

**Tuxedo Land Trust, Inc.**  
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December 31, 2009

Town of Tuxedo Town Board  
1 Temple Drive  
Tuxedo, NY, 10801

Re: Tuxedo Reserve, Comments on SEIS

Dear Supervisor Dolan and Honorable Members of the Board:

Tuxedo Land Trust is a New York State registered non-profit that was formed in 2006 to pursue low carbon, clean water, avoided deforestation, and renewable energy. The organization became active in the Tuxedo Reserve amendment proposal after attending two public opinion hearings on November 9<sup>th</sup> and November 23<sup>rd</sup>, 2009.

At both these meetings, the public opinion was overwhelmingly against the development. However, the perception from many in the audience of the Town Board members' words, tone, and body language suggested that the Board was not only in favor of this development, but also had little patience with the public opinion process.

Given the Board's reluctance to listen to public opinion, Tuxedo Land Trust became more interested in the details of the Tuxedo Reserve project. Our findings demonstrate multiple instances of improprieties.

The Related Companies secured appx. \$128,000,000 in financing for Tuxedo Reserve from Lehman Brothers in 2006. The Related Companies withdrew \$57,000,000 in cash, then stopped making payments in September, 2008. In Lehman Brothers Bankruptcy Court documents, The Related Companies state that their plan is to receive approval of the amended proposal, then initiate a bulk land sale.

In addition, The Related Companies also has numerous failed projects across the country, including but not limited to: Snowmass, Cattle Creek, Miami, West Palm Beach, Phoenix, Los Angeles, and New York.

There are continuing occurrences of amended proposals, bankruptcies, liens, and failed partnerships with local residents. The Related Companies then re-emerges to purchase the distressed debt for pennies on the dollar; and attempts to coerce weary town boards and residents into new amendments. These amendments remove previous terms like, "UNDER NO CIRCUMSTANCES."

The Related Companies has demonstrated that they are incapable of completing this project. They withdrew \$57,000,000 in cash in 2006 and did not build. They now state their intention to sell. The Tuxedo Land Trust respectfully submits that the Town of Tuxedo should not assist The Related Companies in a bulk land sale by approving this amended proposal.

In addition, there are numerous omissions, errors, and constitutional violations that should not allow the project to continue in any form, including the original 2004 building permit approval. Land Use Attorneys, Whiteman Osterman & Hanna provide examples of segmentation, spot zoning, and contract zoning in their review of the SEIS. A copy of the report can be viewed at [www.tuxedolandtrust.org/independent-studies.com](http://www.tuxedolandtrust.org/independent-studies.com).

As you may know, segmentation occurs when an environmental review is addressed in stages, as though each step is independent and unrelated to other activities. Numerous examples occur where the Town defers the need for further analysis until a time in the future. For instance, the Public cannot comment on the the so-called "smart code", since the first public workshop has not been scheduled until after the written comment period ends.

Spot zoning occurs when a Town approves a proposal simply because it is more economically beneficial for the applicant, and is contrary to previous conclusions relevant to the appropriate zoning and planning for the proposed changes. The Related Companies is clearly asking for spot zoning in the amended proposal of the 2004 building permit. They withdrew \$57,000,000 in cash in 2006. Why didn't they build in one of the best real estate markets in history? Something was clearly not economically beneficial to them.

Another significant example is the suggestion that the amendment request presents an opportunity for the Town to renegotiate perceived flaws in the 2004 approval; including the building of a new Sewer Plant before the 1<sup>st</sup> house receives a certificate of occupancy rather than the 80<sup>th</sup> house. This would be an example of contract zoning: it is unconstitutional to bargain away local zoning authority in exchange for certain approvals.

Regarding the Stormwater Management Plan and the Sanitary Sewer, Dolph Rotfeld Engineering states that "the impact of this project can not be fully and adequately assessed given the current information that is available. Particularly with respect to the potential for degradation to the Ramapo River in its capacity for flood control and its status as a water supply for residents of Rockland County and New Jersey." This report can also be viewed at [www.tuxedolandtrust.org/independent-studies](http://www.tuxedolandtrust.org/independent-studies).

Even if it were constitutional to allow contract zoning, why would the Town even consider a plan that has the potential to degrade the Ramapo River? The Ramapo River is one of seven sole source aquifers in the State of New York, and directly supplies the drinking water for 250,000 homes. No responsible Town Board would trade a zoning approval to The Related Companies in exchange for a new sewer facility and the possible degradation of the drinking water for 250,000 homes.

In addition, Hydrogeologist Paul Rubin, states that "there are significant environmental risks associated with advancing the Tuxedo Reserve project based on incomplete assessments provided in the SEIS." The May 2007 Water Supply Investigation Report was incorporated by reference into the SEIS, yet not available to the public on the Town of Tuxedo's website.

Rubin highlights that "the long-term community water quality may be at risk because significant development is planned directly above and within a major portion of the aquifer recharge zone. Site groundwater flow directions and pumping test data (as presented by The Related Companies in Figures 3, 5, & 7 of the 2007 Water Supply Investigation Report), document groundwater flow from the Tuxedo Reserve development area down gradient into zones of Reserve pumping well influence. *Thus, the risk of project contaminants infiltrating downward and directly into the project's own community water is real.*"

Also troubling in this process is the Town's willingness to abandon equal application of the law and to rubber stamp their approval. It is inappropriate for the Town of Tuxedo website to post a draft decisional document prepared entirely by The Related Companies.

The concept of "grandfathering" exempts a project from new or amended local laws. Tuxedo Reserve has been grandfathered exemptions from local laws related to planned development districts.

The breach of equal application of the law is that this project did not exist at the time of the new development district legislation; and still does not exist even now when the prior grandfathered use is being amended yet again, and The Related Companies is still seeking continued special grandfathering protection.

To reiterate, The Related Companies had \$57,000,000 in cash in 2006. There was nothing preventing the applicant from proceeding to build. The Town should not allow another grandfathered use on a proposal that has multiple flaws, omissions, and violations.

A common argument in favor of the development is the belief that the Town needs the revenue from the project, and that the development will be tax positive. The independent Traffic study demonstrates that the traffic impact alone will cost the Town \$26,000,000 annually.

Regarding the 2008 Traffic Impact Study Addendum submitted by The Related Companies, Traffic Engineer Brian Ketcham notes that the study "intentionally leaves out the project impacts at Route 17 and County Route 72, Route 17 and Washington Avenue, and Route 17 and NYS Route 17A."

All of these intersections "exhibit peak hour traffic problems and for which earlier Tuxedo Reserve traffic analyses have demonstrated severe operating conditions." Ketcham estimates that "even utilizing their own numbers, this project will increase traffic along Route 17 by approximately 38% over existing conditions. However, it is our conclusion that the projected trips generated by this project have been underestimated by at least 90% for the PM peak hour and by 108% for the AM peak hour."

Brian Ketcham's traffic analysis of another Related Companies project in the Bronx proved instrumental in a 45-1 City Council vote against the Related Companies and Mayor Bloomberg. The 45-1 vote is significant and unusual; and highlights the accuracy of the science behind Ketcham's analysis. The report can be viewed at [www.tuxedolandtrust.org/independent-studies](http://www.tuxedolandtrust.org/independent-studies).

The simple point is that The Related Companies not only plans to cut and run and leave us stranded in traffic, but also endanger the drinking water of 250,000 homes, and threaten contamination of their own property owners' drinking water.

Regarding The Tuxedo Reserve Economic and Fiscal Analysis, Camoin Associates concludes that "a number of material deficiencies exist in the Analysis that, individually, would be a serious cause of concern. Collectively, they render meaningless the conclusions draw(n) by the authors. Furthermore, there may be additional deficiencies that are not currently known since the information from which Camoin Associates can make a determination is not currently available."

It is the responsibility of the Town of Tuxedo and The Related Companies to make this information available to the public during the written statement period. They did not make it publicly available.

Another simple but unfortunate fact is that Baker High School will cease to exist because The Related Companies refused to build without a new amendment. The first phase, or 75 houses, was to be completed by 2009. The Related Companies had \$57,000,000 in cash. It is now 2010 and no ground has been broken. It is highly likely that the Greenwood Lake students will be gone by their intended goal of 2013/2014. The reality is that the school will fail because of The Related Companies, and new ideas need to be considered without The Related Companies.

A common mis-conception is that the Village of Tuxedo is against this project, and that Town residents are for this project. Volunteers from the community collected petitions and stood outside the Post Office, Bentleys, and walked door to door in the Hamlet. 165 signatures were collected against Tuxedo Reserve, 11 wanted more information, and 6 were for the development.

In addition, the Tuxedo Land Trust offered an on-line poll that asked people if they were for or against the development. As of January 4<sup>th</sup>, 2010, 58 people voted against the development, and 5 voted for the development. In the combined polls of people either being for or against Tuxedo Reserve, the total is 11 people for and 223 against Tuxedo Reserve

The Town and The Park speak as one voice: they are 95% united against the development. The Town needs to come up with a new plan for economic development that does not rely on the failed model of residential development.

Tuxedo Land Trust believes that a public-private partnership based on a renewable energy utility can generate sufficient revenue to build new municipal infrastructure with minimal cost to the local tax payers. This proposal can be viewed at [www.tuxedolandtrust.org/alt-proposal](http://www.tuxedolandtrust.org/alt-proposal).

While the Town must always look to plan for its future, we must also observe and respect its past. The New York State Historic Preservation Office believes there is credible evidence to recommend that The Related Companies re-examine the existence of the Continental Road on Tuxedo Reserve property; and explore the possibility that a network of corduroy roads exists from The Revolutionary War.

"In addition, it does not appear that SHPO has ever received a project plan that shows the specifics of the proposed development." SHPO recommends that The Related Companies "evaluate the potential impacts of the project on the Road corridor and any intact sections of it; and if The Road will be adversely impacted, to consider modifications to the project to remove those impacts, or to develop mitigation measures designed to reduce any negative impact."

Steve Gross of Hudson Highlands Environmental Consulting, representing Target Tuxedo, states that the Village of Tuxedo Park is listed on the National Register of Historic Places as an Historic District, and it is reasonable that the Continental Road contributes to Tuxedo Park's history. Mr. Gross further states that The Continental Road is therefore eligible for the National Register as a contributing feature in an expanded demarcation of that District.

According to Mr. Gross, other features in the expanded historic district would include the Smith-Jefferson Homestead as suggested in the SEIS, the remains of the Old South Gate House, as well as the entire network of bridle paths where evidence of a corduroy road was recently photographed. Pictures of the corduroy road can be seen at [www.tuxedolandtrust.org/1776](http://www.tuxedolandtrust.org/1776). There is an addendum and list of questions that Tuxedo Land Trust is also submitting for reply. (please see details below).

The motto of our supporters for the last 6 weeks has been "Application Denied." In a very short amount of time, the community has rallied to demonstrate their opposition to this development with their signatures and their wallets. The independent studies have been funded by the community. These studies resoundingly conclude with similar refrains of "omissions, errors, and material misrepresentations" by The Related Companies. Tuxedo Land Trust supports the Application Denied movement, and pledges to pursue the preservation of land, clean water, and national history at the highest levels possible.

Sincerely,

Thomas Wilson                      John Kilduff  
Tuxedo Land Trust, Inc.      Tuxedo Land Trust, Inc.

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Addendum:

The following reports from independent consultants regarding Tuxedo Reserve have been submitted for the record:

*(these reports can be found online at [www.tuxedolandtrust.org/independent-studies](http://www.tuxedolandtrust.org/independent-studies))*

1. New York State Historic Preservation Office: **Recommendation for further study of the Continental Road**
2. Whiteman Osterman & Hanna: **SEIS Land Use Report**
3. Camoin Associates: **Fiscal & Economic Impact/School Report**
4. Brian Ketcham Engineering: **Traffic Study**
5. Paul Rubin: **Hydrology Study**
6. Dolph Rotfeld Engineering: **Sewer Study**
7. Ed Lenik: **Archaeology Comments**

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There is a history of omissions and incomplete information regarding the approval process for Tuxedo Reserve. Tuxedo Land Trust has the following questions (*see copies of meeting minutes at end of document*):

- A.**
1. Where and when was public notice given of the second meeting of public opinion at the Town Hall on or near November 23<sup>rd</sup>, 2009.
- B.**
1. Please identify the individuals that had one-on-one meetings with the applicant before the April 3<sup>rd</sup>, 2006, Town Board meeting.
  2. Please describe in detail the number and content of meetings that occurred one-on-one between the applicant and members of various boards before the April 3<sup>rd</sup>, 2006, meeting.
  3. Please identify any individuals that had one-on-one meetings with the applicant after the April 3<sup>rd</sup>, 2006, meeting.
  4. Please describe in detail the number and content of meetings that occurred one-on-one between the applicant and members of various boards after the April 3<sup>rd</sup>, 2006, meeting.
  5. Please provide all copies of correspondence between Tuxedo Reserve and the Town Board and Planning Board after the April 3<sup>rd</sup>, 2006, meeting.
  6. Was a committee formed consisting of two members each of the Town Board and Planning Board, together with the Technical Review Committee after the April 3<sup>rd</sup>, 2006, meeting?
  7. Please identify attendees and describe in detail the number and content of meetings that occurred outside the Town of Tuxedo between the applicant and members of various boards after the April 3<sup>rd</sup>, 2006, meeting.
- C.**
1. Is the Town Board of Tuxedo aware that Bonnie Franson is the Planning Consultant for the Village of Sloatsburg?
  2. Is the Town Board of Tuxedo aware that Tim Miller Associates state on their website that Jacobwitz and Gubits is a client on a mutual project in Walden; and that Jacobwitz and Gubits is also a law firm representing Tuxedo Reserve?
  3. Is the Town Board of Tuxedo aware that Tim Miller Associates state on their website that Langan Engineering Associates is a client on a mutual project in Elmwood Park; and that Langan Engineering also represents Tuxedo Reserve?
  4. On Bonnie Franson's resume, she states that she "has ***been involved for the past 15 years*** in the review of a 2,450-acre planned community of approximately 1,200 dwellings and 200,000 square fee of nonresidential uses within this town. ***On behalf of the Town of Tuxedo, Ms. Franson worked closely with the Town's legal counsel to prepare a Final Environmental Impact Statement for the proposed project. She was particularly involved in the preparation of an updated fiscal impact study of the project and drafting/reviewing bulk standards*** to guide development of this neotraditionally-designed community.

5. **Why was it "difficult or impossible for Camoin Associates to retrieve and review" documents from Ms. Franson** in trying to perform an analysis for Tuxedo Land Trust? **The following documents were not posted on the Town's website or available at the Town of Tuxedo office: Draft Generic Environmental Impact Statement in 1996; Draft Supplemental Environmental Impact Statement in 1999, a Government Finance Group analysis on the validity of impact modeling assumptions and methodology for the 1999 DSEIS, and a Final Environmental Impact Statement in 2003.**
  6. **Please demonstrate that all Town of Tuxedo Planning and Zoning officials received the four hour minimum training requirement for municipal planning and zoning officials in years 2007, 2008, and 2009 (Chapter 662 of the Laws of 2006).**
- C.
1. Please provide all minutes of the Technical Advisory Committee.
  2. Please provide all minutes from the Town Planning Board for Years 2008 and 2009.
  3. Are the Town of Tuxedo Board Members aware of any approvals from the Village of Sloatsburg for Tuxedo Reserve land?
  4. Are the Town of Tuxedo Board Members aware of any approvals from the Town of Ramapo for Tuxedo Reserve land?
  5. Are the Town of Tuxedo Board Members aware of any approvals from Orange County for Tuxedo Reserve land?

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**04/03/2006**—Special Joint Workshop Meeting, Town of Tuxedo Town Board and Planning Board

Town Board Members Present:	Mr. Peter M. Dolan	Supervisor
	Mr. Daniel Castricone	Councilperson
	Ms. Alyse McCathern	Councilperson
	Ms. Francine Rauch	Councilperson
Town Board Members Absent:	Ms. Lisa Spivak	Councilperson
Town Planning Board Members Present:	Mr. Nils Gerling	Chairman
	Ms. Mary Hanson	Member
	Mr. Richard Macaluso	Member
	Mr. Gary Phelps	Member
	Mr. Peter Simonetta	Member

Other Town Officials Present: Larry Wolinsky, Esq., Town Counsel, Mr. Stuart Turner, Town Planner, Messrs. Stanley G. Puszcz, Donald Sioss and Gary Loesch, Town Engineers; Mr. Michael Hakim, Landscape Architect; Ms. Bonnie Franson, Special Planning Consultant; and Mrs. Elaine M. Laurent, Town Clerk.

Appearing for the Applicant: Mr. Glen Vetromile and Mrs. Donna Coogan

"Supervisor Dolan advised that the purpose of this special meeting is to conduct a workshop session to discuss guidelines for Planning Board and Town Board responsibilities relative to discrepancies proposed by the applicant in recent submittals for the Tuxedo Reserve proposed development.

**Supervisor Dolan** emphasized that, in order to avoid past confusion, one contact person needs to be responsible for coordinating meetings concerning Tuxedo Reserve. ***The applicant has arranged meetings, some of which are one-on-one, by contacting the members of the various boards directly. These practices must cease so that all board officials are made aware upcoming meetings, and none are conducted with less than two officials and the applicant.*** The contact persons will be the Supervisor's Secretary, Gina Marie Miele.

***Supervisor Dolan further stressed that all correspondence regarding Tuxedo Reserve be copies to all Town Board and Planning Board meetings in the future.***

The board discussed at length some of the changes the applicant has made in the plans he has submitted to the Planning Board which conflict with the Special Permit. The applicant has been apprised of the inconsistencies in the plan by letter dated March 3, 2006 from the Technical Review Committee. No response has been received as yet from the applicant.

Mr. Wolinsky suggested the formation of a small committee consisting of two members each of the Town Board and Planning Board, together with the Technical Review Committee, to review the applicant's justifications for the proposed changes. **The committee will thus have the benefit of the history of the drafting of the Special Permit through the Town Board members and the viewpoints of the Planning Board members as far as the viability of the applicant's requests is concerned.**

After extensive discussion, it was determined that Mr. Wolinsky will attend all meetings related to Tuxedo Reserve, including Technical Advisory Meetings, until such time as a committee may be formed."

**01/09/2007**—Sloatsburg Village Board Regular Meeting

Trustees Present: **Carl Wright** Mayor  
**Mark Reimer** Deputy Mayor  
Barbara Berntsen  
John Bonkoski  
Brian Nugent

“Laurie Smyla...then asked if ***Ms. Franson is the Planning Consultant for the Village*** (of Sloatsburg). ***Mayor Wright indicated that Ms. Franson was appointed as planner for the Town of Tuxedo and also works for Tim Miller Associates.***

Laurie Smyla then asked if there was any communication regarding wells being drilled adjacent to the access road at 199 Orange Turnpike in Sloatsburg. ***Trustee Reimer indicated that Bonnie Franson is not involved in the well drilling process. Mayor Wright responded that he did not recollect any discussion of water rights or well drilling with the village.*** Laurie Smyla then commented that the aquifer that runs from Monroe to the Mahwah River is completely stressed at this point. Mayor Wright then announced that the Village will be hosting the Inter Municipal Water Shed Council and is opposed to massive building. The Rockland County Health Department will address the issue of Tuxedo Reserve drilling.

John Kwasnicki...indicated that ***it is a conflict of interest for various firms to be working for the Village as well as other municipalities. Mayor Wright responded*** that professional people work for many different clients and municipalities and ***there is only a conflict if what they are doing is conflicted with the goals and interests of another community.***

John Kwasnicki then asked ***why the impact of the Tuxedo Reserve is not in the Draft master Plan for Sloatsburg, February 2006. He commented on the conflict of interest of Tim Miller Associates and the Village Planner. There was further discussion regarding the Village Planning Consultant and the affiliation with Tuxedo Reserve.***

John Kwasnicki also commented on reports by the Tuxedo Reserve investigating the Barnes house at 203 Orange Turnpike...There was further discussion regarding septic systems and sewers.”