

**APPENDIX A**

**Public Hearing Transcript  
and Written Comments**

**Written Comments**

Agencies

NYS Department of Transportation, Letter dated November 17, 2011

NYS Office of Parks, Recreation and Historic Preservation, Letter dated December 5, 2011

Consultants

Keystone Associates, Review dated December 8, 2011

John L. Sarna, PE, Review dated November 22, 2011

Robert Geneslaw, AICP, Memorandum dated December 16, 2011 (Technical Review)

Robert Geneslaw, AICP, Memorandum dated December 16, 2011 (Fiscal Impact Analysis)

Others

James Creighton (for) Fallsburg Fishing And Boating Club, Letter dated December 16, 2011

Robert Pinckney, Email dated December 10, 2011

Jerry Chiochio, Email dated December 10, 2011

Bob Abbott, Email dated December 12, 2011

Lorine Harr, Email dated December 14, 2011

**Public Hearing Minutes**

Town of Fallsburg Planning Board Meeting Minutes, November 10, 2011

Town of Fallsburg Planning Board Meeting Minutes, December 8, 2011

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**Public Hearing Minutes**

Town of Fallsburg Planning Board Meeting Minutes, November 10, 2011

Town of Fallsburg Planning Board Meeting Minutes, December 8, 2011



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
REGION NINE  
44 HAWLEY STREET  
BINGHAMTON, NEW YORK 13901-3200  
WWW.DOT.NY.GOV

JOHN R. WILLIAMS, P.E.  
REGIONAL DIRECTOR

JCAN McDONALD  
COMMISSIONER

November 17, 2011

Mr. Arthur Rosenshein  
Planning Board Chairman  
Town of Fallsburg  
PO Box 2019  
South Fallsburg, New York 12779

Dear Mr. Rosenshein:

**RE: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT  
FOR RALEIGH AND HEIDEN PROPERTIES  
TOWN OF FALLSBURG, SULLIVAN COUNTY  
NYSDOT CASE SEQR #11-135**

We have reviewed the Draft Environmental Impact Statement (DEIS) regarding the above-referenced project and have no concerns at this time.

3.8-23

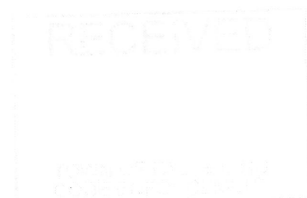
Thank you for the opportunity to review and comment on the project. If you have any questions, please do not hesitate to call Christine Klein, AICP, of our Regional Planning & Program Management Office at (607) 721-8259.

Sincerely,

Pamela M. Eshbaugh, P.E.  
Regional Planning & Program Manager

PME/JJF/jab

cc: Site Plan Committee (K. Boothroyd; J. Fitzgerald; C. England; L. Arrow; J. Conn)  
S. Zaman, Sullivan County Resident Engineer  
D. Smith, Sullivan County Assistant Resident Engineer  
Luiz Aragon, Sullivan County Planning Commissioner  
c: File #11-135  
Blue





Andrew M. Cuomo  
Governor

Rose Harvey  
Commissioner

# New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189  
518-237-8643

[www.nysparks.com](http://www.nysparks.com)

December 05, 2011

Mollie Messenger  
Town of Fallsburg Planning Board  
5250 Main St  
Fallsburg, New York 12779

Re: SEQRA  
Raleigh & Heiden Properties  
Heiden Rd (CR 161) near Kiamesha Lake Rd (CR  
109)/FALLSBURG, Sullivan County  
11PRO7073

Dear Ms. Messenger:

Thank you for requesting the comments of the Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

3.10-1

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places. We request that a bound original copy of the Cultural Resources report be provided for our records.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above. Please contact me at extension 3291, or by email at [douglas.mackey@parks.ny.gov](mailto:douglas.mackey@parks.ny.gov), if you have any questions regarding these comments.

Sincerely

Douglas P. Mackey

*p* /YU

Historic Preservation Program Analyst Archaeology

Cc: Stephen Lopez, Tim Miller Associates (e-mail)



Also Doing Business As (DBA):

**HAWK**  
ENGINEERING

Kenneth D. Ellsworth, P.E.  
*Managing Member*

Paul L. Bedford, AIA  
*Architect*

Rodney L. Carey, L.S.  
*Land Surveyor*

Kordian W. Wichtowski, R.A.  
*Architect*

December 8, 2011

Stephen Lopez, AICP, RLA  
Tim Miller Associates, Inc.  
10 North Street  
Cold Spring, NY 10516

RE: Ralhal Development  
SBL No. 60-1-56 / 60-1-50

Dear Mr. Lopez:

We have reviewed the Draft Environmental Impact Statement dated October 13, 2011 for the above referenced project and have the following comments:

DEIS CONTENTS

- I. Cover Sheet – Relevant dates (i.e. date of acceptance, date of public hearing and final date for acceptance of comments) should be added as requested in the scoping document. 1.0-1

1.0 EXECUTIVE SUMMARY

Page No.

- 1-4 (Reviews, Permits and Approvals) – NYSDOH will need to review and approve pool(s). 1.0-1
- 1-6 (Geology, Soils & Topo) – The geology sub-heading and description are missing. 1.0-2
- 1-27 (Pleasure Lake Dam) – The included EAP (Appendix C) is dated 2008, NYS Dam Safety requires annual updates to an EAP? Make sure all requirements of the NYS Dam Safety Regulations are in compliance with the latest provisions (8/19/2009). 1.0-3

2.0 DESCRIPTION OF PROPOSED ACTION

Page No.

- 2-7 (Reviews, Permits and Approvals) – NYSDOH will need to review and approve pool(s). 2.0-1

3.0 ENVIRONMENTAL SETTING, IMPACTS, MITIGATION

Page No.

- 3.3-4 A discussion of fire flows for the residential project served by the municipal water supply district are now included however, fire flows for the residential project within the proposed private water supply system are not discussed. 3.3-1
- 3.8- Transportation – A discussion of Pedestrian/Bicycle traffic and the need for sidewalks along proposed roadways within the project site should be added as requested in the scoping document. 3.8-20

Main Office  
58 Exchange Street  
Binghamton, New York 13901

Branch Offices  
14 Park Avenue  
Monticello, New York 12701

6223 Hancock Highway  
Starlight, Pennsylvania 18461

Phone: 607.722.1100  
Fax: 607.722.2515  
E-mail: info@keyscomp.com  
www.keyscomp.com

DRAWINGS

The latest submission only included drawing sheets 2A, 4A, 1B-4B and 9-13, the following comments are based on our review of the drawings noted above:

F-1  
↓

Sheet No.

- 2B/3B Missing top and invert for M.H. 6A-2-2.
- 3B Missing invert for M.H. 6A-6.
- 9/10 Missing profile from M.H. 16A-1 to M.H. 16A-1B.
- 11/12 Missing profile from M.H. 10 to M.H. 10A-3.
- 11/12 Missing profile from M.H. 12 to M.H. 12A-2.
- 11/12 Missing profile from M.H. 6A-2 to M.H. 6A-2-2.
- 12/13 Missing profile from M.H. 5A-2 to M.H. 5A-2A.
- 12/13 Missing profile from M.H. 6B-2 to M.H. 6B-2A3.

Note: The drawings were only reviewed for completeness in relation to the DEIS, a more in depth review for conformance to the Town of Fallsburg requirements and standard engineering practices will need to be completed during the formal site plan review/approval process.

If you have any questions, please do not hesitate to contact our office.

Very truly yours,

Keystone Associates, LLC



Kenneth D. Ellsworth, PE  
Managing Member

KDE:mlw

cc: William Illing, P.E.  
Mollie Messenger  
Robert Geneslaw

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**John L. Sarna, P.E.**

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105 Phillips Hill Road  
New City, New York 10956  
(845) 634-7851 (tel. and fax)  
E-Mail jlsarna@att.net

November 22, 2011

To: Robert Geneslaw  
From: John L. Sarna, P.E.  
Re: Raleigh and Heiden Properties – Town of Fallsburg, NY  
Review of Traffic Impact Study for Technical Content

At your request I have reviewed for technical content the Traffic Section of the Draft Environmental Impact Statement for the proposed Raleigh and Heiden Properties development, dated October 13, 2011, prepared by Tim Miller Associates, Inc. This review follows my Review for Completeness of the original submission dated June 20, 2011, and my memos of August 16, 2011, and October 4, 2011.

3.8-1

[In general I have found the technical content of the report to be acceptable. It meets the primary SEQR objective of disclosing all of the impacts of the proposed development, and provides an acceptable basis for the decision process.] [There are, however, some specific areas where additional information is required, and which will have to be addressed in the Final Environmental Impact Statement. These areas are covered below in the following comments.]

3.8-2

3.8.3

1. [The traffic counts used in this study, and which are presented in 3.8-3 and 3.8-4, were made on Friday and Sunday afternoons in the Summer of 2007. In order to determine whether these counts were still applicable, the Scoping Document for the study called for new spot check counts to be made at the intersection of Heiden Road and Kiamesha Lake Road. These counts had not been made as of the June 20, 2011, submission, but were subsequently made on Friday, August 26, 2011.] As reported in my memo of October 4, 2011, a comparison of these counts to the traffic volumes in the DEIS shows an overall eight percent increase over the four years. Through traffic on Heiden Road was virtually unchanged during this period, but traffic volumes on Kiamesha Lake Drive increased by about 60 percent. See Comment 8 below. These spot counts are mentioned in Appendix F, Attachment 5 of the DEIS; however, the actual count volumes should be shown. This can be done in the FEIS.

3.8-4

3.8-13  
(end)

2. [The use of a one percent annual background traffic growth rate through 2015 plus the traffic generation from eight other residential development projects, listed on page 3.8-8, to develop the 2015 No-Build traffic volumes is acceptable.] [The generated traffic volumes from these eight developments should be shown on traffic diagram figures.] [Tim Miller Associates has revised Figure 3.8-1 to show the locations of the other developments, and this revised figure should be included in the FEIS.]

3.8-5

3.8-7

3.8-6

3. The site-generated traffic volumes from the Raleigh and Heiden Properties development, which are based on ITE trip generation rates for year-around housing and on the 2007 study of recreational traffic in Fallsburg for the seasonal housing, are acceptable.

3.8-8



4. The rationale for the directional distribution of site-generated traffic needs to be explained. The 30 percent arrival from Heiden Road to the south on Friday evening would reflect weekend commuter traffic arriving from Route 17, but would seem to be too high for departing traffic during this period. Similarly, while a 30 percent distribution of departing traffic on Sunday afternoon would seem reasonable, the same percentage applied to arriving traffic would seem to be too high. The same directional distributions need not be, and frequently are not, the same for both arriving and departing traffic. Further development of this section is called for.

3.8-9

5. The development of the 2015 Build condition traffic, combining the Site-generated traffic with the 2015 No-Build traffic, is acceptable.

3.8-10

6. The capacity analyses, using the methodology of the 2000 Highway Capacity Manual and the Highway Capacity Software (HCS) are acceptable. The following errors are noted.

- In the computation sheet for the intersection of Heiden Road and Kiamesha Lake Road, Existing condition, Friday peak hour (Attachment 4, page 2), the northbound traffic volume should be 376 veh/hr, not 276. This may have an effect on the analysis results
- In the computation sheet for the intersection of Route 42 and La Vista, Build condition, Friday peak hour (Attachment 4, page 25), the eastbound thru traffic volume should be 921 veh/hr, not 914. This should have no significant effect on the analysis results.

3.8-11

Table 3.8-6 may have to be revised accordingly. ]

7. As noted in my memo of August 16, 2011, the DEIS does not contain an analysis of the site driveway intersections with Heiden Road. These analyses were not stipulated in the Scoping Document, but it is standard practice to include them in a Traffic Impact Study. Tim Miller Associates has responded that they will include these analyses in the FEIS, which is acceptable. For the record here, these analyses need to be performed.

3.8-12

8. The intersection of Heiden Road and Kiamesha Lake Road should be re-analyzed using the traffic volumes from the 2011 traffic count. The higher traffic volumes on Kiamesha Lake Road could result in greater average vehicle delays, and possibly Level of Service revisions.

3.8-13

9. At the unsignalized intersection of Heiden Road with NYS Route 42, the Heiden Road approach is calculated to be operating at Level of Service F in the Friday P.M. Existing condition, with a volume/capacity (v/c) ratio of 1.70. V/c ratios up to about 1.25 (volume exceeding theoretical capacity) can and do occur, but a greater existing v/c ratio generally indicates an actual traffic operation different from the input to the calculation. In case the following two conditions are considered to be likely

3.8-14

- Vehicles turning left out of Heiden Road may be turning into the striped median rather than into the southbound thru lane on Route 42. This would reduce the delay time of the left turn and thus the right turn vehicles as well.

- Vehicles turning right may be using the shoulder and the flared right turn geometry to create in effect a separate right turn lane.

Both of these possibilities are listed in the discussion on page 3.8-16 of the DEIS, although not as a reason for the high v/c ratio. While these possible operations would reduce the vehicle delays, the operation would still be Level of Service F, and the delays would, of course, increase for the 2015 No-Build and Build conditions. In their present state these would not be considered acceptable traffic operations.]

10. In discussing possible improvements on page 3.8-16, several mitigating measure are presented. Using the median, with proper markings and signs, to facilitate the left turn is possible, but as most drivers would not be familiar with this operation and because the left turn volume is relatively low, this improvement would have a limited benefit. Providing a separate dedicated right turn lane probably would provide far more benefits. Signalization of the intersection probably would bring operations to acceptable levels also, but as this condition occurs for only a few hours and during only the summer months, it is questionable whether it would meet NYSDOT guidelines. It should be noted that the intersection is under the operating jurisdiction of the New York State Department of Transportation. 3.8-15

This intersection is impacted by virtually every proposed new development in the Town, and any solutions should be a concern for all of them.

11. [The DEIS shows the site-generated traffic entering from and exiting to Park House Road, but does not show the existing traffic volumes or the projected 2015 No-Build and Build traffic volumes. Presumably these would be low, and road capacity should not be a consideration here, but this is not documented in the DEIS.] [The poor condition of both Park House Road, Fred Road and other roads serving the “east” access drive, however, is well documented in the report on pages 3.8-1 to 3.8.6, and a number of recommendations for improvements are included. It is noted that, while Heiden Road, NYS Route 42 and other roads in the area are impacted by almost all of the proposed new developments in the Town, these “back” roads probably would be impacted only by site-generated traffic from this project.] 3.8-16  
3.8-17

12. In my memo of August 16, 2011, I noted that the present location of the guardhouse might have an impact on free movement in and out of the south access road to Heiden Road. This item still needs to be addressed. 3.8-18

13. On page 3.8-10 of the DEIS, last paragraph, the time period should read “Friday P.M. peak hour.” 3.8-19

**Robert Geneslaw Co.**

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PLANNING AND DEVELOPMENT CONSULTANTS

**Robert Geneslaw, AICP**

368 New Hempstead Rd. #320

New City, NY 10956

Office 845/368-1785

Fax 845/368-1787

**MEMORANDUM**

TO: TOWN OF FALLSBURG PLANNING BOARD

FROM: ROBERT GENESLAW, AICP

SUBJECT: RALEIGH & HEIDEN PROPERTIES: DEIS DATED OCTOBER 13, 2011  
TECHNICAL REVIEW

DATE: DECEMBER 16, 2011

C: MOLLIE MESSENGER, CODE ENFORCEMENT OFFICER  
DENISE MONFORTE, PLANNING BOARD SECRETARY  
WILL ILLING, P.E., SUPERINTENDENT OF PUBLIC WORKS  
KENNETH ELLSWORTH, P.E., KEYSTONE ASSOCIATES  
RON HIATT, ESQ., PLANNING BOARD ATTORNEY  
JOHN SARNA, TRAFFIC CONSULTANT FOR THE TOWN  
STEVE LOPEZ, ASLA, (FOR PROJECT SPONSOR)  
GLENN SMITH, P.E., (FOR PROJECT SPONSOR)

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We have reviewed the referenced DEIS and provide our comments below. The public hearing record was extended to December 18, a Sunday, so December 19<sup>th</sup> is considered to be the closing date for public comments. The involved agencies may provide comments later and based on their comments, extended contact between the Planning Board and agencies could take place as open items are resolved. The Planning Board members may offer comments throughout the process.

The next step will be the preparation of a Final Environmental Impact Statement (FEIS), which will be in "comment/answer" format. Typically, an initial draft is prepared by the project sponsor for review by Board consultants and then by Board members. The responses to comments must reflect the Board position on each comment, as the FEIS is the Boards' document. The Board response in some cases may lead to plan changes and conditions of approval, so it is important that the responses accurately reflect Board positions.

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Our Comments:

1. Page 1-11, water supply. An average daily demand of 72,000 gpd is projected; p.1-12, 13 projects that for sewage treatment an average daily wastewater flow of +/- 90,000 gpd, higher than the potable water supply. Is the difference because potable water for a portion of the Heiden loop is proposed to be partially provided by an extension of the water district? If so, an estimate of the demand for this portion of the development should be provided. If not, what accounts for the higher wastewater flow estimate? Also, how does discussion of the hotel and amenities use of wastewater facilities relate to the above? 1.0-6
2. Page 1-14, in discussion of the adequacy of providing electrical service, indicates that "It is anticipated that NYSEG has electrical capacity to service the proposed 236 new residences." A letter from NYSEG confirming their ability should be provided. 1.0-7
3. Page 1-23, 24. The discussion of Community Facilities and Services bases the population to be served on the proportion of year round housing units and seasonal units as reported by the U.S. Census (which was 32.9% seasonal in 2009). However, the recent experience in Fallsburg is that new condominium developments are all seasonal. The impact of the Raleigh Heiden proposal should also consider this alternative and examine the impact on Community Facilities and Services, and on fiscal impact. Also see our separate memo dated December 16, 2011. 1.0-8
4. Page 1-30. Refers to hours of construction. Given the anticipated religious requirements of the purchasers of units, allowing construction after sundown on Friday and all day Saturday may not be feasible, particularly as occupancy of the phases occurs. It is suggested that this proposed schedule be evaluated. If construction is not to be permitted, then the overall development timetable may need to be adjusted, since available hours to work could be reduced by 15-20%. 1.0-9
5. Page 2-1. The narrative indicates that three separate condominium associations will be formed, and all land within each cluster would be owned by the respective condominium association, with cross easements for shared facilities, such as roads and utility infrastructure. It is presumed that each condominium association would establish its own rules regarding the use of recreational amenities, and each would maintain their own. This is a reasonable arrangement. However, with respect to entrance roadways, an alternate maintenance arrangement should be considered. As the plan now shows (see Figure 2-2: Proposed Site Plan Raleigh and Heiden Properties) the center and southerly entrances from Heiden Road will carry the bulk of 2.0-4

the traffic for the three clusters west of the stream, but are largely on two of the clusters. The center cluster would have no responsibility for sharing in the maintenance costs of the entrance roadways. Some provision should be made for sharing the roadway maintenance costs, perhaps an arrangement that would provide for the center cluster to carry a proportionate share of the cost of road maintenance.

6. Page 2-4. In describing the phasing and construction schedule indicates that the "Raleigh Hotel would be the first phase of the project as it requires only the subdivision of lands associated with its continued operation as a private entity and hook up to the new sewage treatment facility". However, since the Raleigh Hotel will likely be operating continuously, provisions will have to be made for the permitting, physical, environmental and legal steps to allow early construction of the sewage treatment facility. The FEIS should describe in some detail in narrative and on a plan how these steps will be undertaken. 2.0-5
  
7. Page 2-5. Refers to the applicable zoning and the preparation of a conventional plan to begin the process of environmental review and zoning conformity. The proposed lot count of 238 units was settled on for purposes of evaluating impact and the plan layout and is subject to change as the review process evolves. It is correctly referenced on page 3.7-4. 2.0-6
  
8. Page 3.5-1. Refers to installation of above ground fuel oil storage tanks and later indicates there will be no above ground fuel oil storage tanks. This should be clarified. 3.5-1
  
9. Page 3.8-16, 17. (Transportation) discusses the capacity issues at the intersection of Heiden Road and Route 42, and the projected worsening of this condition with the traffic to be generated upon occupancy of the Raleigh Heiden development. The discussion includes consideration of several improvements or combination of improvement to relieve the projected conditions. It is suggested that the Planning Board request that the applicant further explore four of these potential improvements in the FEIS: 3.8-24
  - (a) Flatten the Heiden Road – Route 42 approach grade
  - (b) Improve the NYS Route 42 median to accept left turning traffic
  - (c) Add a turn lane on Heiden Road
  - (d) Signalize the intersection

The DEIS indicates that the capacity condition exists, and the Raleigh Heiden development traffic would add a modest amount of traffic, and that since additional tax revenues will be available to the Town, that funding source should be used. The Fiscal Impact section estimates the tax receipts to be applied at full build out, projected at 2015, so the full tax receipts would not become available until at least 2016 or 2017, but the increased traffic will begin to occur several years earlier. It is suggested that an alternative to

waiting for 2016 for use of tax receipts for improvement be considered in the FEIS.

10. Page 3.11- 9,10. Discusses the Pleasure Lake Dam, the recent engineering studies and construction of a new emergency spillway. The narrative also indicates that the impacts of extreme rain events during the summer and fall of 2011 on the Sheldrake Stream and the Pleasure Lake Dam will be “discussed” in the FEIS. It is assumed that the discussion will include an analysis. 3.11-5
11. Page 3.11-10. In the discussion of potential impacts from flooding in the event of a catastrophic failure of the Pleasure Lake Dam, the fourth paragraph identifies two utility lines and a stormwater basin that could be potentially affected. The following paragraph indicates that “a dam failure will not result in any road closures or interruptions of utility services for the Raleigh and Heiden properties”. These statements seem to be inconsistent. 3.11-6
12. Page 3.11-11. Mitigation measures relating to protection of the Pleasure Lake Dam indicates that blasting for site development is not anticipated or proposed, but if found to be necessary would be carried out in accordance with a Blasting Protocol to be developed specifically for this project, to be based on state and local regulations. It is recommended that at a minimum an outline of the elements to be provided in a Blasting Protocol be provided in the FEIS, and that the Fallsburg Fishing and Boating Club and its engineering consultants that prepare the dam analysis and designed the emergency spillway be provided an opportunity to review and comment on the Blasting Protocol outline. 3.11-7
13. Page 3.11-11. Refers to Solid Waste. Does the estimate of tons of waste per year reflect the anticipated seasonal occupancy of the development? 3.11-8
14. Pages 3.12-7,8. Fiscal Impacts to Pleasure Lake Dam, does not identify any fiscal impacts to the dam, and indicates that “no further mitigation is proposed.” (underline added). What mitigation is proposed? 3.12-1
15. Page 3.13-5. In the Noise section indicates that “the heaviest volume of construction traffic is expected to occur at the beginning of the construction as grading and tree clearing occur.” How does this reflect the five acres at a time ground disturbance limitation and the intention to phase the construction over a number of years. See also Page 4-1. 3.13-1
16. Page 3.13-9. Refers to Table 3.11-9 for NYSDEC Air Quality monitoring. We were unable to find a Table, 3.11-9 but Table 3.13-8 on the same page appears to contain the referenced information. This should be clarified. 3.13-2

**Robert Geneslaw Co.**

PLANNING AND DEVELOPMENT CONSULTANTS

Robert Geneslaw, AICP

368 New Hempstead Rd. #320

New City, NY 10956

Office 845/368-1785

Fax 845/368-1787

**MEMORANDUM**

TO: TOWN OF FALLSBURG PLANNING BOARD

FROM: ROBERT GENESLAW, AICP

SUBJECT: RALEIGH & HEIDEN PROPERTIES: DEIS FISCAL IMPACT ANALYSIS

DATE: DECEMBER 16, 2011

C: MOLLIE MESSENGER, CODE ENFORCEMENT OFFICER  
DENISE MONFORTE, PLANNING BOARD SECRETARY  
WILL ILLING, P.E., SUPERINTENDENT OF PUBLIC WORKS  
RON HIATT, ESQ., PLANNING BOARD ATTORNEY  
STEVE LOPEZ, ASLA, (FOR PROJECT SPONSOR)

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At the 12/8/11 continuation of the public hearing on this matter, we indicated to the Board that we believe the fiscal impact analysis should be revised, for the following reasons:

1. The purpose of the environmental analysis is to provide the lead agency (in this case the Planning Board) with the best available and realistic information or projections so that the Board may make the most informed decision.
2. The DEIS allocates costs to various governmental entities based on a U.S. Census estimate that 32.9% of the housing in the Town is occupied by seasonal residents.
3. The 32.9% figure is then applied to the 142 school-age children that are projected to live in the development upon completion, a figure based on the proportion of the school-age children to the overall population. That is a reasonable approach to estimating the number of school-age children.

3.12-2

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4. As is evident the developments approved, built and occupied over the last decade or more are religious in occupancy (with few exceptions). Therefore, we believe it would be more accurate to calculate public fiscal impacts based on a seasonal religious community.
5. If the Board is interested in examining a "worst case" scenario, for the purpose of school costs, that scenario would be a year round non-religious development. We do not think looking at that alternative is necessary, since throughout the DEIS and the public statements of the project sponsor and its representatives the intent is to develop a seasonal religious community. Such a scenario could be included as part of the analysis of impacts of a conventional subdivision. In our opinion using the 32.9% ratio of seasonal residents/year round residents, for purposes of analyzing this development is not relevant.

3.12-3

In any case, the Board should advise the applicant of the approach the Board prefers, as it will need to be reflected in the FEIS.



FALLSBURG FISHING



AND BOATING CLUB

Fallsburg Fishing & Boating Club, Inc.  
South Fallsburg, New York 12779  
+++++  
c/o James F. Creighton, Esq.  
334 Alpine Drive  
Cortlandt Manor, New York 10567  
(914) 761-9697  
[jc@pleasurelake.org](mailto:jc@pleasurelake.org)

December 16, 2011

**VIA EMAIL & FIRST CLASS MAIL**

Chairman Arthur Rosenshein  
and Members of the Town of  
Fallsburg Planning Board  
Town of Fallsburg  
5250 Main Street  
South Fallsburg, New York 12779

***Comments on the Draft Environmental Impact  
Statement Dated October 13, 2011 for the Raleigh  
and Heiden Properties Development Project  
SBL# 60-1-56/50-62/1/6/2/4***

Dear Chairman Rosenshein and Members of the Planning Board:

On behalf of the Board of Directors of the Fallsburg Fishing & Boating Club ("FF&BC") and its 100 owners/members of Pleasure Lake and its surrounding FF&BC seasonal community in the Town of Fallsburg - we thank you for the opportunity to be heard and to provide written comments on the Draft Environmental Impact Statement ("DEIS") dated October 13, 2011 regarding the above-referenced proposed development project.

As you know, the FF&BC and its members have a specific interest in the Raleigh and Heiden Properties proposal in light of the proximity of the project to our adjoining community and its location in the immediate downstream area of our watershed. As noted during the public comment period conducted during the Planning Board's November 11, 2011 meeting as well as the adjourned meeting on December 8, 2011, the members of the FF&BC believe the proposed project will have significant direct impacts upon us as well as on the surrounding community. Although a few of us spoke at those meetings, others attended the meeting but did not speak per your request that our members not repeat concerns raised by their other neighbors.

Our members have also suggested the possibility of submitting a petition signed by our 100 members or having them co-sign this letter. However, in light of the nature of this process and the purpose of the public comment period, we submit this letter raising the various environmental concerns we have identified with the understanding that the SEQRA process is not dependent upon the quantity of objections, and that all concerns raised must be adequately addressed by the applicant in the Final Environmental Impact Statement ("FEIS"). It should be noted that this proposed project is of great concern to many people in the Fallsburg community, not just to the members of the FF&BC.

[In addition, we note that the public notice and the Planning Board's comments have limited the scope of this public comment period to the environmental impacts of the proposed project as presented in the DEIS. We have not been advised of any public hearings with respect to the proposed site plan, nor have we been provided with any opportunity to publicly comment thereon. We understand that separate public notices, hearings and approval are required specifically with respect to any approval of the proposed site plan.] [Accordingly, and pursuant to your directions that discussions of density are not the current focus of the Planning Board's review and public comment at this time, we reserve our objections regarding the proposed site plan and density, simply noting that the proposed lot counts and density calculations for this sensitive piece of property (currently zoned as REC-1 for 3 acre single family lots or half acre single family lots under clustering authority) are fundamentally flawed and unsustainable. The use of the bungalow density counts for this project under the prior zoning code is not appropriate for several reasons and should be rejected by the Town of Fallsburg. In addition, the applicant's suggestion in the DEIS that this project is consistent with the adjacent land use or character of the surrounding community stretches the bounds of credibility.]

1.0-10

3.7-2

#### The SEQRA Process and DEIS Review

[The proposed project seeks to disturb extensive areas of uniquely pristine and ecologically sensitive woodland, streams, wetlands and viewsheds in the 230 acre site south (downstream) of Pleasure Lake between Heiden Road (CR 161) and Park House Road. I and the members of the FF&BC believe that a thorough "hard look" under SEQRA is required by the Planning Board in its review of this extensive project in light of the significant environmental impacts that are described or alluded to in the DEIS. Those impacts include significant and, in some cases,

irreversible damage to water quality (to the Sheldrake Stream, the unnamed stream feeding from the northwestern portion of the site to the Sheldrake Stream, and to the underlying aquifers), soil erosion, disturbance of steep slopes, stormwater runoff, increase in traffic levels, construction noise, rock hammering/blasting, wetland disturbance, air pollution, post-construction noise pollution, light pollution, recreation impacts, viewshed disturbance, disruption of unique geological features along the unnamed stream which feeds into the Sheldrake Stream, and undue stress upon public utilities, property taxes, schools and community services. The project entails a large amount of excavation, cut and fill and disturbance of onsite wetlands, steep slopes, stream courses and buffers in order to accommodate the scale of this project on an unsuitable site. ]

1.0-11

#### 1. Procedural Considerations

As you know, from a procedural standpoint, the Fallsburg Planning Board issued a positive declaration ("PosDec") under SEQRA on October 30, 2008. A SEQRA scoping meeting was held by the Planning Board on November 13, 2008, and we participated in the public hearing on the draft scoping document and sought inclusion of particular studies relating to the effect of the project on the Town and particularly Pleasure Lake's community and its dam. The Planning Board ultimately suggested changes to the draft scoping document and adopted it as lead agency on January 8, 2009. For more than two years, the applicant's proposed project lay fallow, and at the applicant's request after the two year period of dormancy, the applicant requested reconsideration of the scoping document (without any public comment or review); the revised scoping document was adopted by the Planning Board on March 10, 2011. On October 13, 2011, the applicant issued its DEIS and public notices for comments on the DEIS were sent to the various interested agencies for publication and review.

[ Although we have responded to various periodic requests for documents and information from the applicant's consultants and have remained open and approachable, the FF&BC and its members, as well as the Town in general, has had no opportunity until the issuance of the DEIS to publicly comment and raise questions and objections about this project other than to request particular emphasis upon the effects of blasting as well as of impacts on the emergency action plan and siting within the dam's inundation zone. ]

1.0-12

The applicant's consultant's comments during the Old Business portion of the Planning Board's November 10, 2011 meeting (see PB Minutes 11/10/2011 page 21) stating that the applicant has "a time constraint" and suggesting that "our concern [is] that we not get sidetracked by a lot of last minute concerns by folks who had been involved with this for a very long time, from the beginning really" makes it clear that the applicant seeks to streamline and rush a SEQRA process that requires the Planning Board to do a thorough, unrushed "hard look" at all the environmental issues and impacts. Chairman Rosenshein rightly pointed out that the Planning Board needs time to do its review as "part of the process."

After the Town's planning consultant, Mr. Geneslaw noted that "this is an exceptionally long period of time for that part of the process to getting to the draft EIS" (i.e., "from the Part II reviewed in 2008") and immediately after Chairman Rosenshein pointed out that he was being "sympathetic without changing a thing", the applicant stated: "basically, we all want to ensure that we are on the same team and the same page." (PB Minutes 11/10/2011 page 21) After more discussion regarding the purpose of the SEQRA process, the applicant stated that he thought it "would be a quick process."

While we understand the applicant's interest in streamlining the process in order to squeeze 236 single family and duplex units into a proverbial sausage casing under the prior zoning ordinance, we respectfully submit that shortcuts in the process are perilous. When Chairman Rosenshein advised that "if something comes up that we have not covered that's new information, we have to respond to it," the applicant himself candidly stated on the record: "that's the problem." We appreciate the Planning Board's insistence that it will follow the process and that shortcuts will not be taken on such an enormous impact-laden proposed development that has the potential to change the face of the southeast section of the Town of Fallsburg forever.

In addition to the effects of the project on topography, drainage, vegetation, water resources, community services and critical wetland and stream buffers, [the consideration of alternatives in the DEIS is limited by insufficient information, misleading or inapplicable data, and a failure to seriously consider reduced scale or off-site alternatives. The FF&BC respectfully requests that the Planning Board direct the applicant to prepare a Supplement to the DEIS to address the DEIS

1.0-13

deficiencies outlined below. In the alternative, we urge the Planning Board to reject the application in its current form. ]

[In the event the Town of Fallsburg allows this project to proceed, it should require the applicant to scale back the proposed project to conform with the Town's Municipal Code, Chapter 310, *Zoning* (adopted by the Town Board of the Town of Fallsburg on June 12, 2007) which sets forth the Town's findings] that such regulations to guide land use and new development are specifically intended to:

3.7-3

*A. To preserve the character and rural scenic beauty of the landscape and protect this gateway to the Catskill Forests from inharmonious and destructive uses of land; B. Create an orderly pattern of growth by encouraging concentration of new residential development in areas that can conveniently be serviced with public facilities and discouraging intensive residential development in areas of difficult accessibility that would involve excessive costs for road improvements, road maintenance, school bus transportation and utility installation; C. Regulate population density to reflect the desired character of the Town; D. Prevent intrusion of incompatible uses into residential areas, by establishing proper standards for improvements in new residential developments and preserving, protecting and enhancing natural beauty wherever possible; E. Provide for open spaces and to preserve the natural and scenic qualities of lands; F. Encourage cluster development in the form of conservation subdivisions; G. Provide a variety of living environments to suit a range of incomes, tastes and needs; ... K. Preserve or enhance the natural beauty and man-made environment, thus assuring the maintenance and increase of property values and continued resort activity; L. Ensure proper provision of water supply and sewage disposal systems in connection with all new development; M. Provide for protection of groundwater sources; N. Enhance the appearance of the Town of Fallsburg as a whole; and O. Expand recreational opportunities for area residents.*

For the reasons set forth below, we believe that the proposed development and its accompanying impacts and disturbances are against the specific intent expressed by the Town of Fallsburg in its Zoning legislation, and is incompatible with the goals and limitations set forth therein.

## 2. Geology, Soils, Topography and Slopes

The DEIS reports that 96% of the project site has slopes from 0-20%, and 4% has slopes in excess of 25% (DEIS at page 3.1-8). However, the applicant does not discuss how much of the site has slopes 0% slopes versus how much of the site has slopes closer to 20%. The configuration and density of the topographic contour lines in Figure 3.1-2, *Slopes Map*, indicate that except for the area of the proposed site near the former Heiden Hotel area and near the Sheldrake Stream, the majority of the project site has slopes closer to 20% than 0%. [Although the DEIS proposes disturbance of 4.1% of the total steep slopes area in excess of 20%, the DEIS should include additional information regarding the amount of disturbance proposed on slopes from 15-20% and 10-15%. It should be noted that the applicant's undated long form SEQRA assessment filing for this project attached as DEIS Appendix A shows that 25% of the site consists of 15% or greater steep slopes.] Revealingly, this important data is not provided in the DEIS.

3.1-3

[In particular, the slopes alongside the Sheldrake Stream and the unnamed stream feeding from the Heiden Road wetlands from the northwestern portion of the site toward the Sheldrake Stream are very significant and should remain undisturbed to the largest extent possible. Irreversible damage to water quality to the Sheldrake Stream - a Class B(t) waterbody (a part of the Middle Delaware River Watershed) should be avoided at all costs, and the applicant should supplement the DEIS to describe the measures to be taken to ensure that said slopes will remain undisturbed.]

3.1-4

[Compounding the potential impacts of extensive slope disturbance is the proposed excavation of 90,000 cubic yards of poorly drained soils (DEIS at pages 3.1-1 to 3.1-9). The various identified project site soil types provide substantial limitations for building sites and road construction for access roads and stormwater management. The developer has indicated in the DEIS that "the soils mentioned above have moderate to severe limitations associated with them for the construction of local roads, buildings without basements, and shallow excavations for utilities. Construction in these areas will require grading, filling and trenching, as well as provisions to provide temporary dewatering or drainage to limit the potential effects of frost action or wetness in soils. Further site specific soils testing will be required for the design of stormwater management facilities." (DEIS at page 3.1-7) While the DEIS states that "the limiting characteristics of these soils may be overcome through careful project planning, design and management," (*id*)

3.1-5

the developer has provided the Planning Board no indication of what "careful project planning" techniques, "design" elements or "management" principles are proposed for this project.] Furthermore, [the assertion that "further site specific soils testing will be required for the design of stormwater management facilities" leads one to believe that the engineering studies remain incomplete and that the results are either unknown or were withheld from the Planning Board in the DEIS.] As is the case throughout the DEIS, the data remain incomplete at best.

3.1-6

[The disturbance of such an enormous area poses adverse effects to water quality not only during the construction phase, but also under post-construction development conditions after existing soil profiles and drainage patterns have been artificially reconfigured.] [The proposed excavation of 90,000 cubic yards of soil and fill of 75,600 cubic yards of soil (with the applicant's vague assertion that the remainder of the approximate 15,000 cubic yards of soil would "be utilized onsite as additional fill on roadsides, residential yards and stormwater basin side slopes" with no material anticipated to be exported from the site (DEIS at page 3.1-9)) is of particular concern.]

3.1-7

3.1-8

### 3. Water Resources

#### *Surface Water, Wetlands and Groundwater Impacts*

The DEIS notes that "the entire property drain[s] towards the Sheldrake Stream." In particular, the DEIS gives fleeting mention of an important unnamed stream which leads from the Heiden Road wetlands to the northwest of the project site and then to the Sheldrake Stream. It states: "The project property along the westerly side of the Sheldrake Stream, comprising of approximately 144 acres, slopes and drains in an easterly direction to the [Sheldrake] stream. Of that 144 acres, approximately 32 acres at the northerly side included in development of Cluster 1, drains toward and through adjacent undeveloped private properties consisting of wooded areas and wetlands, which in turn drain to the Sheldrake Stream via a small, unnamed stream that runs past the northeast corner of the proposed Cluster 2." (DEIS at page 3.2-1)

As noted above, [there is particular concern that the proposed development will have significant, unmitigated and irreversible impacts upon the Sheldrake Stream and the unnamed stream feeding from the Heiden Road wetlands.] Such impacts would be devastating and should be avoided to the greatest extent possible. [Irreversible damage to water quality to the Sheldrake

3.2-14

Stream - a Class B(t) waterbody (a part of the Middle Delaware River Watershed) will result in degradation of the waterbody's primary and secondary contact recreation and fishing uses. Changes to the delicate nature of that waterbody could disturb the protected trout waters and could impact a major source of Sullivan County's recreation and tourism industries, as well as impact the delicate ecological balance of those waters. The applicant should be encouraged to supplement the DEIS to describe the measures to be taken to ensure that the water quality to all watercourses on the property (not just the Sheldrake Stream) will remain undisturbed and protected, along with the slopes leading to those waterbodies.]

Of particular concern are the planned techniques set forth in the applicant's SWPPP (DEIS Appendix B at page 3) that "portions of the outer-lane loop roadways and a few dwellings that are not able to be directed to the stormwater ponds utilize green infrastructure techniques for treatment." The SWPPP continues: "Specifically runoff from the areas are intercepted by a pea gravel diaphragm located on the outer edge of all roadways for groundwater recharge additional runoff is then treated via grass filter strips before being discharged offsite." It is respectfully submitted that [a system of pea gravel and grass alongside the roadway along a sensitive stream is an insufficient and inappropriate method of ensuring that stormwater is properly discharged to sensitive streams. It appears from the applicant's various maps included in the DEIS that stormwater in the area alongside each of the streams in Clusters 1 and 2 will in fact not be capable of conveying water by a gravity system to the stormwater basins described in the DEIS.] 3.2-15

[As shown in the SWPPP plan map entitled *Post Development Drainage Areas* dated May 20, 2011 (Sheet D.A.-2) submitted on CD in DEIS Volume 2, the drainage basin serving Cluster 4 does not appear to be designed to collect water from the road and 24 residential units along the stream. These roadways and units (particularly those near units 52 and 53) also appear to be less than 25 feet from a USACOE regulated wetland, and will likely have significant impacts on that wetland as well.] 3.2-16

As a result, [the DEIS appears to mislead the reader when it states that "following construction, stormwater from the project site would be routed through stormwater management ponds and retention facilities and then ultimately enter the Sheldrake Stream." (DEIS at page 3.2-4) The FF&BC respectfully requests that the Planning Board direct the applicant to prepare a Supplement to the DEIS to address the apparent mistakes or 3.2-17



omissions in the DEIS with regard to the critical issue of stormwater handling around the stream areas so that the Planning Board can properly assess the real environmental impacts of the proposed project and so that effective mitigation techniques can be developed to ensure proper protection of the affected streams and environment.]

[We also note that the applicant suggested in the SWPPP that "Porous Pavement may be included for this site." (DEIS Appendix B at page 6) We welcome this "green infrastructure" technique and encourage the Planning Board to require that the applicant use porous pavement (such as open-jointed blocks with open, permeable spaces between the units) throughout the project. While the pavers give an architectural appearance, they can bear heavy traffic and mitigate to some extent the conveyance of stormwater offsite. In light of the fact that the applicant states throughout the DEIS that the development will be for summer seasonal use only, the issue of plowing and other winter concerns related to such techniques would be inapplicable.]

3.2-18

[Finally, the area surrounding the unnamed stream is particularly significant and deserves protection.] We highly encourage the Planning Board to schedule a site walk of the entire site, but particularly to include the area alongside each of the streams in Clusters 1 and 2 prior to considering any approvals for this project. [We also urge the Planning Board not to consider any stream disturbance, including the perilous trenching of a sewer main under the Shel Drake Stream.]

3.2-19

3.2-20

#### *Impacts to the Pleasure Lake Dam Inundation Zone*

[Although the FF&BC requested that the applicant analyze and submit data to the Planning Board in its DEIS under SEQRA's Surface Water Resources section, it appears that the applicant did not provide substantial dam break analysis data to supplement various statistical 2-, 10-, 25- and 100-year 24 hour storm events in order to ensure that human lives and property are not placed at risk in the inundation zone. Rather, the applicant provided assurances to the Town and the FF&BC that it does not plan to build any structures (including residential units) in the inundation zone.] While we find the lack of that data concerning, particularly in light of recent significant storm events, the applicant's assurances should, at a minimum, be formalized. [A conservation easement or other binding restriction must be required to be publicly filed with the land records division of the county clerk as a condition of any approvals so that the area within the inundation zone of the Shel Drake Stream downstream of

3.2-21

3.2-22

Pleasure Lake remains safe and secure.}]

[The applicant has also indicated that the ownership of the lands within the inundation zone will be held only by one or two entities (the homeowners' associations that maintain stewardship of common property areas rather than individual property owners). Any approval should also ensure that the property within the inundation zone is not individually deeded to property owners but is held by the association(s) or entities that are established to maintain stewardship of common property areas.] 3.2-23

[During the November 10, 2011 public hearing, the applicant's consultant (Mr. Lopez) as well as the Planning Board attorney (Mr. Hiatt) suggested the ease of "signing off" on a conservation easement; we wholeheartedly agree that a conservation easement must be incorporated into any approvals for this project in order to maintain the permanent nature of the safety issue sought to be addressed. The mere ownership of the inundation zone stream buffers by the condo associations would not provide a lasting safe and secure method of protection. It would also accomplish the equally important goal of protecting the delicate ecology of the stream areas from encroachment and plans for further development or use by subsequent owners.] 3.2-24

*Impacts to the Aquifers and  
Wells of Neighboring Properties*

[As is made abundantly clear by the DEIS itself, the water usage for this proposed development has been shown to have a measurable effect upon the well water for neighboring properties approximately 2,000 to 3,000 feet away (depending upon which well location one measures from).] At the December 8, 2011 Planning Board meeting, the applicant's consultants attempted to minimize the effect of such impacts with a presentation that left more questions than answers. [The maps displayed by the applicant at that meeting completely distorted the locations of each of the wells that were monitored on the West and East shores of Pleasure Lake.] At best, these map locations presented by the applicant's consultants to the Planning Board on December 8, 2011 displayed, at best, sloppiness in responding to a significant measured site impact; at worst, it could be construed as a misrepresentation. 3.3-12

[For example, the applicant sought to suggest that the effects of the measured well impacts were not significant and showed maps displaying the well for the Uhl family at the southwest corner of Pleasure Lake. As noted in the test results (see, DEIS, Appendix E, Graph 1: *Uhl Well - Lot 26*), the Uhl well 3.3-13

is located at lot 26 - directly across the lake from Mr. Bisnoff (who also allowed his well at Lot 52 to be monitored during the applicant's well tests). ] [Display of the Uhl well in the location of the lake closest to the applicant's property line (and nearly 1,000 feet from its actual location) suggests an attempt to avoid testing of the dozen or so wells between the applicant's property and the Uhl well that was monitored. One can expect that the well drawdown impacts to be greater the closer one gets to the wells that are tested. Accordingly, tests of the dozen or so wells (or at least the closest well to the applicant - Mr. Conklin at Lot 38) should be directed to be done and the DEIS should be supplemented to include this important data. Efforts should be made to monitor the wells of other neighboring wells outside the FF&BC area.]

3.3-14

In addition, though the applicant sought to minimize the numerical data set forth in the DEIS, [it appears that the base information regarding the impacts to the Uhl well set forth in the DEIS Appendix E appeared to be 15% greater than those described in the DEIS narrative (DEIS page 3.3-5).] Such discrepancies are disturbing and our members are very concerned to know that the applicant's project has shown measurable impacts upon their water supplies.

3.3-15

Our initial discussions with various engineers and design professionals is that any measurable impact upon monitored wells approximately half a mile away is something that merits major concern. [The FF&BC and its members request that the Planning Board direct that the applicant perform more testing under a heightened protocol set forth by the Town Engineer to evaluate the water resources available to the area. Well pumping data must also be provided to determine that the estimated direct recharge to the bedrock aquifer during drought conditions would support the proposed potable water demands.] [The Water Supply Report (DEIS Appendix E) also clearly shows that the source of the water supplying the aquifer in question (which serves both the Uhl well and the proposed project) appears to be fed by the large wetland area along Heiden Road over the ridge line, not by Pleasure Lake. Accordingly, these water resources are not as unlimited as one might assume when thinking of a project located near Pleasure Lake.] [We respectfully request that we be advised of any additional testing and the suggested protocols so that the FF&BC can be aware of the impacts upon its sensitive and finite water resources.] The DEIS in its present form is inadequate and must be supplemented before this project can move forward to the FEIS and approval stage.

3.3-16

3.3-17

3.3-18

The data and information presented so far is unquestionably inadequate, and the suggested mitigation measures set forth in the DEIS (DEIS at page 3.3-5) are insufficient by any standards. To the extent that the Town allows this project to move forward, [the Town must ensure that adequate funds are set aside for independent testing and analysis by a hydrogeologist chosen by the Town or the FF&BC, and that significant funds be held in escrow by the Town to ensure that any mitigation measures suggested by the applicant can be taken immediately or upon notice to the Town without the need for legal action against the applicant, its subsequent property owners or its condo associations (which may have little or no interest in resolving any issues after approvals are received).] [It should also be noted that the suggested mitigation technique of "deepening" affected wells or drilling a new well (or the installation of filter systems as suggested by the applicant's consultant for sedimentation issues) have all been questioned. If drilling deeper wells was the answer, is it not reasonable to expect the applicant to be required to drill its wells deeper so that existing property owners are not impacted? It has been suggested that deeper water sources may not have similar water quality. Again, these fundamental questions and the data needed to answer them are completely lacking at this point in the process.]

3.3-19

3.3-20

#### 4. Community Services

##### *Recreation Impacts and Fees*

Pursuant to New York Town Law §277(4) and Town of Fallburg Code §135, the applicant is required to reserve land suitable for a playground or other recreational facilities open to all Town residents (or to deposit moneys into a recreation fund in lieu of such reservation). The Town has identified a present need for expansion of park and recreational facilities in the Town, based on projected population growth, and has determined that all residential site plans must contribute toward the mitigation of this identified need.

Inasmuch as the Town Board has determined that a unified system of parks and recreational facilities located to meet the needs of the residents of the entire Town is desirable, [the Planning Board should require that the applicant, as a condition of any approval, contribute recreational fees calculated on the dwelling unit/duplex count resulting from any approved site plan. If the Planning Board determines that it is desirous that the applicant be required to dedicate land for a recreation area, then such land must be available to all Town residents and be of

3.11-9

such quality that it be relatively level and dry, with total street frontage on at least one street of at least three hundred (300) feet, and that no dimension of the site be less than two hundred (200) feet. ]

If recreation fees in lieu of land are required by the Planning Board on this project, then those monies must be placed in a dedicated trust fund to be used by the Town exclusively for park, playground or other recreational purposes. [We understand that the Town has currently set its recreation fees at \$300 per dwelling unit or \$600 per duplex unit; those fees should not be waived for any reason other than for deeding parkland to the Town valued in excess of the recreation fee amount that would otherwise be due to the Town.]

3.11-10

#### *Schools and Other Community Facilities and Services*

[While the impacts to existing community services (including police, fire protection, and emergency services) should specifically address the impacts of such a densely populated project (with 236 single family and duplex dwelling units, accessory recreation facilities along with the 230 room hotel facility), the DEIS itself constantly mixed apples with oranges and failed to provide the Town and public realistic and accurate data upon which to weigh the project's potential impacts. Such a large, dense project will undoubtedly place significant stresses on an already overtaxed rural community, and the tax collection projections set forth in the DEIS appear to be inaccurate and misleading.]

3.11-11

[As set forth in the DEIS (DEIS page 3.11-2) and in the notifications sent to all the interested community service providers (including letters sent by Ann Cutignola of the applicant's consultant Tim Miller Associates, Inc. on April 1, 2011 to Police Chief Williams, the Fallsburg Fire District, Town Engineer Will Illing, MobileMedic EMS, Fallsburg Ambulance and Superintendent Dr. Katz), the proposed total projected population would be 918 people which would include 363 school-aged children. (See, DEIS Appendix A) Despite the clear undercounting of the proposed population in light of the applicant's statements regarding the target community and the Town's own experience, the DEIS provides a baseline for the Planning Board to assess the project's impacts.]

3.11-12

[While the applicant attempts to minimize the impacts of the project throughout the DEIS by suggesting that the population will be "seasonal" and "religious" and thus will not be utilizing

3.11-13

any school services, such a suggestion is simply not credible.

If the applicant were to restrict the community to summer seasonal use (as the FF&BC does), perhaps the applicant might gain traction on that argument. But the reality is that these single family and duplex homes are going to be built as year-round homes and will (hopefully) be attractive and inviting for its residents. If that is the case, what is to stop residents who purchase these valuable units from living in them year-round. In fact, the applicant states that these units will have a market value of \$225,000 each for both the four bedroom single family dwellings and the four bedroom duplex units. It can reasonably be expected that, even if the intention of the current applicant is to market these homes as second homes, purchasers will choose to live in these homes on a year-round basis.]

[It is respectfully submitted that the developer's use of the Town's "local housing trend" of 32.9% of housing in the Town of Fallsburg as occupied by seasonal residents in order to minimize the project's population is completely inappropriate and underestimates the true impacts the proposed development will have on the community. One need only take a short drive around the Town to recognize that certain residences are only habitable on a seasonal basis; where new housing stock is built for year-round use and there are no limitations on use for seasonal purposes only, there is no reasonable or legal justification for evaluating the development and its impacts by factoring the 32.9% seasonal housing trend.] Were that the case, then every development - seasonal or otherwise, from a religious or non-religious community and for houses selling for \$100,000 or \$1 million - could then evaluate the impacts of their development and artificially slice away a third of the potential impacts upon the school systems and the like. This is simply inappropriate, unsustainable and wrong as a matter of law.

3.11-14

Accordingly, [the net tax estimates presented by the applicant in the DEIS are completely unreasonable and do not provide accurate data as required by SEQRA. Notwithstanding the applicant's attempt to squeeze this project in under the prior zoning's bungalow colony density, these homes are being built as year-round homes. They are not restricted in any way, legally or otherwise, to seasonal use. Accordingly, the applicant may not present aspirational data and commentary tending to favor net tax benefits to the Town when the reality is quite different.]

3.11-15

[Furthermore, the reasoning behind the "expectation" of seasonal use is without any solid support. The DEIS states - after conceding that the units are "constructed for year-round use" -

that: "based upon the seasonal amenities provided, i.e. swimming pools and tennis courts, it is anticipated the dwellings will be used primarily for seasonal use." If that is the "basis" for the assertion that the community will be exclusively seasonal, the Planning Board need only look at the similar amenities provided throughout New York State for primary housing to determine that such an assertion is unfounded. ]

3.11-16

[Only if the proposed community were to place deed restrictions, covenants or cooperative rules restricting usage as seasonal only (and measures were taken to enforce those rules), would the Town have a basis to accept a developer's aspirational assertion of intention. Here, all indicia point to year-round usage, and the SEQRA documents should fully reflect 100% usage of the proposed project as year-round housing.] [Accordingly, based "strictly on the proposed number of residential units" (DEIS at page 3.11-7), it appears that the 236 units multiplied by the 3.89 population multiplier will result in 918 persons under SEQRA - not "seasonal persons." Likewise, the 236 units multiplied by the standard 1.54 school aged child multiplier will result in 364 new school children that must be accounted for in the Fallsburg and Monticello School Districts (not 142 or, as the DEIS suggests, zero). This is a huge impact that might easily push the Fallsburg Central School District well over capacity in its elementary school level, forcing the building of a new elementary school or an addition to the existing Benjamin Cosar School with several new classrooms at great cost to the Town as a whole.]

3.11-17

3.11-18

Such impacts may not be brushed aside. To ignore them would be devastating for the school district and those that pay property taxes in the Town. Again, these statistical demographic multipliers may result in underestimating the true impact, but they are updated standard multipliers that are used so that developers will not claim "pie in the sky" tax benefits when the data suggests otherwise. [The data also do not take into account the needs for schooling and supporting developmentally disabled students and students that require special aid. Such costs often far exceed any property tax amounts received from a development that introduces such students to the district. New York schools are required to educate all students, and the districts often bear the costs for such special needs children - even in "religious" communities as the applicant describes his target population.]

3.11-19

[The FF&BC respectfully requests that the Planning Board reject the applicant's flawed reasoning and analysis, and require the applicant to evaluate the proposed development for all potential impacts (as SEQRA requires) at its full build-out

3.11-20

potential when used as designed - 236 four bedroom units. As it is, the applicant's description of the target population for these homes as "religious" suggests that the population multiplier of 3.89 persons per four bedroom unit and the standard school aged multiplier of 1.54 (and especially the manufactured inappropriate multiplier of 0.6 suggested by the developer) are woefully under-representative of the likely actual development potential population if the project were to proceed to full build-out.]

[Likewise, the applicant states that the proposed development will generate 1.61 tons of solid waste per day, resulting in 586 tons of waste per year. No effort is made to qualify the amount of waste entering the waste stream based upon "seasonal" use arguments. As SEQRA requires, the applicant provided base data of 3.5 pounds of refuse per person for the projected 918 residents for the total amount of (unsustainable) annual solid waste to be generated by the proposed project. It appears that no effort was made to qualify the costs since the waste removal function will not be subject to the public's tax scrutiny.] The same straightforward analysis and data production should be made with respect to school impacts and other "sensitive" topics. SEQRA does not allow applicants to pick and choose the method of disclosure in order to sugarcoat the sour message delivered when the community learns that its taxes will be increased as a result of this proposed project.

3.11-21

#### 4. Other Environmental Impacts

##### *Blasting and Mechanical Rock Removal*

The FF&BC remains opposed to any and all blasting operations on the proposed project site. [While the applicant states that it believes blasting is not anticipated in light of the geology on the site and the "regulatory and safety demands inherent with blasting" and "in consideration of the nearby hotel buildings and homes as well as the proximity to the Pleasure Lake Dam situated within 1,000 ft. of potential rock excavation locations," the applicant does not foreclose the possibility. (DEIS at page 3.1-10 to 3.1-12) As a condition of any approval on the site, no blasting should be allowed under any circumstances. In the event blasting is "necessary" the FF&BC requests that the applicant be required to draft a blasting plan in association with the New York State DEC, the Town and the FF&BC under strict blasting protocol. Any blasting anywhere on the applicant's site (not just the northern portion) must require a pre-blasting inspection of the dam and monitoring by an independent engineering professional at the applicant's sole cost and expense.

3.1-9



Similarly, any heavy mechanical hammering that may impact the Pleasure Lake Dam must be avoided, and similar measures must be taken to ensure that mechanical rock removal does not adversely affect the dam structure.]

#### *Traffic Impacts*

[While the DEIS suggests that traffic from this project will only be problematic on Friday and Sunday evenings during the peak rush home periods, we question that conclusion. To be sure, the traffic during the Friday and Sunday evenings are of great concern, and further mitigation measures should be proposed. However, we understand that the base traffic counts were done more than four years ago in the summer of 2007; that outdated data must be updated in the FEIS in light of the increased usage and new construction in the immediate area of the proposed project.]

3.8-25

[In addition, we are particularly concerned with the level of traffic introduced to Park House Road (Wildwood Drive). As noted in the DEIS, 68 units will only have access via Park House Road. Accordingly, while almost all of the DEIS recommendations focus on Heiden Road (see DEIS pages 3.8-15 to 3.8-17), due care and analysis of the major impacts upon Park House Road and connecting roadways must be taken and the DEIS must be supplemented therewith.]

3.8-26

#### *Air Quality Impacts*

[Construction-related air emissions, including diesel fuel and dust are of particular concern in light of the likelihood of their migration to the area surrounding Pleasure Lake. Such air quality emissions will have health, odor, and aesthetic effects upon our community, and may effect lake quality. The FF&BC would like to see further study and mitigation measures in a supplemental DEIS or FEIS.]

3.13-3

#### *Noise Issues*

[Similarly, noise pollution - both construction-related and post-construction activities - are of major concern to the members of the FF&BC. Our community takes particular pride in our stewardship of the environment and values peace and quiet. The DEIS makes little mention of specific mitigation measures, and more information and specifics are required. In particular, the proposed hours of construction activity (and the resulting noise) is stated to occur between 7:00 a.m. and 9:00 p.m. In light of the nature of this community and the importance of our

3.13-4

members being able to have the ability relax and enjoy Pleasure Lake without being molested by construction noise (particularly during sleeping hours and dinner hours), we respectfully request that outdoor construction activities be limited to the hours of 8:00 a.m. and 6:00 p.m. Mondays through Fridays, and from 9:00 a.m. to 5:00 p.m. on Saturdays and Sundays.]

[Although no mitigation measures are proposed for post-construction activity in light of the assertion that the use is residential and consistent with current land use in the area, the FF&BC requests that the applicant be prohibited from installing or using public address systems or other amplified equipment for the camps described in the DEIS. During the past history of the Raleigh Hotel on the proposed site, our members were often subjected to multiple periods on a daily basis where announcements and games were played over loudspeakers - including daily bingo games. As a condition of approval, we respectfully request that no such amplified announcements, music or other use be allowed except for emergency purposes.]

3.13-5

#### *Visual Impacts and Light Pollution*

[The viewshed from Pleasure Lake is of particular concern to the members of the FF&BC. While the applicant has properly stated the NYS DEC policy and guidance require impact assessments upon viewsheds of designated aesthetic resources, the applicant failed to assess and mitigate the visual impacts of its facilities and tree cutting located in visual proximity to sensitive land uses - such as the views from beautiful Pleasure Lake. While we appreciate narratives regarding the impacts upon views from the roads, no attempts to assess and mitigate the visual impacts upon Pleasure Lake were made or discussed in the DEIS. This glaring failure requires supplementation of the DEIS, and specific mitigation measures must be discussed pursuant to SEQRA and the NYS DEC program policy and guidance memoranda.]

3.9-1

Pleasure Lake is blessed to have members that are courteous and respectful of their neighbors. [We appreciate the applicant's comments that any exterior lighting will be proposed to be appropriately shielded to minimize the impact on the night sky. The FF&BC encourages downlighting of all exterior light fixtures so as to minimize or avoid glare and the adverse effects of exterior lighting on neighbors and across the lake and to allow all to enjoy the night sky as well. Excessive, unshielded and poorly-directed exterior lighting adversely affects the enjoyment of our lake environment. All nonessential exterior lighting should be turned off when not in use (as is the custom and practice on Pleasure Lake). Lights that are controlled by

3.9-2

photocells and timers are encouraged. The applicant should be required to mount light fixtures at the lowest practical height, and mercury vapor lamps and other unwieldy light sources should not be permitted. Uplighting should not be permitted, except in the case of flag or tree uplighting so long as the fixture is aimed directly at the flag or tree and projects all its light above the horizontal plane. ]

#### *Sewage Treatment*

[In light of the frequent and extended electricity power outages experienced in the area regularly, it is requested that any proposed sewage treatment facility must include robust backup power systems in order to avoid untreated or undertreated effluent from entering the Sheldrake Stream.] [In addition, sewage should not be pumped via a force main under the Sheldrake Stream, but a separate independent sewage treatment facility should be built on the east side of the Sheldrake Stream in order to serve the wastewater needs for the cluster on that side of the stream.]

3.4-3

3.4-4

#### 5. Alternative Scale or Magnitude

The DEIS notes that Section 617.9(b)(5) of the regulations implementing SEQRA requires that a DEIS include a description and evaluation of the range of reasonable alternatives to the proposed action that are feasible, considering the objectives and capabilities of the project sponsor. Clearly, the objective of such a requirement was to allow the lead agency to assess the relative impacts of such alternatives with the proffered purpose and need of the proposed project and the goals of the applicant. [Notably, the applicant failed to provide any information - or even a proposed alternative - to be able to compare the reduction in environmental impacts associated with a reduced scale alternative with the impacts likely to result from the proposed project. Here, the applicant basically provided an "all or nothing" proposal, with a 236 unit proposed clustered development and a 236 unit (unrealistic) conventional subdivision along with a "no action" alternative per SEQRA. "The objectives of the sponsor in seeking to undertake the proposed action are an important but not always conclusive factor for determining the alternatives that must be considered in an EIS." Gerrard, Environmental Impact Review in New York, §5.14[2][e].

5.1-1

According to the New York State Department of Environmental Conservation, a reduced scale alternative may be reasonable "if the proposed alternative meets the minimum functional size of the project." NYSDEC, SEQRA Handbook at B-36. Consequently, New York courts have held that property owners are required to prove

that they are unable to realize a reasonable return from certain alternatives. Without such proof, the Planning Board could insist upon requiring a significantly reduced density alternative as compared with an applicant's preferred alternative. ]

In this case, the applicant has not even attempted to provide a reduced scale alternative to be able to compare the reduction in environmental impacts with the applicant's 236 unit proposal. The applicant should be directed to supplement the DEIS so that the Planning Board can have the information necessary for it to ultimately certify, in its findings, that the action selected is the one that avoids or minimizes adverse impacts to the maximum extent practicable.

**Conclusion**

[The adverse environmental impacts associated with the proposed project as presented in the DEIS have potentially dire consequences and could change the very face of the Town of Fallsburg. For these reasons, we urge the Planning Board to require preparation of a supplemental DEIS to cure deficiencies in the current DEIS.] [In addition, we strongly recommend that the Planning Board consider selection of another alternative to the proposed project that will be more protective of water quality, preserves the character and rural scenic beauty of the landscape and protects this important area from an inharmonious and destructive use of the land. In the alternative, we urge the Planning Board to reject the application in its current form.]

1.0-14

5.1-2

Thank you again for the opportunity to comment on these important issues. If we may provide any clarification regarding the above comments, or any additional information, please feel free to contact us.

Very sincerely,

The Fallsburg Fishing &  
Boating Club



By: James F. Creighton  
Its President

cc: Mollie Messenger, Code Enforcement Officer,  
Robert Geneslaw, Town Planner,  
Will Illing, Town Engineer  
Ron Hiatt, Planning Board Attorney

**Mollie**

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**From:** Robert Pinckney <pinckney.robert@yahoo.com>  
**Sent:** Saturday, December 10, 2011 12:06 PM  
**To:** mmessenger@fallsburgny.com  
**Cc:** pinckney.robert@yahoo.com  
**Subject:** raleigh and heiden development

Mollie Messenger  
Town of Fallsburg  
5250 Main St.  
Fallsburg, NY, 12779

Dear Planning Board

[We are cabin owners and members of the Fallsburg Fishing and Boating Club. After reviewing the environmental impact statement of the Raleigh and Heiden Development we are concerned about the increased demands on (already stressed) town services.] [This area is also prone to flooding.] Please keep these concerns in mind before any approvals are given on this environmentally sensitive area.

3.11-12

3.12-25

Sincerely,  
Robert and Donna Pinckney  
PO Box 154  
Thompsonville, NY , 12784

Mollie

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**From:** Jerry Chiocchio <jerry.chiocchio@gmail.com>  
**Sent:** Saturday, December 10, 2011 4:33 PM  
**To:** mmessenger@fallsburgny.com  
**Subject:** Raleigh & Heiden Development Project

Dear Mollie Messenger,

I am a member of the Fallsburg Fishing and Boating Club, and a seasonal cabin owner at Pleasure Lake. After reviewing the draft environmental impact statement provided by the Raleigh & Heiden Development, I hope you will consider the increased noise, traffic in the neighborhood and the increased demands on town services, fire, police, and schools. I was very concerned reviewing this proposed project as it brings several deep concerns:

1. [As a member of the Fallsburg Fishing and Boating Club, we, the 100 members, own the Dam on Pleasure Lake. I must plead with you to not allow any blasting in this project. We cannot afford any latent damage done to the Dam as a result of the blasting. I am sure you can agree, fixing a Dam is very costly as we already completed a \$2.2M repair several years ago. We take it seriously in maintaining the Dam to protect our residents downstream. Blasting the bedrock can cause shock wave deep inside the soil that can cause premature failure at a later time. I really hope you will consider rejecting any request for blasting or heavy hammering. ] 3.1-10
2. [Traffic: According to the report, there will be 68 units will only have access via Fred Road. We are all concerned that the construction vehicles will damage this road, not to mention the constant noise pollution. ] 3.8-27
3. [Impact on the stream exiting Pleasure Lake: I understand that the sewage and water are planned to be routed under the stream. I urge you to reconsider this as it can pose danger to the stream if a sewage line erupts. It will contaminate the stream effecting the fish and wildlife. As a result, I am urging the planning board to only approve a separate well and sewage treatment building (Park House Road Building) on the other side of the stream in order to minimize the risk. ] 3.4-5
4. [I am requesting that the Planning Board place restrictions on lighting and noise pollutions. We are very fortunate to be experiencing such beautiful sunsets and to enjoy the night time sky. We have invested so much for a family getaway and would be very disappointed not to mention, make our seasonal cabin lose value, when we have night time spot lights at these camps. Also, with the load speakers and PA systems that are used at these camps to round up the children will make the quality of life in the surrounding neighborhood undesirable.] 3.9-3
5. [Seasonal?: When reading the report it was confusing to me as I was not sure if these units were considered seasonal or full time residence. It seems to me they were being constructed as full time residences. I am hoping that the Town Planning Board will review this again.] 3.11-23
6. [Impact to the community: Please review the total impact to the local government, police, schools, etc. This increase of the total units proposed will be a big burden to our community and I do not feel the revenue stream from taxes will cover this burden, especially if they are still classifying the units as seasonal.] 3.11-24

[I know progress must continue as the ultimate goal is to build up the Town of Fallsburg. I am only requesting that we are careful on what we are actually approving. There are so many camp sites around already and to be honest, all of them seem so run down. There is a lack of maintenance on these structures and they are an eye sore.] Please consider my concerns before making any final approval. I truly appreciate your time in reading and considering my concerns. 3.9-4

Best regards,

Jerry Chiocchio

Mollie

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**From:** Bob Abbott <bobandsueabbott@msn.com>  
**Sent:** Monday, December 12, 2011 3:49 PM  
**To:** mmessenger@fallsburgny.com  
**Subject:** Raleigh&Heiden Development Project

Dear Planning Board,

As a member of the Fallsburg Fishing&Boating Club and seasonal cabin own on Pleasure Lake, I have grave concerns regarding the proposed Raleigh&Heiden Development project. After reviewing the draft of the environmental impact study it is clear what disastrous results would emerge from a development of this magnitude. [Traffic would put a huge burden not only on Heiden Rd but very rural Fred Rd as well.] [Municipal services such as fire, police, sanitation, etc. would be severely overwhelmed. The local schools and related support to them can barely handle the community they now serve.] 3.8-28 3.11-25

[The dam that our club paid a very large amount of money to construct at the behest of the DEC could be damaged due to blasting which would affect the entire surrounding area.] [Noise and light pollution from a project this large would greatly diminish the quality of life for all who now enjoy what this area was meant to be-a pristine recreational community.] 3.1-11 3.9-5

I am not against responsible development, if fact I believe it is necessary for Sullivan County to flourish. We must see that it is done on the right scale with the good of entire community in mind.

Sincerely,  
Susan Abbott

Mollie

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**From:** Lorine Harr <lmcharr@gmail.com>  
**Sent:** Wednesday, December 14, 2011 7:53 PM  
**To:** mmessenger@fallsburgny.com  
**Subject:** RALHAL

Dear Planning Board,

We are home owners at 63 DeForest Road in South Fallsburg, and are writing because we are very concerned about the proposed RALHAL development. While we are not opposed to development, we believe a development of this scope will severely and negatively impact the area.

[The sole access for approximately 70 of the units will be via Fred Road (aka Park House Road), a small, rural road that can not handle that additional traffic.] 3.B-1A

[Blasting will potentially damage the dam as well as the spillway that was recently constructed on Pleasure Lake, which will negatively impact the nearly 100 houses on the lake as well as be a hazard to houses located down stream.] 3.1-12

[Light pollution is another big concern: a development of that size will light up the night sky which is not fitting for the rural area where the development is proposed.] 3.9-6

[We are also extremely concerned about the impact of the wells and sewage treatment on this environmentally sensitive area. This is a very large development, part of which is proposed for a steep slope, with a stream running through the middle. There is a huge potential for environmental damage.] 2.0-7

[We understand preliminary well tests done at Pleasure Lake have resulted in draw downs in water levels, and we strongly urge further testing.] 3.2.21

[To sum up, we believe that this development as it stands now should not be approved for this site. It is too large, will have too many environmental impacts, and is not fitting with the area.] 2.0-8

Thank you for considering our concerns.

Sincerely,

James and Lorine Harr  
908-552-8024

[lmcharr@gmail.com](mailto:lmcharr@gmail.com)



"Minutes are not official until approved by their respective board."

## TOWN OF FALLSBURG PLANNING BOARD MEETING

November 10, 2011

Arthur Rosenshein, Chairman, Ira Steingart, Co-Chairman, Irv Newmark, John Makovic and Maria Zeno, Planning Board Members, Gary Tavormina, Planning Board Member Alternate, Mollie Messenger, Code Enforcement Officer, Tod Burns, Code Enforcement Officer, Robert Geneslaw, Town Planner, Will Illing, Town Engineer and Ron Hiatt, Planning Board Attorney.

- Arthur Rosenshein called the meeting to order at 7:12 pm.
- Arthur Rosenshein called for motion to accept the minutes from the meeting held 10/13/2011.
- NOTE: Revision to the attendance of board members present at the 10/13/11 meeting to add Gary Tavormina.
- Gary Tavormina made the motion and Irv Newmark seconded it. All in favor.
- Arthur Rosenshein introduced the meeting and explained the order and procedure of the planning board meeting: old business, new business and public hearings.

### PUBLIC HEARING:

1. OLD FALLS ESTATES – SBL# 28-1-41
  - Glenn Smith, engineer and Jeff Kaplan, attorney, *Kalter, Kaplan, Zeiger and Foreman*, represented the applicant.
  - Glenn Smith: This project is on Old Falls/Woodridge Road and it's a 17½ acre parcel that Eli and Yitzy Brezel are currently developing. Originally we had approval two years ago when Joey Perillo was presenting as the owner of the project. It was subsequently sold. And the project that was approved last year was 20 duplex homes or 56 units total with town sewer and town water. The Brezels are currently in contact but haven't purchased already for the adjacent 5½ acre parcel. (*He referred to the shaded area on the map.*) This fronts on Riverside Drive which runs from the county road to Woodbourne. The property is in the R-1 zoning district. And actually what we're showing is 6 additional duplexes on this 5½ acre piece that would bring the number of duplexes up to 34 or 68 units total. Based on the current zoning for this parcel, the maximum number of units allowed would be 91 units. So we are still significantly below what the town zoning would allow for the number of units on this property. And what they'd like to do with this 5½ acre piece, a couple of things, one, first and foremost, they would like to put a small caretaker's home that is the little red box there (*referring to the map*) to the left of the main entrance drive to Old Falls Estates. That seems to be the major significant demand of the perspective of the buyers that they have a caretaker there. By getting that piece, it will allow them to site that there and meet the setback distances. The second item would be to get 6 additional duplexes, a maximum of 6 duplexes, on the property. And also get a ball field. That apparently is an item demand also that they have someplace to play softball. That would take up the majority of the property down towards the

Riverside Drive section along with a storm water basin would go down there also.

- One thing, the existing, originally approved development is not being affected at all. Nothing is being changed there. No homes are being changed. No sewer, no water, no drainage. The drainage will still go down to the existing storm water basin down by the county road. This new site, the sewer and water would hook into the system that is serving the existing development. But we have our own storm water basin that would pretty much serve this new 5½ acre parcel. It would provide a secondary means of egress, which is probably one of the primary items with it. And that's essentially it.
- Arthur Rosenshein: Okay, if there is anybody who would like to speak, this would be your opportunity. I would only ask that if you would like to speak to come up and you identify yourself. Our minutes are taken by recording the voice and then transcribed. You have a right to any questions or comments that you wish at this point. Is there anybody here? In that case, since nobody wants to comment, the public hearing is closed.

2. RALEIGH HEIDEN PROPERTIES SBL# 60-1-56/50-62/1/6/2/4 - DEIS completeness review. . Zone: PRD. Acres: 1.7. Location: 5674 Heiden Rd,, South Fallsburg

- Arthur Rosenshein: DEIS completeness review and comments will be accepted tonight. A slight change from what's on the agenda. It just says PRD. It's REC-1 and the acreage should have read not 1.7 but 196.9. So just to make sure that change takes place.
- Discussion: This information was correct on the public notice per Steve Lopez.
- Steve Lopez, Tim Miller Associates, Director of Design and Development and Glenn Smith, engineer represented the applicant.
- Steve Lopez: First and foremost, this project, as you know, has been the subject of ongoing discussion with your board and some changes and so forth. A full environmental impact statement was prepared and reviewed by your board and finally accepted. We neglected to include a copy of the completeness form for the DEIS with your copy. So I will distribute it to you this evening. Essentially we are looking at closing here. There are 236 units on 196 acres with the component that the existing Raleigh Hotel remains essentially unchanged. And that's on 35 acres and approximately 162 acres behind that and north of that encompassing the old Heiden hotel property that burned in 1998 as well as the rear portion undeveloped of the Raleigh property. It's proposed to be developed with single family and duplex homes on 4 separate loops, 3 condominium associations again with the Raleigh Hotel being separated out and operating as a privately owned facility. The .... facilities ... including the roads, sanitary, storm and water supply will be co-managed with cross easements by the various entities that will remain after the development process. And Glenn will review the plans for more info on the engineering.
- Glenn Smith: To get you a little more oriented (*referring to the map*) this is Heiden Road over here on this side and the four clusters and the ..., I will call them cluster one, cluster two, cluster three and cluster four near the Raleigh Hotel in this area right here. Basically they are going to have a sewage treatment plant down in the southeast corner, the lower part of the property. Pleasure Lake sits right up here (*Fallsburg Lake*). So the Sheldrake stream the outlet for this lake comes out through here to the south to the Neversink River. So the sewage treatment plant will be designed down in this area right here; it will discharge into Sheldrake stream that is subject to a permit by the Delaware River Basin commission and the DEC, of course. The treatment plant is being designed for 131,000 gallons per day. Currently the Raleigh Hotel has its own treatment plant. It's an ancient sand filter system. And their permit is for 112,000 gallons a day. So a new plant is not significantly

larger than what's been discharging into the stream for years. *(He made an interjectory comment about the plant for the Raleigh but it was not distinguishable.)* So all four clusters will gravity flow sewage from one to two to three to the treatment plant. This cluster that will be accessed off of Fred Road will actually have a pump station cross under Sheldrake stream to a manhole out gravity feeding into a sewage treatment plant also. Again, all four clusters will discharge, which includes the Raleigh Hotel by the way, about 131,000 gallons a day. The water system, right now the town municipal consolidated water system or district, actually comes out 600 feet back from Heiden Road. So everything along Heiden Road including the Raleigh Hotel is now in the town water district that includes the majority of this cluster number one except for several homes in the back here. They are just outside the district bounds. The intent is to ask for an extension from this board and town board to add those few homes into the district. So that would be served by the town along with the Raleigh that is currently served by the town. The total is about 40,000 gallons a day for the Raleigh and 22,000 for the cluster number one that is 62,000 gallons a day from the town. The other 3 clusters, two, three and four will be served by an onsite water supply. And there are 5 wells that have been drilled in here, W-1, W-2 through W-4a that were drilled and tested in 2009. They exhibit enough water to handle these 3 clusters here. And there will be a water treatment system, actually it will consist of about 5 ten thousand gallon storage tanks and pressure pumps and disinfection and all that in this area right here. So that will serve the cluster two, cluster three and cluster four. Each cluster has its own storm water management basin. One is here, one is here and one is here. So all the storm water from these clusters will be conveyed to the storm water management basins. The idea being they can't discharge anymore under post-development conditions than what's discharged in a pre-development condition. So the basins will take care of that. And a SWPPP has been prepared and submitted to the DEC along with the other applications for a SPDES permit and treatment plant design and that type of thing. That's essentially it, the sewer, the water and the storm water.

- *Steve Lopez made a comment to Glenn Smith who then commented:* Yes, again it's in the DEIS. Questions or comments kept coming up on blasting and the effect on nearby homes. We're basically saying as the DEIS says, we don't see any need that there will be any blasting *(this comment was interrupted by the door slamming)*. The vast majority of these sites are all in Wellsboro and Wurtsboro types of soils that generally exhibit bedrock at least 5 feet down and quite a bit deeper. Only in areas of cluster three and cluster four, which are considered bedrock controlled where there is red shale within two feet of the ground surface. Because of minimal amount of rock we expect run into, the intent is to use rippers, hydraulic hammers, anything but blasting to get rid of the rock in either of the trenches of the foundations. So that's what we stated in the DEIS, we anticipate no blasting. There is even concern that any blasting might affect the dam in Pleasure Lake, so we'll stay away from the blasting.
- Arthur Rosenshein: Okay, thank you. Anybody here for this, comments, questions.
- PUBLIC COMMENTS:
- Joe Lubner: Is part of that cluster four in Thompson?
- Glenn Smith *(part of his comment not distinguishable)*: ... cluster four ... Fallsburg... one small section that is in Thompson that is part of the Raleigh portion now. That is actually part of their entrance road that is in the Town of Thompson. The line cuts right across here. 2,0-2
- Frank Stratton: The Raleigh Hotel sewer system now, has that been upgraded? Because remember for many years it was just a sandbag type of ... 3,4-1

- Glenn Smith: There are several large septic tanks that will be abandoned and removed and open sandbags, and... it has been like that for years. And actually, part of cluster three is right over in that area. So that whole area has to be basically taken apart and restored before they can build.
- Frank Stratton: Because there are a few pipes that go into the street that release the water from the Fallsburg lake that run down into there.
- Glenn Smith: There is a pipe or two that go into the Sheldrake stream, that's for sure.

3.4-2

- Arthur Rosenshein: Anybody else? Sir, yes, your name.
- James Creighton: I'm the president of the Fallsburg Fishing and Boating Club. We're listed as an interested party for purposes of the SEQRA process. We received the DEIS or the draft less than three weeks. We haven't been able to distribute it to our members. We have a lot of members that are very concerned about the project. Our board met two days ago and reviewed what we could in the short amount of time. The first thing that I would ask is to the extent that the board is amenable to this that they leave the public hearing open for another month because of the scope of the project, how large it is and the anticipation that there is an awful lot of public comment that should be sought on a project of this density and this scope. We're planning also to provide written comments. I believe the current deadline is November 21<sup>st</sup>. But to the extent that the board would be amenable to leaving the public hearing open for at least another month so that people who, I'm surprised there aren't more people here to discuss and ask questions, that may be because of the short time frame. I know that the DEC's environmental notice only posted I think it was less than two weeks ago. I think there may be a lack of public knowledge of the fact that their opportunity to discuss this project is now. I think the board would do well to allow the community an additional month to flesh out any comments and certainly ask the developer the kinds of questions that need to be asked for a project like this.

1.05

- The first comment particularly related to the Fallsburg Fishing and Boating Club is that early on in the process we received a commitment from the developer that they would remain outside the dam inundation zone. Essentially if there was a dam break, which we hope never will be, but within that zone there are certain levels of responsibilities that the Fallsburg Fishing and Boating Club have in terms of notification and just general responsibility. And right now, that scope is relatively small but as we move to a project of this size, this scope, this many people, in an area where there is a potential for danger, it increases the cost to the Fallsburg Fishing and Boating Club, although the DEIS says there will be no cost change at all, we respectfully disagree and find that to be a statement that doesn't make sense. But we're pleased to see that the cluster authority proposal, I believe, keeps the structures out of the inundation zones other than, I believe, the water treatment plant. Is that right?

3.2-1

- Glenn Smith: No, that's the sewage treatment plant, that's outside the zone. A portion of the storm water basin is in the flood inundation zone but it's out of the flood plane. But no structures.
- James Creighton: Good. I know the ultimate proposal that the standard subdivision that if the town were not to go with the cluster, maintains a number of structures within that inundation zone and would create a significant hardship to the Fallsburg Fishing and Boating Club just on a notification scale but also in terms of if there ever was an emergency. They would probably be in a position where they would need a far greater notification project, something along the lines of but not as large as Indian Point would have, but we would need some kind of robo-call or siren system or something, if the standard subdivision were to be implemented. We do support the cluster authority proposal, it does make sense in terms of maintaining some of the view shed and allowing for a sensible development of the property. That being said, this project is extremely dense. It's

3.2-2

disturbing to see the number of units proposed for that site. This is as we all know a REC-1 area. The current master plan provides that there not be any level of density anywhere near approaching this. And I understand this is an attempt to bring this in under the old zoning with grandfathering. But even under the old zoning, this required a really hard look. This is extraordinary density for this area. And the DEIS states, and I appreciate some of the comments in the DEIS, but I think I have to disagree and that most of the town would disagree, this development is nowhere near in the level in being in character with the community right now. This is extraordinarily dense. This is not Fallsburg as we know. Certainly not Fallsburg within that area along Heiden Road, Pleasure Lake, Fred Road, Thompson, this is an extraordinary project. This is the kind of project that belongs in a planned village not in a REC-1 in a place that was planned to be rural. This is not rural. This is an extraordinary development. That being said, we appreciate any new taxpayers, anybody who is coming to the town and welcome them. But we do ask that the town take a really hard look at this, if this is really what the town wants. I suggest that it is completely opposed to what was stated in the comprehensive plan. I also note that the DEIS makes certain statements with respect to the number of school-aged children in the project. It just doesn't jive with the kind of numbers that, I think, the town should know from its own experience of the number of people who would be school-aged in a community of this size. I believe for 200 plus units there are accounting for about 160 school-aged children. It just doesn't make sense based on the numbers that is explained, the kind of community it's going to be, the expectation that it's going to be seasonal but if you read the DEIS, they state that there will be at least a third of the units owners would be seasonal. Well, that's two thirds that aren't seasonal and that is a concern as well. If this were to be in some way limited to seasonal homeowners that might be one thing. But this is clearly a project of size and scope that the town should be expecting that it's not seasonal forever. So the infrastructure that is there, the impacts are going to be, if not an issue initially, they very likely will be long-term, year-round impacts. We can't ignore that even though the expectation maybe from the developer that a third of them are seasonal. A third is not all. And you take a community like Pleasure Lake, the Fallsburg Fishing and Boating Club, which is seasonal, there are constrictions for every member that they must remain seasonal. Anybody around the lake that is on lake property, the houses and the usage needs to be seasonal. This, I don't expect, there is any mechanism to ensure that the residents are going to maintain seasonal use. They own a home. They own a unit. I would expect they would have the right opportunity to use it as they would for as long as they wanted to year-round or not. So, the town does need to take that into account. We're very concerned about Pod 4, the side that requires the utilities to be brought underneath the Sheldrake stream. The club is upstream from this stream, any disturbance of the Sheldrake stream should be disturbing to the town, to any of the public. Just the idea, and I know we can engineer anything, but to place sewage pipes underneath a pristine stream like the Sheldrake stream is asking for trouble. I know the expectation is to build it well and to maintain it well, but accidents happen. Seeing the Sheldrake stream, I think it's a great property, I think it's something that will be a real benefit to this community. But you don't run into a situation where it's foul(?). Is there any expectation that the waterfalls and the large rock elevation changes are going to be disturbed in any way by the construction along the Sheldrake stream? I think between Pod 2 and Pod 4 there is a large waterfall area.

3.7-1

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3.11-2

- Glenn Smith: We don't intend to touch any of that. The only intent that you mentioned is the crossing of the sewage line and the water line.
- James Creighton: And downstream of the waterfall...
- Glenn Smith responded but it was not distinguishable.
- James Creighton: Will the town be requiring the developer to be providing a recreation fee to the

town? Or is there placement of pools and tennis courts for only their residents something that will exempt from the set aside of property that could be used for a town park or money in lieu of land? In the case they choose not to the town chooses not to accept the land. I think the set aside of tennis courts and pools for only that community doesn't satisfy the state law that requires that the developer set aside land for town use to offset the recreation impacts. That should be looked at. I didn't see recreational impacts listed in the DEIS. I may have missed. I'm not sure what the money... fund looks like for the Town of Fallsburg. *(Here his comment trailed off and was not completely distinguishable to make sense to transcribe.)*

3.11-3

- The traffic study indicates that the land the unit owners would be using primarily Heiden Road but I would point out that at least 68 of the units in Pod 4 would be using Fred Road exclusively. ... A 68 unit development that would be a significant impact to that road in and of itself. So, I don't want to lose sight that just because the majority of the units are on Heiden Road that we're not looking at Fred Road....
- The project scheduling it states that it is largely predicated on the construction of water and sewer facilities. Again, I think that the stream situation really needs to be looked at and it probably needs a few more looks. I believe the scheduling is to go from the first pod down to the 4<sup>th</sup> would be the last based on market conditions.
- Glenn Smith: Pretty much the sewage plant needs to be built first that would handle the hotel and the first pod. Then it would work its way down and this pod would be last.
- James Creighton: The DEIS does confirm that there are impacts to Pleasure Lake wells. There are two wells, I believe, that were monitored when they were doing well digs. And I know one owned by Ken *(last name?)* shows a significant draw down during the testing phase. And it indicates if there are problems later that the applicant would then deal with possibly digging a deeper well. I would submit at this point because the impacts are already confirmed that in the initial stage that the developer be required to dig a deeper well so that impact would get down that way. There is no interest in becoming adverse to the applicant anywhere down the road. I think because the issue has already been identified, I believe that mitigation is necessary and should be required at this point. I think doing it now at this stage is a lot easier than doing it later after construction has begun or completed.
- The inundation zone, emergency action plan is talked about a lot in the DEIS and essentially the applicant has taken the position they do no mitigation with respect with that ... *(Mr. Creighton trails off in his comment and the end of it is not distinguishable.)* Our club certainly finds it unacceptable that we would bear the cost of notifying and building a new infrastructure for notification based on the placement of units downstream of us. I think the most important point is you need to look at safety. Safety is the most important thing. I appreciate that the applicant has taken measures to keep the units outside of the inundation zone. But I would expect the DEC would be requiring us to notify the applicant and all of the unit owners if there were an event at the lake.
- Arthur Rosenshein: Could you clarify. You stated there are no structures in the inundation zone. Then who would you be notifying?
- James Creighton: Well, the DEC requires us to notify any landowner who is affected by an emergency. There are three levels of emergencies that can be identified. I think from a safety standpoint, if we were to identify an emergency situation, we would want to be sure that the landowners down below who are within that inundation zone be notified so that any children playing on fields, or anybody out in their backyards would know to get their kids out of the yards because there might be a situation coming. I think that's the intent of the emergency action. Obviously, if it were needed, it's for people to evacuate homes. But certainly if there is an event,

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3.2-3

3.2-4

the DEC may not require it now but I certainly think that it is within their intent to make sure that everything downstream is safe. To the extent that they have deeded lots to individuals or unit owners who would be able to have swing sets or whatever within that inundation zone, it's just concerning to us. And it looks like it's a few dozen lots that would still be within the inundation zone unless that's fully deeded conservation easements to the town, no use whatsoever by the developer. We'd feel more comfortable with something like that. I don't think that's the expectation of the applicant.

- Arthur Rosenshein: May I interrupt a moment. *Addressing Mr. Smith and Mr. Lopez*: Could either of you speak to that?
- Steve Lopez: I don't believe, well let's address a couple of issues. When we last heard from the boat club there were two concerns. One that the dam might be affected by blasting. And, second, that the inundation zone was of concern. We got the information on the inundation zone and specifically laid out the development so there are no lots, no residential units within the inundation zone. The only thing that is within the inundation zone is the open space between the pods and the river and a piece of the storm water basin at the lower south end. So aside from whether or not this will affect the dam, all residential uses are outside the inundation zone. Secondly, we took the measure of discussing at great length within our consulting group whether we could just avoid altogether this issue of the inundation impact by not blasting. This project won't cause a failure to the dam because there is nothing happening here that is shown to have any potential impact on the dam. Those two issues were looked at very carefully.
- Arthur Rosenshein: What about the mention of, I'm not sure of the reference to ... because it is condo, but the placing of anything, swings anything in that zone. ] 3.2-5
- Steve Lopez: This is common land along the stream. And I imagine it would be easy enough to sign that or let me put it differently. The common area association will control all of these publicly owned lands. And it would be easy enough for the condominium association to control what occurs here. Now, this road system is up to the edge of a pretty steep bank, which the top of that bank defines the extremity of the inundation zone.
- *Eli Brezel made a comment about nobody being able to get to this area of the inundation zone (something to this effect).*
- Ron Hiatt: There wouldn't be a problem to put together a conservation easement then. There's nothing to be lost. ] 3.2-6
- Eli Brezel: The question is it really necessary because...
- Ron Hiatt: It's just a matter of engineering science.
- Eli Brezel commented that's why they kept out of the inundation zone. Also, there really isn't any access. ] 3.2-7
- Discussion.
- Arthur Rosenshein: In some way, adding that to your condominium rules. ] 3.2-8
- Eli Brezel: Condominium rules wouldn't be an issue.
- James Creighton: The issue we have is with whoever owns that land. If...
- Arthur Rosenshein: As a condo, all the land is zoned in common.
- James Creighton: Right, so if there were a conservation easement or something that a condo would own that as one landowner or two landowners depending on how the condo association... (*Interference and part of comment was not audible*)... If we only need to notify two individuals, that would not create a significant problem for us in terms of EAP notification requirements. Clearly, the DEC could change the rules along the way and move the stream banks up and we create a whole ] 3.2-9

different place. But right now as it stands, if that property is owned only by condo one, condo two or condo four and we have individuals to contact if there were an emergency that would satisfy that. But that would require that that property be owned only by the condo association.

- Steve Lopez: Anything left in the inundation zone will be condo owned property.
- Eli Brezel: Basically, whoever owns it, if notification is required, it's the responsibility of the fishing club... ] 3.2-10
- James Creighton: Absolutely, and that's our point. We have the responsibility to notify anybody. +
- Eli Brezel: Whoever owns it that is who you notify. If there are a hundred people, there are a hundred; if it's one person then it's one. (*Made further comment but it was not distinguishable.*) ]
- James Creighton: Our concern is that we not have to notify one hundred people. ] 3.2-11
- Discussion.
- James Creighton: We are required. This is something the state requires of us. So as we move in and the applicant is looking to mitigate any impacts on the landowners around, if the impact is notify a hundred people, that's a huge impact for us and changes the whole nature of our notification scheme. If we only have to notify two people because that property is owned by two individual associations and there are no individual owners that are impacted, we're more comfortable with that. ] 3.2-11
- Ron Hiatt: Can you check with the DEC to confirm that all he has to notify is the association? 3.2-12
- James Creighton: I think that if there are no structures that are owned by any individuals and the property is only owned by the condo association itself and not individual owners or multiples, I believe we only have to notify it looks like only two people unless they change the rules of the game. That has happened. ] + 3.2-11
- Glenn Smith: Generally, the DEC requires notifying people in the inundation zone, which in your case, even farther downstream, you have quite a few properties...
- James Creighton: We are talking about a dozen.
- Glenn Smith: But outside the inundation zone, how far do you go? They don't require outside inundation zone.
- James Creighton: At this point.
- Discussion.
- Arthur Rosenshein: We can't state for the future. We go with what we have. Could I ask for a response to the comment about the well testing showing at least one affected well. ] 3.3-3
- Steve Lopez: I'm sorry, I don't have all the details of that memorized in my mind. But whatever issues that bringing online a system might cause for any adjacent property owners, must be rectified by the developer. If somebody's well needs to be drilled deeper because it's drawing down too low, as I sort of recall on this, we do a number of projects, so forgive me if I do not recall the details, I think if one person's well drew down and had some sediment to come up,...
- Glenn Smith: There are two wells on Pleasure Lake and one was fine. And the one you mentioned, I think it drew down 7 feet.
- James Creighton: Those that were tested that drew down 7 feet on the west shore closer to the dam, actually it was not very close to the dam, but it was on the west shore, and those were submitted as test wells. You didn't test every well. But the expectation is the 7 feet drop on every well along the west shore, not anywhere else. And at this point, the understanding is as stated in the DEIS is that if there is a problem down the road, the applicant will fix it. My word is if we have identified the issue now, let's make sure the applicant digs their well deeper so that it is either more effective or doesn't impact others. ] 3.3-4



- Steve Lopez: I'm not sure digging the well deeper is going to affect anything.
- James Creighton: That's what was stated by the applicant in the DEIS that if there is a problem, we will dig our well deeper. ] + 3.3-4
- Steve Lopez: Well, there are several different ways to address potential impacts on other homeowners. If you only heard from one homeowner...
- James Creighton: You guys only tested two... ] + 3.3-4
- Steve Lopez: But your association probably would have heard from a lot of the association members if their wells were affected as well. It's very difficult to predict what the impacts will be on other people's well systems because of the way these things run. So there are several different things that could be done and we would look at all of those. Some of them may simply be water lowering and rising back up because of the sediment, filters being blocked. So we might come in and clean the filters. We might have to come in and do whatever. But we did commit to that we would take care of any impacts as we would have to on individual home owners.
- Arthur Rosenshein: What is the mechanism? In other words, John Q homeowner is up there, it is summer, he notices there is a problem. How is it taken care of with minimal impact so he doesn't have to make a lot of phone calls, whatever. What mechanism is built in that protects them? ] 3.3-5
- Steve Lopez: Probably the first point of contact would be through Mollie's office, the code enforcement, certainly that's where the phone would ring initially. And then whatever measures this board puts into place in connection with this project would be the measures that Mollie would look at. It may simply be a call to our hydro geologist who is on call to go out ASAP to look at that property and the well to see what the issues are and try to identify what they are. And then come up with a plan to remediate it. But I think the initial contact might be...
- Arthur Rosenshein: My concern is at the moment is we have had some very wet years. Maybe a decade from now we have a spell of dry years, then the effect becomes apparent. And what happens to them when that occurs. They call code enforcement and then she makes a call to whom... ] 3.3-6
- Steve Lopez: If it's a dry year, everybody is going to be affected.
- Arthur Rosenshein: It is a concern. One of the things that happens is while the thing is under construction, you have a lot of handles to control the situation. Once the thing is built, you are gone, the developer is gone, what is the guarantee mechanism for people who suddenly it becomes apparent? And it may be a number of years later. How is that built in so that they do not have to end up out of pocket finding an attorney to push something because the association says, "We don't really think we are responsible because it is an act of God that it hasn't rained in a year." I don't know how that can be taken care of so that the pre-existing, the people who live there now, don't find themselves in jeopardy sometime later. ] + 3.3-6
- Eli Brezel: I think that the way the 72-hour test works and the way we establish the protocol for testing (*not all distinguishable*), we went beyond, I'm not an engineer, but beyond what other developments.... The health department has their own rules about testing. The DEC has tough rules of how long it has to be tested, how many wells... and have to accomplish a day and half supply. And basically, I think when we put together a protocol, the worst case scenario, and that was the 72-hour testing... plus another 24-hour test. So we wanted a worst case scenario. So if you want to start with hypotheticals, the actual tests show they can produce water more than double the amount of water that will actually be used. And plus the storage on site. It would also be something to keep in storage if there is an issue with water, with the wells producing enough water. So of course we have to make sure that our neighbors don't get impacted by our usage. But there is ] 3.3-7

enough leeway to say it's not something that's a concern on a regular day-to-day basis....

- Glenn Smith: Just to give a little perspective. The wells that have been tested are in the 3 to 4 to 500 depth range. And I think there is 2 to 300 feet of water in the wells. The drawn down, the drop that was monitored was 7 feet. The homeowner never even noticed it.
- Arthur Rosenshein: We were told there was sediment. 3.3-8
- Discussion.
- James Creighton: ...We invited the applicant to test two wells...
- Discussion.
- Arthur Rosenshein: Let me just clarify. Was there sediment in the well? It was tested or not. ] 3.3-8
- James Creighton: I haven't been able to talk to this particular home owner because of the time frame of this public hearing. But what I do know is the applicant has identified that a 7 foot draw down on our well, which is not next door, it's more than a thousand feet away, and identified a specific problem. That means people all along the area, if anybody close to the site.... I just pointed out they identified the problem and said if there are such impacts, the applicant will mitigate the neighbors' drinking water wells by either deepening the well or drilling a new well. If that's what they they're going to do, why don't they just drill a deeper well. ] 3.3-9
- Discussion.
- Eli Brezell commented that if the drop is only 7 feet then it shouldn't be a big concern. If it's something that's going to become an issue and a problem, we don't want a problem and we want to show the neighbors that we are not a fly by night. We want to make sure... ] 3.3-10
- Discussion.
- Arthur Rosenshein: Will, as our resident expert in your field, is in your mind, does this raise a concern? You heard both sides.
- Will Illing: From what I'm hearing, yes, there is a great concern. Again, if we had a 7 foot drop on a well that's a thousand feet away and there are other wells between that well and the pumping well, then more study needs to be done to see what the impact is. It sounds like they need town water if they're going to impact the existing homes in the area. I just don't not that the town has capacity for them. Maybe it could be developed. ] 3.3-11
- Steve Lopez: Could I suggest, Arthur, that a question like this is an FEIS question.
- Discussion.
- Arthur Rosenshein: I understand but when it comes up like this, I want that question on the table for later.
- Steve Lopez: I think it's an excellent question to look into more deeply in the FEIS. And, I think I might have been the one who throughout that there might have been some cloudiness, which is sometimes found with water wells dropping..... What I meant to say, and once again, the FEIS will look at those issues. We will have our hydro geologist look at the situation and see. Seven foot drops in wells that are typically much deeper may not be a big issue. It may be a big issue for some people for shallower wells. We'll just have to look at the situation.
- Arthur Rosenshein: The purpose of the public hearing is to get these concerns about the environmentals. We've raised it and not it has to be looked into.
- James Creighton: Thank you. I appreciate that's exactly it. There is also the discussion of blasting. I appreciate their expectation that there will be no blasting except that in the DEIS they mention there may be blasting if necessary. And if there is any blasting near the northern side, they'll get in touch with the Fallsburg Fishing and Boating Club and come up with blasting protocols. I'm very concerned about that. What I'd like is a commitment that if there is any blasting anywhere on the ] 3.1-1

site on the project or ten sites attached to itself or anywhere near that dam, we'd want to be sure that blasting is either non-existent or minimized to the greatest extent possible. And that there be a pre-blasting inspection done just to be sure that this can be monitored in the highest... this is a huge concern. I understand the expectation the applicant has not to blast. But the DEIS does raise it as a possibility. And their stated expectation is that they will contact us only if it has to do with the northern part of the project. I think that notification should be for the entire project and I would hope that is a completely unnecessary exercise that there won't be any need for blasting. But again, we want to raise the issue and be sure that it is fully addressed that there be no blasting or that there be very, very strict protocol in place, of course, with our participation and whatever is necessary. They also talk about mechanical hammers being used instead of blasting. Again, I don't know the details of it whether or not that would have any impact. But it sounds like you are banging on bedrock. And if you are banging on bedrock, does that have any impact on a dam, as well. I don't know but I would like the idea of not blasting looked at but also mechanical hammers or whatever else they are planning to use to beat up the rock and take it off site. I don't expect it to be a problem. It sounds like that is an acceptable form of getting rid of the rock without blasting. But again anything that would impact us.. the site is very close to the dam. And we spent an awful lot of money to upgrade it and to make sure it was all set. We just don't want to have any issues.

3.1-2

- Arthur Rosenshein: Okay, further.
- James Creighton: The internal road, the roads and the loops, the description here answers that the internal roads are intended to remain private, not to be deeded to the town. To the extent that the town is looking at the long-term impact of this project, I would hope that the applicant is at least required to ensure that the internal roadways, even if they are to remain private, meet full town standards so that if they are ever later dedicated to the town, for any reason, that there aren't going to be any problems or inefficiencies or difficulties with the roads. I understand the current intention to keep them private, but I would just ask that the town be sure that they remain as safe as a deeded town road and go from there.
- The idea of the zoning, again, talks about the bungalows under the old zoning. And I know they came up with the lot count based on the, I guess the bungalow count, and I'm not really sure there is a mechanism to look at that. This doesn't sound like a bungalow situation. This sounds like single and duplex homes. And to the extent that these are not bungalows, these are houses that are being built, would it not make sense that the town impose either the new rules under the new zoning or at least the old rules with respect to real houses and not bungalows. These are not bungalows that are being built. And I applaud the applicant to be building good, solid houses for people to live in. But the expectation is at least that two thirds or about two thirds of the residents will be able to be there year round. So all the projections to energy usage, there is a whole section in the back about energy usage, which is a throw away, there is no discussion really about energy usage except standard information. They say because they will be seasonal or secondary, they won't be using any more energy than they'd be using the offset between Brooklyn and here or wherever would be an even match. Are these houses going to be drained down, as they approach winter, so they are not used during nor are they going to be heated during the winter so the pipes don't freeze?
- Steve Lopez: I have to go back to your question about zoning to address it just a little more macro scale. The project is not out of accord or not out of compliance with the existing zoning. It is in accord with the existing zoning that was in place the time the project was proposed. The town board had extended that zoning for applications that reach a certain threshold in the SEQRA process to allow them to be completed under that zoning. Secondly, you can't build a bungalow in New York State anymore. New York State requires year round. In the sense of what you are using as a

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description of a bungalow which is like a 1950's uninsulated building. But you have to recall that the 2-unit breaker law(?) was passed on or about the time that the New York State building code was changed. It was passed here locally with full knowledge that what it was being passed for was to accommodate that were maybe called bungalows or called vacation or whatever were homes for people largely being used seasonally. For the homes that are being used seasonally, there probably will be some, I expect there would be some, draw down of water unless a minimal amount of heat is left on. Because they are able to be used year round, there will probably be, I imagine, some vacation and holiday times when people might come up for a weekend or a week, depending on what that is.

- I just want to back up to the question of seasonal use. We use a multiplier typical of the county to project a constructed situation. Because it is very difficult to present in a document like this, a community that is going to be using and likely purchasing these units will likely have zero kids in the public school system because it's a religious community that doesn't use public school systems. So the issue about children in the public school system is, again, we had to present for the purposes of our study as if it were contemporary, I shouldn't say contemporary, but non-religious community. The reality is that it is anticipated that it will be(?). So, I can understand a number of your concerns from the standpoint of looking at it from a particular perspective. And we had struggled with how best to present this. And we think we presented it under the SEQRA reg the worst possible scenario. And that's what SEQRA requires. And that's what we presented. But it's the worst possible. Just trying to put a little perspective on the issues you raised. And let's answer that one very narrowly without giving more global.
- James Creighton: Okay. That again is the problem with the DEIS because you are constrained to give that worst case scenario. But reading it and responding to what has been presented is that two thirds of the residents are going to be not seasonal but year round. } 2.0-2
- Arthur Rosenshein: I think you've raised the point. I think the planning board will be the judge on how to look at it. So if we can move on.
- James Creighton: Absolutely. I just want to because that is the case, the questions that are raised or the issues that are raised that would be dealt with by the planning board and by the developer in the final DEIS and whatever action may be dealt with later is that if two thirds of the units are not seasonal, as is stated in the DEIS, and that may be a worst case scenario, are not those school children who may be going to religious academies or schools, don't they have an opportunity, an expectational right to the global school district providing certain services to those children particularly in the developmental needs situations or otherwise? It suggests there is no impact because they're all going to religious schools, doesn't give the full nature of what's happening. I would just like the board to recognize that when we look at the taxes that will be generated from this, the kinds of needs that would be presented or developmentally disabled children or otherwise require city, town or school district services and would have a right to that as has been demonstrated in Monroe and various other places that that's a huge draw from the local school district and local tax payers would be making up that difference. So that's a concern that should be explored. } 3.11-4
- Again, there are a number of things that we raised. We will try to put it in writing so that everything is there before the board. But again, I'm only one person. I've been through this not enough and would hope the board would at least consider extending the public hearing for one month just to allow the community to discuss this a little bit further.... Thank you so much.
- Arthur Rosenshein: Thank you. Anybody else want to speak at this point? Sir, your name?
- James Carr(?): I'm not opposed to the development. I think the development provides jobs, it

provides infrastructure. I'm opposed to, what I see, and this is my personal opinion, as irresponsible development. It is an extremely dense development. All one has to do is go on YouTube and look at the inundation that occurred over on Heiden Road back in August. Look at the amount of water that came through there. Have you planned on what's going to happen to those culverts under Ranch Road? There are wetlands right off of Ranch Road. How have you, have you thought about the impact on those? I don't see any reasonable reason to put such a dense development literally right inside the small river valley like that whether it is a small stream or not. I think it is somewhat disingenuous to say to whoever is upstream, "It's not my problem." I think this community should be working in concert with your upstream neighbors as well as your downstream neighbors. We all share a responsibility in that. Again, I respect the application, I see there is a happy medium that can be reached. I just think this is a little too dense for that wooded.... There are plenty of other locations that do not have such an intense environmental impact. This is my opinion. I wanted to express my disapproval of the project at least in its state as it is proposed now. I think it can be pared back and made a little more sensible with less, with far less impact to the residents, the town and the environment as well. Thank you.

3.2-12

- Arthur Rosenshein: Anybody else wish to speak? All right, gentlemen, we've had a request to extend the period, the comment period. Mr. Geneslaw.
- Robert Geneslaw: Yes, one of the things I have done to report to the Board was that Mr. Ellsworth's office (*Keystone Associates Architects, Engineers & Surveyors, LLC*) and I have not concluded the engineering review yet. Mr. Sarna has not completed the traffic engineering review yet. And we have not completed our review yet. So that I think on behalf of the three firms, we would favor the extension of the hearing for at least another month.
- Arthur Rosenshein: Anybody on the board wish to speak to that? Well, given that plus the request, I would see no reason why not. Although, (*Mr. Rosenshein addressed Mr. Creighton of the Fallsburg Fishing and Boating Club*) perhaps in writing, produce a list. If someone is going to make comment further. You've made an awful lot of good points.
- James Creighton: Yes, and again, I will commit that...
- Arthur Rosenshein: If somebody has additional items, I'd kind of like to see, if it's going to be a major presentation, I'd like to have sort of...
- James Creighton: I'd be happy to share with you and if I am advised of any names of those who'd like to speak I will let you know so you have a full heads up. My expectation is that it would not just be Pleasure Lake but also from the community in general...
- Arthur Rosenshein: Okay, and the other request I would have and you can convey this is that once a point is made of whatever kind, it is certainly reasonable for someone to say, "I also agree. I'm worried about my well." But it's not necessary to recapitulate the whole thing from the beginning.
- James Creighton: Understood. I will convey that to our members.
- Arthur Rosenshein: Having said that then, I guess a motion to extend to our next scheduled meeting the comment period.
- Robert Geneslaw: You are extending the public hearing.
- Arthur Rosenshein concurred.
- Mr. Geneslaw stated: There will be a period for written comments when you close the public hearing. It must be at least 10 days or longer if you choose. I think you shouldn't make a decision on that until next month.
  - **MOTION:**
  - Mr. Rosenshein called for a motion to extend the public hearing to our next meeting.

- Gary Tavormina made the motion. Irv Newmark seconded it. All in favor.
- Robert Geneslaw addressed the chairman saying that there is not a requirement to re-notice or re-advertisement that the board announced the public hearing to be continued to the next meeting.
- Arthur Rosenshein: We just want to make sure it is on the agenda, that's the only thing.
- Robert Geneslaw: I will speak to Mr. Ellsworth and Mr. Sarna and apprise them of some of the points that were related tonight.
- Arthur Rosenshein: Thank you. Yes, we might as well get that underway already. Thank you, gentlemen, we will see you in a while.
- Mr. Brezel apologized if it appeared that they were not trying to make it appear that were pushing through the project. He spoke of them having been working on the project for a while and working in conjunction with the board and the various involved agencies to make a workable, compliant project. And they are still openly working to that effect. He stated that he felt just a little bit that it came over in the way as if they were trying to push something through. He then commented on remarks that were made in regards to some of the building or something to that effect.
- In response Mr. Rosenshein said: It's not strictly environmental. It's environmental in the sense that the impact of them. As for the town laws that's a separate, political issue.
- Ron Hiatt: There is no negative inference against the applicant.
- Mr. Rosenshein concurred.
- Mr. Brezel: Thank you.

OLD BUSINESS:

1. ~~EVERGREEN ESTATES – SBL# 12-1-41.6~~ – Requests site plan approval for a mikva. Zone: PUD. Acres: 24.4. Location: Karmel and Jacobs Rd.
  - Arthur Rosenshein: I am in receipt of an architectural review board decision. I have a question on this. Why is it written as a request for a variance?
  - Mollie Messenger: I don't know.
  - Arthur Rosenshein: I was just wondering if I missed something.
  - Bill Sadler, engineer: There must be some misunderstanding because we have a variance.
  - Arthur Rosenshein: Right.
  - Bill Sadler: And the only concern the ARB...
  - Mollie Messenger: I think it's approved and that's just informational. *(NOTE: The comment was not clearly audible.)*
  - Arthur Rosenshein: Perhaps we need another form letter. *He then reviewed the ARB decision.*
  - Bill Sadler: That's exactly the way we understood it and the changes are on the plans. That's the only change. We made a total of three changes. One for the zoning board, we put specific dimensions in. And we came to this board that referred us to the ARB. The architectural review board would like a row of staggered trees because they felt that the caretaker's home needed some caretaking. And they wanted it behind some green trees. We were in agreement. At the same time, we volunteered that whatever paint scheme the new building was going to get, we would have the caretaker's building match that appearance. In that way it would be a little more harmonious. And in the meantime, it would be partially blocked behind a new row of staggered trees. All that is on the plans.
  - Arthur Rosenshein: Right. We had everything done on the site plan except for this condition. So we are basically just doing that and then going to vote on site plan.

"Minutes are not official until approved by their respective board."

## TOWN OF FALLSBURG PLANNING BOARD MEETING

December 8, 2011

Arthur Rosenshein, Chairman, Kalman Freidus, Irv Newmark, John Makovic, Planning Board Members, Gary Tavormina, Planning Board Member Alternates, Mollie Messenger, Code Enforcement Officer, Tod Burns, Code Enforcement Officer, Robert Geneslaw, Town Planner, Will Illing, Town Engineer and Ron Hiatt, Planning Board Attorney.

- Arthur Rosenshein called the meeting to order at 7:06 pm.
- Arthur Rosenshein called for motion to accept the minutes from the meeting held 11/10/11.
- Board Member made the motion and Board Member seconded it. All in favor.
- Arthur Rosenshein introduced the meeting and explained the order and procedure of the planning board meeting: old business, new business and public hearings.

### PUBLIC HEARING:

1. RELAKES LLC – SBL# 55-1-4

- Perry Meltzer, attorney: *(NOTE: Very inaudible due to paper rattling constantly while he was talking.)* I represent Relakes LLC.... We are requesting a 2 lot subdivision. The parcel is located on Lake Street, which is Route 42 North.... It's backed by the property of the Fallsburg Fishing and Boating Club. The lot that will be created will be fifty three one hundredths of an acre. A little over half an acre. ...upon existing blacktop drive that is already there that I anticipate will also have access as the second means of ingress and egress or the parcel to the north the ... acre will also be created as the subdivision, the two lots.
- Arthur Rosenshein: Is there anybody here for this project? If there is, I would invite you to come up and take a closer look if you need to. Is there anyone with a comment on this? And, sir, you are?
- James Creighton, Fallsburg Fishing and Boating Club: *(NOTE: Discussion between Mr. Meltzer and Mr. Creighton was not audible.)* Mr. Creighton then said in response to Mr. Rosenshein's request to speak for all to hear: I was just asking for clarification on the cross hatch area on the map.
- Perry Meltzer: There are some overlap areas where there is ... boundary line. We're not really interested in work that was done on a prior survey related to Fallsburg Fishing and Boating Club. The only thing that might affect is the one corner on the .5300 acre piece. It's five one thousandth of an acre. But we think without that we still have a sufficient size lot. That five one thousandth of an acre overlap won't affect the usage of the fifty three hundredths of an acre. The other overlap area is not ... an interest in. You will notice that with respect to the most northerly hatched area ... there is an existing chain link fence that has been put in there. We have even gone back to what our survey has said is the property line; we don't expect to make use of it.
- James Creighton: On behalf of the Fallsburg Fishing and Boating Club, we do have concern about the boundary issues. It's not an issue for the subdivision request. What I would ask is that, to the extent that a second lot is being created, that the second lot maintain the integrity that's needed to have all the proper setbacks, if a house is going to be placed on that second lot. I believe that the setbacks, this has town water and sewer, correct? So, I just want to ensure that it has the 25 foot rear setback and that it has the one hundredth foot width, everything that would be required. I don't want to be in a situation where we end up having to come to the ZBA and say that this is self-created hardship. At this point, when we're doing the subdivision, I just want to be sure they have everything they need to do what they want to do as a right....

- Mr. Meltzer commented but it was not audible.
- Arthur Rosenshein: Thank you. Anything further? Yes, sir, your name please.
- Kevin Keller: The bottom line is, I live right next door to this property, the bottom line is with that half acre, and I know what it is, I've seen it, I've been there, been by it. What are you going to do there? Can anybody answer that?
- Perry Meltzer: What we'll do there is what zoning permits, a single family home.
- Kevin Keller: A single family home in that half acre right by the lake. There is no plumbing, water or electric that goes down to that area. There isn't any, none. And, the contractors who were there all summer long, built what I call a go-cart track, it's about 50 inches of blacktop that goes in circles in that half acre. So, somebody is going to build a home on top of that?
- Perry Meltzer: I don't understand what your question is. The plan is to build a home on the fifty three hundredths of an acre.
- Kevin Keller: To build a home on that.
- Perry Meltzer: Yes.
- Will Illing: They'll have to have building permits and comply with zoning requirements.
- Kevin Keller: A lot more than that, believe me.
- Arthur Rosenshein: Anybody else? In that case, the public hearing is closed.

2. THE RESIDENCES AT LAUREL – SBL# 36-1-33.2

- Jay Zeiger, attorney, Kalter, Kaplan, Zeiger and Forman and Steve Lopez, Director of Design and Development, Tim Miller Associates, represented the applicant.
- Jay Zeiger introduced Mr. Lopez and himself.
- Steve Lopez: You've seen this application before. Does everybody on the board have a copy of the special permit application? It requires both a special permit and a site plan. I know Mollie has a copy in the office. *(He had copies for those who needed one.)* It's essentially similar information to what you have on the site plan. We have discussed this project a few times in the past. It's about 3 acres off Laurel Avenue between the intersection of Laurel Park Road and... It's on the west side of Laurel Park Road, north of the intersection of Laurel Park Avenue. The proposal was to draw up 10 duplex units and 5 buildings. The setback is 175 from the edge of the road that is the required setback. It also includes the required 25 foot rear yard setback and 30 foot setback at the end of the property for the cul-de-sac. The proposal will include town water and town sewer. They currently exist in the road both water and sewer lines. The fifth property drops off slightly to about 6 to 8 feet toward the west, there will be a ... system for the sewage to pump it back up to the street. And the town sewer line. As I mentioned, the water line is in the street. There's actually a water plant just down the road, a booster station, for the property. So we won't have any issues with water supply. In fact, I believe, the water supply sewer is down in here. Unfortunately, our engineer was really hoping to be here. He called me twice. But I think Randy and Will have both communicated. We don't anticipate any traffic impacts. The proposal includes two pools, recreation facility, and storm basin adjacent to the cul-de-sac to take care of the storm water. There is the reduction of just about 10 percent of an existing federally regulated wetland that will be taken care of with a nationwide permit. We don't see any issue with that. The permit has been filed. We haven't heard anything back from the Feds. And if it's not 45 days, it is pretty close to it. After 45 days without hearing back from the Fed, the ... permit is automatically granted. ...With the smaller projects, the Feds don't want to go all the way out from downtown and the projects end up being approved by default.. That's the proposal, essentially.
- Arthur Rosenshein: Questions? Anybody here for this? Okay, public hearing is closed.

3. RALEIGH & HEIDEN PROPERTIES – SBL# 60-1-56/50-62/62-1-6/2/4

- Steve Lopez and Glenn Smith, engineer presented.
- Arthur Rosenshein: Raleigh and Heiden Properties, this is a continuation of the public hearing that was held last month. We held it open at the request of the public, essentially, in order to give them to prepare for comments or bring in comments. I don't think it's necessary to go over the project again that has already



been presented. Although, if someone who came for it has a specific question, by all means. Does anybody wish to speak or enter documents for the record?

- Ken Lang: I'd like to speak. I'm a member of the Fallsburg Fishing and Boating Club and also a cabin owner at Pleasure Lake. The land use plan has been approved as drawn? Is that the process? This just as a background for me. I apologize for not knowing. 3.7-4
- Arthur Rosenshein: This would fit into the town..., the land use planning is expressed in the zoning regulations. And this fits within the zoning regulations. So, yes.
- Ken Lang: I have a concern as a neighbor to the parcel with the taxing structure and the environmental impact. There's a discussion about seasonal use and it doesn't fit as seasonal. It's not a seasonal use project. And so that would be my comment. Thank you. 3.12-4
- Arthur Rosenshein: Next.

- James Creighton, Fallsburg Fishing and Boating Club: I had extensive comments at the last meeting, so I don't intend to repeat all those. But I do note that the secretary had difficulty recording comments. Were my comments incorporated into the minutes. *(Response was that he was the easiest to transcribe.)* We will be submitting written comments. What I do want to, I indicated in my discussion last time that I didn't have time to go through the entire thing. I have been through it and as my neighbor just indicated, there is a question about seasonal use. I, again, am concerned about that. What I'm most concerned about though...

- Arthur Rosenshein: Could you clarify the concern with the seasonal use?
- James Creighton: I believe that the plan has been submitted to you under the old zoning, grandfathered basically, not under the new zoning, under the comprehensive plan but under the old. And I believe under the old they are trying to use the bungalow colony count for seasonal use. Is that right? 3.7-5

- Response was in the negative.
- Discussion – it conforms to the new.
- James Creighton: No, the numbers are nowhere near based on what the new zoning says.
- Steve Lopez: The unit count that this project was based on the conventional plan was done under the previous zoning regulations before the new zoning came into place. The town board then extended the previous zoning to those applications that had reached a certain threshold, which was submission of SEQR documents. It allowed the time period for projects that had been designed and developed, had invested time and so on to go ahead, under the old code to go ahead,.. take it to the approval and review process. And that's where this particular application is.

- James Creighton: That really was what I had understood. [It looks like in doing the count under the new zoning, they're only entitled to about 50 or 60 units at best. So there is a significant bump up if you are grandfathered under the old zoning. And it's a huge concern for us because this is a probably one of the biggest projects in the Town of Fallsburg, certainly in recent years, and it's going to have a huge impact on this community.] So I do implore the Board to take a really careful view of this. Take your time. Please don't rush. I know there is a lot of pressure to move this along. There was comment from the applicant last time that... understand why we're here now raising comment. And this really is our time to comment. [We were involved in the scoping meeting back in November of 2008. I believe there were changes and there was an adoption of this scoping when the planning board became the lead agency in January 2009. And for two years this project lay fallow. Nothing happened at all. After two years, the applicant, or I guess, the consultants ask for some changes to be made to the scope. We were not involved in that process. I don't think there were significant changes but I'm really not sure because we were not a part of that.] After that was revised and adopted in, I believe it was March 2011, the DEIS finally came out in October 13, 2011. So we're here. This is the ground floor for your review and for the public's review of the project. It's huge. There are huge impacts, environmentally. It certainly was said last time I raised a few of them, there was concern about blasting and ecology. But you guys are the experts on that. You are going to look at this carefully. And I know you are going to take a really hard look at it. [We're very concerned about construction noise and construction air particles. That did come up in the review and I didn't see that last time. I would like, I'm not sure how they 3.7-6 3.7-7 3.13-6

can mitigate it, I think their plan or their DEIS indicated that that was an unavoidable consequence. It was something that couldn't be mitigated. I think they said there was an expectation it wouldn't bother us. We're really close. We are a seasonal community that that time period is really precious to us. And if we have airborne particles and we have noise constantly throughout the summer, we lose our use of enjoyment of the property. So, we're very, very concerned about that. I'm not sure how it can be mitigated if at all. But we do raise that concern.] Getting back to your question about the seasonal use. The reason why that becomes so significant is that the DEIS makes use of several dozen times that this is a seasonal use facility. This is being reviewed and produced, the environmental impacts are being evaluated based upon seasonal use. Basically two and half to three months out of the year. And yet, when you look at the documents, they admit that 66% of the units are going to be there full time, not seasonal, not for three months. That's a huge concern. I think that's a technical defect. I think this is not being shown to you as a seasonal use. There are certainly going to be people who are going to be using it seasonally, and we welcome them for that use. But if this is going to be used for year round residences. And I don't know if there is any way to restrict the use of that, then it really needs to be presented to you with the environmental impacts being set forth for what it would look like for being used as it is intended to be, as year round use with all the town services and all the school services that are going to be required. Regardless of their indication that this is a religious community that's going to not be using the school system or much of the school system. There is still going to be the situation where they are entitled to certain school services for handicapped individuals or other special services. There are huge impacts. And I think this going to certainly cost the town a lot of money. Their suggestion that the town intake of taxes is going to cover it and there being no net effect. I'm a little skeptical of that because on a project of this size, it almost never happens that way. I wouldn't as someone pays a lot of town taxes and school taxes, I'm concerned about taxes and I think the community should be too. And I think it should be presented and evaluated based on it of being a full use.]) I thank you very much. I appreciate it.

3.12-5

- Arthur Rosenshein: Thank you. Any other comment?
  
- Ken Uhl: I'm on Pleasure Lake. My main concern is the aquifer. I was one of the test wells on West Shore Drive and there was an impact on the well. That was during the summer. Now you have some other development there in the summer that is going to use that aquifer beside the new one.
- Arthur Rosenshein: That was brought up and I believe there was a question raised in the original document about that. They did well testing and draw down, didn't they?
- Robert Geneslaw: Yes, they did. It was recorded in the environmental impact statement. There was some discussion of it at the last hearing. (Mr. Creighton made the suggestion this last request that if it's evident that there are problems during the test and the applicant is agreeing to either modify the well or replace it if it turns out there are problems after construction, Mr. Creighton's suggestion was the well be replaced as part of the development of the property that is before the Board.) There has been no decision by the Board. I think they may ask for additional information. And there won't be any decision tonight.
- James Creighton: He's the individual who offered the test well to the applicant.
- Arthur Rosenshein: How much was the draw down on your well?
- Mr. Uhl responded that he wasn't sure but that there was some.
- James Creighton commented but it was not totally audible.
- Steve Lopez in response said: The well is 310 feet deep. The static water level is 30 feet below the surface. So there is a 280 foot column of water in the well. The well dropped 7 feet after 3 days, 72 hours, of one and half times average daily demand draw down test on the wells with the best... so, essentially the test was 50% more water being drawn down than would be typically drawn down for the development as a test. And as a result of that, seven feet out of 280 feet was essentially was the draw on the well level.
- Arthur Rosenshein: Did it stabilize?
- Steve Lopez: Yes. Our hydro geologists feel that the depth of the well in that particular situation that that is, I don't want to get into a long discussion, but we will answer your comment in the FEIS. But we did talk to our hydro geologist after the last meeting because that issue was brought up and he thought that that amount of draw down is almost negligible compared with the amount of water in the well. We are certainly aware of

3.3.22

3.3-23

that impact. And we offered in the document and continue to offer that if significant effects on private wells that would impair their use for residential purposes or for whatever use it's being put to... but based in particular on your well that is a very good sample case, we aren't too concerned about what is actually going to happen in the future on the wells. Just to give you a sense of where your property is, you are here very close to the dam (*He referred to the rendering*). And the wells in question are in here in this area. If there is an aquifer and an interconnection in subsurface water flow, it's definitely going to be coming up and down from Pleasure Lake through to the stream, to Sheldrake Stream. But this connection, you are probably the closest property to the wells that were tested.

- Response: No, he's about 10 houses up. There are at least 8 other wells closer.
- Steve Lopez: Right. But what I'm suggesting is that certainly one of the closest, so if there is going to be an impact, you are certainly one of the people who would notice it. I'm very thankful that you offered us the use of your well with the testing device so we could get a clear picture of what one of the closest people's well's impacts would be. And we are very thankful to you for providing that. But our sense is here that the impact is going to be relatively negligible but again we are ... to improving and rectifying the situation is going to be a ... impact.
- Robert Geneslaw: Mr. Lopez, that map is one inch equals two thousand feet?
- Steve Lopez: Yes.
- Robert Geneslaw: The approximate distance from your wells....? (*The end of his comment was not audible.*)
- Steve Lopez: About 4,000 feet, about two thirds of a mile.
- James Creighton: The indication of the old well here is incorrect. The Uhl well is over here. So it looks like it's another thousand, two thousand feet.
- Discussion.
- James Creighton: This is the first house next to the dam. Again, [I don't think it makes a tremendous difference whether you tested the well right on the dam or a thousand feet from it. There's an impact shown. If your hydro geologist isn't worried about my only suggestion would be that the town considers having its own independent hydro geologist or... ] 3.3-24
- Arthur Rosenshein: We have our own consultant looking at.
- James Creighton: Again, I don't have any problem with the consultant saying that but sometimes you get the answer you are looking for. I'd rather it be an independent answer.
- Arthur Rosenshein: In all of our processes we go to independent engineers.
- James Creighton: Thank you.
- Steve Lopez: May I add just one thing? ... (*He mentioned another well that was tested.*) There was absolutely no impact on this well for the draw down.
- Arthur Rosenshein: [Is there any affect, the hydraulic affect from the lake water itself from the well charge, was that considered? ] 3.3-25
- Steve Lopez: The hydro geologic report looked at the recharge rate for the aquifer from the property itself. At this rate, the draw down is about 50 gallons a minute. And it was a 72 hour test. Was it 75 gallons a minute? And the aquifer recharge from surface water alone for the property is over 100 gallons per minute as I recall. But those numbers are in the hydro geologist's report. The draw down will be replenished by rain water alone. And that did not include an examination of the extent to which lake water will seep through the subsurface of the lake or the brook for that matter and recharge ground water that way.
- Arthur Rosenshein: Thank you.
- Will Illing: The scale on that map it looks like one inch equals a thousand feet although it says two thousand. That has been blown up, I think. The scale on that is probably one inch equals...
- Discussion.
- Will Illing: It's not 4,000 feet.
- Discussion.
- Arthur Rosenshein: Any further comment?
- Ken Lang from Pleasure Lake: [It has occurred to me, we had some challenges with lake water testing 3.3-26

throughout the season this year because of the excessive rain. When the hydro geologists make reports, you factor an historic overview of depth of well? Or do you take the rainiest season on history? ]

- Robert Geneslaw: I'm going to leave that to Mr. Lopez. I'm not a hydro geologist.
- Steve Lopez: Very good question. Actually the well tests were done in 2009, September. They weren't done this year. I have a little concern thinking about that same question because this year has been extremely wet. I think this week, Central Park topped records for rain fall.
- Arthur Rosenshein: I think we were 12 inches over here so far, over our average. And that didn't count the night before last or last night.
- Steve Lopez: So it wasn't this year that has been the wettest year. I don't have the figures for you on what was going on in 2009. But I can look back at the hydro geologist's report to see when he factored, when he looked at rain fall recharge to the aquifer, if it was averaged over time. I suspect it was. I have to look at that.
- Ken Lang: That would be important. That would be my comment. Thank you.
- Arthur Rosenshein: Thank you. Anybody else? Sir, your name please.

- Mike Meyer from Pleasure Lake: The first well, this is probably George Conklin's, instead of Kenny Uhl's, Kenny Uhl's is up here. [I'm on the west shore a little past Kenny Uhl. There's that big rock ledge that runs right through here. Wouldn't it be smart to test this well? The first one past the dam? Because that doesn't seem to be..., it's below the rock.]
- Steve Lopez: We had offered to the association to test all the wells. And two people offered to allow us the use of their wells to test. If there is another well that's the best well to test then at some future point when we are getting further into the process of installing the wells, we'll work out with the health department and the Board for what we'll need to do if anything further on testing.
- Mike Meyer: I think it would be smart to try George Conklin's.
- Arthur Rosenshein: Thank you. Anyone else? Closed!

3.3.27

- Discussion: Comment period.
- Arthur Rosenshein: There's a ten day comment period?
- Robert Geneslaw: Minimum 10 day. The record will be kept open for a minimum of 10 days for additional comments. I just wanted to mention, Mr. Chairman, we received a letter from Ken Ellsworth, Keystone Engineering, the engineering consultant that the planning board is using and from John Sarna regarding the transportation portion. Both letters will be available.
- Arthur Rosenshein: Thank you.
- Steve Lopez: I have just one thing as well. We got a sign off from New York State – *Parks Recreation and Historic Restoration (was not very audible)* – on the archeological aspect of the.... There were no potential impacts.
- Discussion.
- Robert Geneslaw: Are the school district's comments available as well? I haven't seen any. None have been forwarded to me from town hall. I don't know if any were received.
- Comment: I haven't heard anything.
- James Creighton: The school districts have 10 days as well? Or is that...?
- Robert Geneslaw: Everyone.
- James Creighton: Is it possible with the holidays coming and the schools closing that they would leave it until after the holidays? I would hate to see...
- Arthur Rosenshein: The school has had this information now for two years. Since 2008.
- Robert Geneslaw: They were notified originally about the proposal. They have had the DEIS for probably almost as long as everyone else has. At this point it's probably about 6 weeks.
- Arthur Rosenshein: Right, the DEIS. The original notification goes way back before that, I would think.
- Robert Geneslaw: Right. The school district rarely responds. I'm not sure if that's for legal reasons or why. But they typically don't. Mr. Chairman, if you don't mind, I'd like to ask Mr. Lopez a question that relates to the history about the school district. Mr. Lopez, in the DEIS, there was a discussion of the anticipated

additional population in the number of housing units. At one, whoever prepared that analysis used a figure something like 32.9% of the total housing units in the town being seasonal and therefore projected that 32.9% of the housing units in this development would be seasonal. And, I'm not sure why that was used, I'm going to include that in my written comments. I suspect they wanted to do a straight line projection. But these seasonal developments are either seasonal, seasonal religious related or they're not. They're not distributed between two kinds of markets. And it seems that everything your clients represented, it seems they are saying these are seasonal religious community. If that's correct, then the analysis ought to be revised to remove the reference to the 32.9%...

- Steve Lopez: The reason we used the data that we used was to do the SEQR worst case scenario. If this project has approved to be sold(?) and it's not designed as a non-religious community, you wouldn't have single roaded(?) roads with all the recreation space in the middle. It's twice as expense to develop this way... *(His voice trailed off and the end of the comment was inaudible)*. Those are the requirements of a religious community. When you are looking at the drawings, it jumps out at you immediately. However, that said, worst case scenario, if this project were approved and sold to a non-religious community developer, then the stats of this count in terms of full time, year round and vacation folks, would be in play. And that's what we used, the worst case scenario. If we represented all through this project that it's going to be a religious community, obviously the board can't say this has to be a religious community, that's how we're approving it, we're approving it as a developer. So the worst case scenario showed that in accordance with the County's skew of seasonal versus year round homes, that something like that could possibly occur here, highly unlikely, not likely at all because it's being developed by.... But we presented it just to show the worst case scenario. Certainly this type of development, many, many communities throughout the town that everybody on the board and who lives here are familiar with and although frequently come up during the winter months, holidays or whenever to use their homes, they're not year round residents. Their kids or grandkids are in school, religious schools, where they are living full time. But they are up here not just during the summer window but during other holidays throughout the winter as well. These houses being winterized will certainly provide an easier benefit for the homeowners to take advantage of that. But many of the newer quote unquote bungalow religious communities are built now for year round insulation, plumbing and all that even if they original...
- Arthur Rosenshein: I think they have to.
- Discussion.
- Steve Lopez: Now they have to be. But many of the older ones didn't have to be retro-fitted that way. They are being built that way to begin with because people want to use them year round. Year round in the sense that they might come up for some winter, fall and spring holidays just as well for the summer. But they're not year round residences. They're not taking advantage of the school system. Could they? Certainly they could. And, they're taking care of some things of which we hadn't thought that they'd be taking advantage of some aspects of the local governmental system that we hadn't thought of. They may very well be but for a development like this there is an extraordinarily high contribution above and beyond what these residents will ever utilize from the local tax base, school and... *(The rest of the comment trailed off and was not audible.)*
- Robert Geneslaw: I would think then based on that explanation that it would make sense to have two alternatives. One, religious seasonal community and one, an unlikely possibility that your client were to sell the project after it is approved, certainly it's open to all including children from the local school system. Because that would be the biggest impact financially.
- Steve Lopez: My only concern about that is, we have done the worst case that SEQR requires. If we do an additional study to show that it would be less. I'm not sure where we get to. I don't have a problem with making it very clear in the FEIS that there is some significant magnitude of less impact because of the seasonal nature of religious communities versus the model that we use as the worst case. But I'd rather not go through each and every one of those financial...
- Robert Geneslaw: The alternative you used, which is described as the worst case, is using the town wide proportion, isn't realistic. It has to be one or the other. I will include that in my report to the board. They can decide if they want to respond to that.

- Arthur Rosenshein: That isn't to say, "Do it". I assume Mr. Geneslaw will make that suggestion and we'll decide at that time. Don't go out and do it until we decide if we want it. I'm not sure we always agree with everything Mr. Geneslaw says. So don't jump yet.
  - Discussion.
  - Robert Geneslaw: Mr. Lopez asked me a few days ago to give whatever comments I could to the Board so he could get started on the FEIS. I just offered one and he's going to hold off.
  - Arthur Rosenshein: He can take his chances on which.
  - Irv Newmark: Your comments about this situation should include that. Somehow. Somewhere.
  - Discussion.
  - Steve Lopez: I don't have a problem with elucidating what we said already further to explain in that context. But I'm not sure that going through the exercise of rehashing all the numbers for the other scenario is going to be particularly helpful because we know they are all going to be lower.
  - Arthur Rosenshein: Right, but a reference to say a typical community of this type in the Town of Fallsburg produces one caretaker or whatever it is.
  - Steve Lopez: Right, that's a good suggestion. Thank you.
  - Discussion. Item ended.
4. TWIN BRIDGE ESTATES – SBL# 26-1-28
- Bill Sadler, engineer, Adler Engineering: Good evening. This is near the corner of Hilldale Road and the road to Hurleyville by the traffic light. This past summer there was an incident out there where a building had caught fire. The emergency vehicles had somewhat of a challenging time navigating the crowded parking lot. So the fire chief from Hurleyville apparently had a discussion with the homeowners at Twin Bridge and recommended they look into taking a little proactive stance and expand their parking area. That is why we're here. So over here (*referring to the rendering*), the northwest corner, expand the parking. It's treed right now. For 10 cars. And in the northeast corner, parking for 25 cars plus one bus. The bus is there to pick up kids, take them away for the day, and drop them off later, so they can have activities away from the home. They're doing this at the suggestion of the fire department. It's a very proactive position. There's a pretty big fence. They're looking to protect their interests by allowing emergency vehicles easy navigation through their existing crowded parking areas.
  - Arthur Rosenshein: Thank you. Anybody here to make comments or to ask questions? Closed. Okay that ends the public hearing portion of our meeting today.

#### OLD BUSINESS:

1. REFUAH SBL# 50-5-15.2 - Requests 6 month extension for the placement of the mobile office unit.
  - Perry Meltzer introduced himself as well as Diane Freed, the area manager for the property and Connie Sternberg, CEO from Refuah.
  - Perry Meltzer: We have been actively working on this project trying to resolve the problem we have as a result of the fact that apparently when we were involved in the acquisition of the property with an estimate provided by the town for the asbestos abatement, the round number was \$100,000 or a little over. We find now that we are dealing with numbers in the \$800,000 figure, which is creating some problems with us. We're looking into funding in order to accommodate this problem. I spoke with Mr. Vegliante, who advised that the town would be willing to take back the building, take back the school building without the asbestos. That leaves us in the same funding issue and that of course is the removal of the asbestos. I would like Ms. Sternberg to report to you on communications she's had with some agencies who are putting us in the direction to get funding in order to be able to pursue the asbestos issues to continue with this project.
  - Arthur Rosenshein: Thank you.
  - Connie Sternberg: I'm the CEO for the Refuah Health Center. I just wanted to advise the Board that we have been contact with Joe Czajka, he's Vice President of Research and Grants Administration for the Hudson Valley Pattern for Progress. And what we're looking at is possibly going into an application for community development (*the door slammed and partially blocked out her comment*) grant. To do this in conjunction with