family detached homes, townhouses, stacked townhouses, multi-family units, age-restricted single-family homes, and age-restricted duplexes. There would be fee simple and condominium ownership types. In addition, Local Law 5 of 2022 requires that no more

¹ Attachment B to the Technical Memorandum is the Traffic Assessment of Proposed Modifications to Tuxedo Farms, prepared by Philip Habib & Associates, last revised May 5, 2022.

than 500 units shall be multi-family units and no less than 269 units shall be single family detached units and no less than 174 shall be duplex units.

[2] Usable Open Space, recreational facilities and reservation for educational facilities have been provided.

The Proposed Amendments would maintain the total site acreage and total preserved open space areas that were approved as part of the 2015 Special Permit. Approximately 1,744 acres are to remain primarily in a natural and undeveloped state as open space, preserving scenic and environmental qualities of the Southern, Fox Hill, and Northern Tracts. As described in Article XII of the 2022 Special Permit, various land gifts, easements and restrictions shall be completed to preserve open space on the Southern Tract, Northern Tract and Fox Hill Tract in accordance with the Project's 2015 approvals.

The Proposed Amendments do not change or modify the Applicant's commitment set forth in Appendix K to the 2015 Special Permit to offer to donate (as a gift) to the TUFSD an approximately 40-acre parcel as depicted on the 2022 Preliminary Plan as a future school site and/or site for athletic fields, playing fields, or other recreation facilities (in addition to a payment of \$2.5 million).

The Proposed Amendments require the Applicant to construct, at its own cost and expense, a community event building ("Event Building") in the Commons pursuant to Article XV of the 2022 Special Permit. The Event Building is anticipated to contain approximately 4,000 square feet of usable space. The Applicant and Town (and Library) shall share the use of the Event Building after an initial three-year period following its construction, during which the Applicant shall have sole and exclusive use of the Event Building. The Town shall also have an option to acquire the Event Building.

The Proposed Amendments also maintain the various active recreational opportunities as described in Article XVI of the 2022 Special Permit. This includes that the Applicant shall construct and maintain a trail system that will be made available to Town residents, as well as residents of Tuxedo Farms.

The Applicant shall also pay a recreation fee per dwelling unit in accordance with the applicable requirements of the Town's Zoning Law and Subdivision Regulations, and New York State Town Law Sections 274-a and 277, pursuant to Article XVI of the 2022 Special Permit. The recreation fee shall be paid at the time that a building permit is issued for that unit.

[3] Accessory facilities may be located within the site where appropriate, subject to the Subdivision Regulations of the Town of Tuxedo.

The Town Board acknowledges that the Planning Board may consider allowing for certain accessory facilities (or uses) during its review of the Project. Any such accessory facilities (or uses) would also be subject to all applicable requirements of the Tuxedo Farms Homeowners Association ("TFHOA").

[4] 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 resources on the site. The Proposed Action locates the development within the previously analyzed limits of disturbance and would not establish new development areas. In addition, because the Proposed Action involves more townhome and multi-family units to meet demand for the “Missing Middle,” the overall limits of disturbance on the Southern Tract would be reduced from approximately 443 acres to approximately 380 acres. The development would be more concentrated in the Commons area and the neighborhoods immediately surrounding it.

All disturbance areas are subject to a comprehensive set of Performance Standards, which have been reviewed by the Town Engineer. This includes standards relating to grading and steep slope protection; erosion and sediment control; tree surveys; water quality testing; environmental compliance; and blasting.

[5] A creative and staged development of land which allows for an orderly transition from vacant to occupied use has been provided.

The Proposed Amendments eliminates the previous sequencing of the development in three distinct phases. This would enable the development of the Active Adult community sooner since that community was planned for the area formerly designated as Phase 2. The construction sequencing will be developed rationally to allow efficient cutting and filling, thoughtful completion of amenities, commercial areas, and neighborhoods to deliver the quantity and diversity of home types to meet the market as it may evolve and minimize construction disturbance to residents. It is anticipated that initial construction will involve the completion of Quail Road (with connection to Route 17 in Sloatsburg) from an area near the Commons to the north entrance along NYS Route 17; the amenities, commercial and multifamily buildings in the Commons; and the townhomes and single-family homes in West Terrace. The Project is anticipated to be developed over approximately a 10-year period (subject to market conditions); and

BE IT FURTHER RESOLVED, that the Town Board has reviewed the general design requirements and standards for planned integrated development in Section 98-23C of the Grandfathered PID Regulations, and finds that all such requirements and standards have been met for the Proposed Amendments to the 2015 Special Permit, including for the following reasons:

The 2022 Preliminary Plan demonstrates that the Project contains the required minimum area (minimum 100 acres) and satisfies the ownership requirements of the Zoning Law. The Project has adequate water and sewer service. All proposed uses within the Project are permitted uses. Smart Code Table 1 sets forth the bulk requirements for the Project. The Project is subject to the Design Standards, which shall be applied by the Planning Board during the individual site plan and subdivision reviews for the Project; and

BE IT FURTHER RESOLVED, that the Town Board finds that the Proposed Amendments to the 2015 Special Permit satisfies Sections 98-23D, E and F of the Grandfathered PID Regulations, including for the following reasons:

Adequate ownership provisions have been identified for common owned property. Pursuant to Article XXIII of the 2022 Special Permit, the TFHOA will own the common property. Creation of the TFHOA is subject to review and approval by the NYS Attorney General. The TFHOA is required to comply with the 2022 Special Permit.

The 2022 Special Permit incorporates Design Standards that are specific to the Project to assure that the Project is developed in accordance with the design, scale, density, and character approved by the Town Board. The Design Standards consist of the Smart Code (and its associated Regulating Plan), the Performance Standards, and the Architectural and Landscape Design Guidelines. The Design Standards collectively establish standards and guidelines for each type of community or area in the Project, including its open space preservation areas, the Commons, and the various communities for residential development.

More specifically, the Smart Code (including Table 1) establishes planning and development standards, including rules for building type, bulk, lot layout, etc. The Performance Standards establish various engineering and similar design requirements for streets, other infrastructure, etc. The Architectural and Landscape Design Guidelines establish the visual design criteria for the Project's buildings, structures, lighting, and other improvements. The Design Guidelines also include certain limited waiver authority granted to the Planning Board and Architectural Review Board ("ARB") to provide a degree of flexibility during the build-out of the Project.

The ARB is charged with reviewing the Project for compliance with the Architectural Guidelines. Prior to approval of a preliminary subdivision plat or a site plan, the application shall be referred to the ARB for review and approval of the exterior design of those structures whose design is to be approved as part of the preliminary subdivision approval or site plan approval, if any. For purposes of the Project, the Planning Board shall serve as the ARB unless the Town creates a separate ARB; and

BE IT FURTHER RESOLVED, that the Town Board finds that the binding requirement contained in the OCDP's GML report with respect to traffic has been satisfied through the additional mitigation of Adaptive Signal Control Technology at three intersections along NYS Route 17 based on discussions with DOT and OCDP; and

BE IT FURTHER RESOLVED, that the Town Board finds that the TUFSD comments and concerns have been adequately addressed in the 2022 Technical Memorandum (including the Supplemental School Letter) and the Town Board's planning consultant's Town School Memorandum; and

BE IT FURTHER RESOLVED, that simultaneous with the adoption of this Resolution, a new 2022 Special Permit designated as "2022 Special Permit Tuxedo Farms" shall be issued in the form attached to this Resolution; and

BE IT FURTHER RESOLVED, that the 2022 Special Permit shall replace and supersede the 2004, 2010, and 2015 Special Permits; and

BE IT FURTHER RESOLVED, that the Town Clerk shall file this Resolution in its office, and shall file a report of this action with OCPD within thirty (30) days from this date; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

On a roll call vote of:

Town Supervisor Kenneth English	Aye	Nay	Abstain	Absent
Deputy Supervisor Michele Lindsay	Aye	Nay	Abstain	Absent
Councilmember Maria May	Aye	Nay	Abstain	Absent
Councilmember Jay Reichgott	Aye	Nay	Abstain	Absent
Councilmember Deirdre Murphy	Aye	Nay	Abstain	Absent

the Supervisor declared this Resolution adopted.

Approved for Filing:

Marisa Dollbaum,
Town Clerk

Dated:
November __, 2022