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November 16, 2011

*PLANNING with
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Ms. JoAnn Hanson, Chair
Village of Tuxedo Park Planning Board
80 Lorillard Road
P.O. Box 31
Tuxedo Park, NY 10987

RE: SEQRA
Review of PDEIS for
Overton Subdivision
Village of Tuxedo Park
Orange County, New York

Dear Ms. Hanson:

At your request, my office has conducted a review of the Preliminary Draft Environmental Impact Statement (PDEIS) for the Overton Subdivision dated October 27, 2011. This document provides our opinion as to the completeness and adequacy of the PDEIS for the purposes of commencing public review. This review is limited to my area of expertise, Visual Character, Section 3.5.

Summary of Findings

The applicant has added additional analysis, corrected errors, and has deleted assertions that were not supported by evidence. It is my opinion that once minor errors identified herein are corrected, the Visual Character section of the October 27th version of the PDEIS is complete for the purposes of commencing public review. I recommend, however, that additional visual analysis be performed during site plan review to ensure that the impact of specific house plans are consistent with the findings of the DEIS.

The October 27th PDEIS

This PDEIS corrects errors I had identified in the May version of the PDEIS. These corrections are detailed in the Chazen Companies October 27th cover letter and will not be repeated here. Instead, this letter will focus on important changes to ensure the Board is aware of them, and potential issues for the Planning Board's consideration.

I should note that the PDEIS I reviewed is a paper copy that was not marked to show changes from the previous version. I reviewed a digital version of the May version, but only a paper copy of the October version was made available for my review, which made a digital comparison of the differences between the two documents impossible. While the applicant's consultant included a cover letter detailing responses to comments made on the May version, there are other changes that have been made to the PDEIS that are unrelated to prior comments. The

Planning Board and its consultants should take care when reviewing this document; reviewers should not assume that areas where no comments were made previously have not been changed.

Important changes

The PDEIS has added additional materials, including: photographs—specifically photographs from East Lake Road and others—additional text regarding the visual character of the area, and performed additional visual analysis including a line-of-sight profile and a balloon test. This additional material generally follows the minimum requirements for evidence required for a visual assessment as recommended by the Department of Environmental Conservation (DEC) in their visual policy document.¹ Additionally, the applicant included a new viewshed map, used less aggressive assumptions regarding the existing tree height and appears to use source data that classifies less of the Village as “forest,” thereby showing more visibility to the project, in keeping with SEQR’s guidance to use worst-case assumptions.

The additional analysis found in the PDEIS provides more evidence to support the findings, which did not change. The PDEIS continues to say that the action would, “have little impact on the landscape and features that contribute to the Village of Tuxedo Park’s historic character.”

Preservation goals

The Village of Tuxedo Park is listed on the National Register of Historic Places, and the Scope requires:

The visual impacts of the project will be described with specific attention to the noted resources and the compatibility of the project with the preservation goals of the Village’s listing on the National Register of Historic Places.

My previous comments identified as Scope deficiencies the lack of documentation on the Village’s Listing, the absence of information on the “preservation goals” referenced in the Scope, and the lack of discussion on how the project was consistent with those goals.

Appendix 9.9 now includes the nomination form for the Village’s listing on the National Register of Historic Places. Chazen’s October 27th cover letter notes that this documentation does, “not state any preservation goals *per se*.” I believe this is correct, and that there is no specific listing of preservation goals in the National Register of Historic Places documentation. Lacking such detail, the applicant did add text to the PDEIS regarding the listing. Nevertheless, if the Planning Board is able to point the applicant to a list of preservation goals in the National Register documentation, the applicant should be able to add information that shows how the project is compatible with those goals.

¹ *Assessing and Mitigating Visual Impacts*. The DEC Policy System, 2000 DEP-00-2.

Elimination of certain mitigation measures

The applicant has eliminated mitigation measures that were offered in the prior PDEIS. The May PDEIS offered a reduction in heights of buildings on lots 6 and 9 as a mitigation measure. This PDEIS no longer provides lots 6 and 9 this lot specific mitigation.

Perhaps more important, the prior PDEIS included the following mitigation commitment: “The color of roofing materials for all of the proposed homes will also be prescribed so as to effectively mitigate any perceptible color contrast with the landscape.” This commitment was deleted from this PDEIS.

Significance of impacts

In my comments on the May PDEIS, I asked that the applicant consider performing photosimulations that would clearly demonstrate visual impacts. Instead, the application performed additional visual analysis, closely following steps detailed in the DEC’s guidance document. In a conversation with the applicant’s consultant before this submission, they expressed their belief that the scope did not require photosimulations and that significance of impacts, or lack thereof, could be demonstrated with traditional techniques. After reviewing their revised PDEIS, I agree; their additional analysis provides important new information regarding the visibility of the proposed action that can be used as evidence in assessing the significance of the visual impacts.

It correctly shows that the project will have limited visibility in the Village, but that only the top portions of some of the houses will be visible from viewpoints that have visibility, as existing on- and off-site vegetation will be an effective screen. The existing conditions photographs show that these features will be added in a landscape where many existing houses are currently visible, and so the action will not create discordant features on the existing landscape. Topography is such that it is unlikely these buildings will extend beyond any existing ridgeline, and will not alter the line of important views. All of these data provide evidence that the project as a whole will not create significant impacts on visual resources.

Line-of-sight profiles, reference balloons, viewshed maps, and traditional written visual analysis, however, remain less than ideal tools to demonstrate the visual impact of any project. While only 11 years old, The DEC’s guidance document was based upon methods developed prior to wide-spread computer use. Indeed, the example viewshed map and line-of-sight profile reproduced in the DEC’s documentation are hand-drawn. Nevertheless, in the second step of the procedures for evaluating a visual assessment, the DEC states:

Verify the applicant’s visual assessment, using either graphic viewshed and line-of-sight profile analysis as illustrated in Appendix A, or *more sophisticated visual simulations* and digital viewshed analysis, as needed.² [emphasis added].

When referencing “more sophisticated visual simulations” the DEC is referring to photosimulations, acknowledging that they are more sophisticated than the traditional methods that their documentation describes in detail.

When their documentation was written in the year 2000, verifiable digital photomontages (or photosimulations) were still relatively new and expensive to produce, but in 2011 they are now commonplace and much less costly. More importantly for SEQR purposes, lay people understand them. The public generally does not understand viewshed maps, line-of-sight profiles and traditional visual analysis. They do, however, understand photosimulations and the impacts they disclose. Photosimulations also provide more information to professionals regarding visual impacts and the effectiveness of proposed mitigation measures.

As such, I recommend that the Village be more specific in regard to how visual impacts be assessed and require photosimulations in future scoping documents. This would also be more consistent with the existing practice in Tuxedo Park where photosimulations of proposed projects in sensitive locations are becoming common.

Other issues

These issues are minor, but should be corrected before the PDEIS is accepted as complete for public review.

Figure 3.5-4 and Figure 3.5-6 show an identical photograph, even though they are supposedly taken from different locations. The correct photograph should be used.

The October 27th cover letter states that the PDEIS contains a new viewshed map that uses NLCD data, which shows more visibility than the NOAA data used to produce the viewshed map in the May PDEIS. The viewshed map in the October PDEIS shows more visibility, which suggests that the cover letter is correct, but the text of the PDEIS still references the NOAA data. This should be corrected.

Close

Once these minor errors are corrected, I believe that the Visual Character portion of this PDEIS is complete and ready for public review. I recommend, however—especially with the elimination of the commitment to limit color contrast on the roofing materials—that during site plan review the Board ask for additional visual materials that confirm the specific house plans are consistent with the findings of this DEIS.

² Pg 3, *Assessing and Mitigating Visual Impacts*. The DEC Policy System, 2000 DEP-00-2.

If you or any member of your Board has any questions regarding these comments, please contact me at 646-652-6498 or at george@georgejanes.com.

Thank you for the opportunity to assist your Board on this important project.

Sincerely,

A handwritten signature in black ink, appearing to read "G. M. Janes". The signature is fluid and cursive, with the first letter of each name being significantly larger and more prominent.

George M. Janes, AICP
Principal