

### **3.7 Land Use and Zoning**

#### **3.7.1 Introduction**

The project site is mostly located in the unincorporated area of the Town of Fallsburg, Sullivan County, New York (see Figure 2-1). The site is located east of Heiden Road, County Road 161, and generally west of Park House Road (also known variously as Wildwood Drive and Fred Road), and north of Ranch Road. The southerly portion of the site, where little change is planned, is in the unincorporated area of the Town of Thompson. The project site is identified on the Town of Fallsburg tax maps as follows:

- 60-1-50
- 60-1-56
- 60-1-62.1
- 60-1-62.4
- 60-1-63
- 60-1-64
- 60-1-65
- 60-1-66
- 15-1-28

#### **3.7.2 Existing Conditions**

##### **Project Site - Land Use**

The project site consists of approximately 196.9 acres of land partially developed with two hotels. On the southerly portion of the site is the Raleigh Hotel. This is an existing hotel with additional adjacent acreage that is undeveloped and largely wooded. On the northern portion of the property was the Heiden Hotel, which burned on May 8, 2008 and has been removed. Several residential cottages remain on the Heiden Hotel property but all existing construction will be removed to redevelop this site into a new residential community of 55 homes.

In addition to wooded areas the site also has a watercourse, the Sheldrake Stream, running north to south and bisecting the Raleigh Hotel property. Land east of the stream is accessed by Park House Road and is largely undeveloped except for some remnants of former camps. Limited wetland areas are present on this parcel and on the balance of the Raleigh and Heiden parcels.

##### **Surrounding Area Land Uses**

Land uses in the vicinity of the project site are largely resort and a combination of seasonal and year round residential. The development appears most dense along Heiden Road but is found on other local road as well. The developed areas are interspersed with woods, streams and wetlands. To the north of the project is an area of mostly year round single family homes surrounding Pleasure Lake, a man made body of water. The Town of Fallsburg consists of approximately 8,825 tax parcels. "Of these [parcels], a little more than half are owned by persons residing in Sullivan County. Nearly one-third are owned by persons in the New York Metropolitan Area."<sup>1</sup>

The Town of Fallsburg has a high percentage of second home and seasonal dwelling units, as noted in the Town's Comprehensive Plan and confirmed by the housing counts of the 2000 US Census<sup>2</sup>. Because of the large number of second/seasonal dwellings within the Town, the

<sup>1</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006.

<sup>2</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006; 43.5 percent of the Town's Housing units were vacant. NOTE: Since the US Census count is conducted in April, second homes and seasonal dwelling units would be counted as vacant dwellings.

above mentioned ownership trends are expected. Land use within the Town is regulated by fifteen zoning districts, three of which are overlay districts.

According to the Plan, the majority of the tax parcels (over 60 percent) in the Town are less than one acre in size resulting in dense development in the traditional hamlet areas including South Fallsburg. In contrast, as of 2005, there are approximately 260 parcels over 50 acres within the Town of Fallsburg<sup>3</sup>.

Many of the land uses surrounding the project site cater to the Jewish community. The hamlet area of South Fallsburg, which runs along NYS Route 42, north of the project site, contains restaurants, shops (including auto repair), gas stations, churches, office uses and open space and varied residential uses (both permanent and seasonal uses) and local government offices. The Town is a major destination for those visiting camps, bungalows, or their second homes, according to the Comprehensive Plan.

Current Zoning

The Raleigh and Heiden Properties development was initially proposed to be developed under the zoning which existed on the site prior to the zoning enacted in June of 2007. That zoning was uniformly Recreation District I (Rec-1). The zoning which has since changed has affected the property in certain ways. Generally the portions of the property that have remained zoned Rec-1 (now called Low Density Residential) could be developed substantially the same as with the previous zoning though with somewhat reduced density and under different regulations. The portion of the property zoned Planned Resort Destination (PRD) would lose density and therefore continues to be proposed for development in accordance with the previous zoning.

The current Town of Fallsburg zoning regulations and zoning map took effect on June 22, 2007. Under the current zoning the Heiden property and the undeveloped portions of the Raleigh property east of Sheldrake Stream are zoned Rec-1, Low Density Residential. The developed portion of the Raleigh Hotel property was changed from Rec-1 to (PRD). The PRD zoning designation was intended to encourage resort related uses such as the Raleigh Hotel.

Table 3.7-1 shows the land uses in each of the two districts which apply to the project site as are permitted by right, permitted subject to Site Plan review, and permitted by Special Permit.

<b>Table 3.7-1 Permitted Land Uses for the PRD and REC-1 Zoning Districts</b>		
	<b>PRD</b>	<b>REC-1</b>
One Family (with public sewer and water)	P	P
One Family (w/o public sewer and water)		P
Agricultural Operation - Class 1		P
Agriculture operation - Class 2		P
Day Care Home	SU	P
Public Parks and playgrounds		P
Bed and Breakfast (with public sewer and water)	P	SP

<sup>3</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006.

Table 3.7-1 Permitted Land Uses for the PRD and REC-1 Zoning Districts		
Bed and Breakfast (w/o public sewer and water)		SP
Day Care Center		SP
Family or group care facilities		SP
Home Professional Office**		SP
House of worship	P	P*
Two Family Residential	P	
Banquet Facilities	P*	
College and Universities	P*	SP
Commercial Recreational Facilities	P*	SP
Conference Center	P*	
Golf Course	P*	
Not-for-profits	P*	P*
Personal Service Establishments	P*	
Retail	P*	
Restaurants	P*	
Religious Retreats	P*	P*
Townhouse Time-Shared	SP	
Campgrounds - vacation	SP	SP
Camps - day	SP	SP
Camps - sleep away	SP	SP
Elementary and secondary schools	SP	SP
Hotels and Resorts	SP	SP
Funeral home		
Greenhouse		P*
Nursing homes		P*
Nursery		P*
Public Utilities		SP
Hotels, motels and motor lodges		SP
Transmission Towers - cellular, radio, and TV		SP
Veterinary Hospitals		SP
Warehouse		
Commercial Forestry and timber processing		P
Hunting and fishing cabins		P
Wildlife and game preserves		P
Stables and riding academies		P*
Winery and vineyard		P*
Cemeteries		SP

Table 3.7-1 Permitted Land Uses for the PRD and REC-1 Zoning Districts		
Kennels		SP
Quarry operations		SP
Source: Town of Fallsburg, Zoning Code 2007. P=Permitted by right P*=Permitted Subject to Site Plan Review SP=Special Permit Use		

Land uses in the Town of Fallsburg are regulated in twelve zoning districts plus three overlay districts. As can be seen in Figure 3.7-1, the Rec-1 zoning district designation on the project site also extends off-site onto adjoining lands.

Under the current zoning, the density allowed for single family homes in these zones is: one unit per 21,780 square foot lot in REC-1 districts, and one unit per 32,670 square foot lot in the PRD district. In the REC-1 (Recreation District with Residential Overlay), the stated density requires clustering and central water and sewer services per Code Section 130.29.1. The current zoning regulations in Section 130-5.4 also include a provision to account for existing environmental constraints in the calculation of permitted density. In the PRD district the density would be reduced by 33.3% if these zoning regulations were applied.

Applicable Zoning

Following the strategies of its new Comprehensive Plan adopted in October 2006, the Town of Fallsburg adopted revised zoning regulations and a zoning map on June 22, 2007. However, projects with pending applications prior to this date have been considered as grandfathered under the pre-2007 zoning. The Raleigh and Heiden properties application was made prior to this date and thus is entitled to be reviewed under the previous zoning.

The pre 2007 zoning applicable to the Raleigh and Heiden Properties development proposal is Rec-1. Under this zoning the minimum lot size was three acres. However also existing at that time was Local Law No. 2 of 1996 which allowed bungalow developments at a density of 2 units per (“builder’s”) acre or 20,000 square feet per unit.

A conventional development layout was developed and reviewed by the Planning Board and staff. After careful consideration and several revisions the Planning Board determined that the allowable density for the site would be 236 units, for purposes of environmental and site plan review, on the portions of the site not including the lot to be subdivided out for the existing Raleigh Hotel (Fig 3.7-1).

The proposed development of the property was laid out as cluster. This resulted in four loops proposed to be situated on three separate lots. The development on the Heiden portion of the property was limited to the number of units (55) that the zoning would allow on lots owned by Concord Condominiums, LLC, the owner of the Heiden parcel. Those units are shown on the loop north of the Raleigh Hotel. The balance of the lots (181) is laid out around three separate loops east of the Raleigh Hotel. Two loops are proposed immediately east of the hotel, and one loop is on the east side of Sheldrake Stream.

Cluster Development Regulations

As mentioned above the Raleigh and Heiden Properties development is proposed under the pre June 2007 zoning. However the portions of the property remaining Rec-1 under the new zoning could be developed at a similar though somewhat less dense scenario. The pre June 2007 zoning allowed one bungalow per 20,000 square feet. The current zoning allows one residential unit per 21,780 square feet.

If the portion of the proposed project currently zoned Rec-1 were developed under the current regulations, it would need to conform to the new cluster law as set forth in Section 130-14. The zoning law describes the objectives to be met by cluster development as: "to provide flexibility in the design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open space; specifically to preserve hilltops, long scenic views and stream corridors and natural areas along lakefronts." The proposed project would be consistent with the objectives set forth in the cluster regulations if it were developed in accordance with them.

Conformance with local policies

*Town of Fallsburg Comprehensive Plan*

Since the year 2000, the Town of Fallsburg has experienced considerable growth pressure. In order to better manage the future growth of the Town and to ensure long term benefits for the local community, the Town adopted a new Comprehensive Plan (Plan) in October of 2006. The purpose of the Plan was to develop guidelines that when implemented encourage the revitalization of existing hamlet centers, preserve scenic and natural resources, protect farm land and enhance economic opportunities for area residents<sup>4</sup>. The responsibility of implementing the goals and objectives the Town's Plan falls on the local municipality. The Plan is not site specific but rather an overall development plan for the Town of Fallsburg. Goals presented in the Town's Plan revolve around the improvement, maintenance and encouragement of various aspects of the Town including land use and zoning, municipal services and Town appearance. Specifically, the Plan sets forth development guidelines in order to retain the rural character of the Town and to "protect environmentally sensitive areas and to preserve open space."<sup>5</sup>

The Raleigh and Heiden Properties project is proposed as a clustered development that includes four clusters in three distinct neighborhoods accessed by an internal road system. The internal road system would follow the natural topography of the site to the greatest extent practicable to preserve the natural and scenic qualities of open space on the site while providing an efficient circulation system with multiple points of access to the local street network. The Raleigh and Heiden Properties project has been designed to protect the environmentally sensitive areas (wetlands, stream corridors and steep slopes) located on the project site while creating a flexible design that would promote a sense of community through its building and road layout and various elements of usable open space. The preserved open space of the Proposed Action would provide both active and passive recreational opportunities for its residents. The applicant believes the Raleigh and Heiden Properties project would meet the

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<sup>4</sup>The Town of Fallsburg, New York Comprehensive Plan - Introduction, adopted October 10, 2006

<sup>5</sup>The Town of Fallsburg, New York Comprehensive Plan - Land Use and Zoning, adopted October 10, 2006

goals and objectives of clustered developments that are encouraged by the Town of Fallsburg in its Comprehensive Plan.

Additional key design elements of the individual neighborhood clusters in the Proposed Action are outlined below:

- Streets within the neighborhoods are laid out in a curvilinear pattern connecting the housing with integral recreation and open space facilities (rather than a formal “grid-like” pattern), which is a function of the environmental opportunities of the site to providing direct access (both physical and visual) to the natural landscape and a variety of pedestrian and vehicular routes to any destination. The curving road systems will slow traffic for added safety of the residents.
- Ample areas of open space are located within and surrounding the neighborhoods that will protect the environmentally sensitive areas of the site. Active recreation centers are accessible to every neighborhood providing community buildings, pools and tennis facilities within the project.
- Streets within the neighborhoods will be shaded by street trees to create an environment particularly suitable for pedestrians.

*Sullivan 2020 Strategic Plan*

In 2004, the Sullivan County Division of Planning and Community Development, in conjunction with HRG and Shepstone Management Consultants established a process for developing the Sullivan 2020, a countywide strategic comprehensive plan, and initiated the process. The Sullivan 2020 plan is intended to provide guidance for the County’s growth and a framework for achieving sustainable development. It is divided into twelve chapters and addresses issues such as Open Space and Natural Resources, Infrastructure, Growth, Farmland Protection, Tourism, Community Development and Housing, Public Transportation, Community Services, Emergency Management, and Water Resources. The policies discussed in the Sullivan 2020 plan are generally supportive of the proposed development project. Some of the highlights of the plan are outlined below.

Proposed policies in a number of these areas could be cited in support to the Proposed Action. For instance under Policy Area 2, Open Space and Natural Resource Management, the Sullivan 2020 Plan, Strategy 2.3 calls for preserving view sheds, natural resources and environmentally sensitive areas. The Raleigh and Heiden Properties project would preserve view sheds by retaining tracts of existing woodland and wetland areas within and around the residential development, and introducing new landscaping throughout the overall development area. Preserving existing vegetation through clustering of residential development would preserve natural resources. Sensitive environmental areas, including steep slopes and wetlands, would be avoided to the maximum extent practical.

Under Policy Area 4, Community Development and Housing, Strategy 4.5, the 2020 Plan calls for providing “...development of a balanced variety of dwelling unit types and densities within the County with maximum choice of living environment, considering the need of the public at all economic levels to enhance the quality of life.” The above goal would generally be achieved by the Proposed Action as both single family detached and duplex housing options are being offered.

### 3.7.3 Potential Impacts of Proposed Action

#### Land Use

The Town of Fallsburg's diversity is reflected in its businesses, culture, and institutions, giving it a cosmopolitan feel within a rural setting<sup>6</sup>. Early development trends in the Town of Fallsburg focused around various industries (i.e. tanneries, dairy) and were influenced by the methods of transportation available (Neversink River and Railroad). The summer tourism industry flourished within the Town from the late 1800s to the mid 1960s resulting in the rapid development of hotels and resorts, second homes and seasonal dwellings to accommodate the influx of seasonal visitors. With the end of the tourism industry, the Town of Fallsburg, as noted in the Comprehensive Plan, has experienced steady growth of its year-round (permanent) residents from 1960 to 2000. "The 2004 Census estimate shows that the Town's [year round] population has continued to grow since 2000" and although the industry of tourism is no longer present, the Town still experiences a large influx of summer/seasonal visitors each year<sup>7</sup>.

Between 1990 and 2000 the Town has seen a 5.2 percent increase in the overall number of housing units. This increase is lower than the overall Sullivan County rate (7.0 percent), but represents a healthy growth rate for the Town<sup>8</sup>. However, the percentage of single family housing within the Town decreased from 52 percent to 51 percent between 1990 and 2000. This decrease is likely a result of the increased development of 2-4 unit multifamily dwellings within the Town.

According to the Plan, the overall number of single family developments has increased, but this rate of growth has been surpassed by the development of 2-4 unit multifamily dwellings. "An even more dramatic increase is seen in the construction of residential buildings with 10 or more dwelling units", which comprise 8.9 percent of building stock, according to the 2000 US Census<sup>9</sup>.

The Raleigh and Heiden Properties project is proposed as a clustered development of single family and duplex homes on four loops in three neighborhoods. It will be constructed around a privately owned and managed internal road system that connects to the existing local road network. Each residential neighborhood would include private recreational facilities including a community building, pools and tennis courts. The proposed development would consist of 236 units and is expected to be completed in 2015, depending on market conditions.

The Raleigh and Heiden Properties site is located in an area surrounded by resort and residential land uses. The proposed residential development would be compatible with the existing residential and resort development located in the vicinity of the site. The proposed project would be generally consistent with the development trends of the surrounding area and would result in an overall increase in the seasonal housing opportunities available in the Town of Fallsburg. The development will therefore not adversely affect or conflict with adjacent land uses or the character of the surrounding area.

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<sup>6</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006.

<sup>7</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006.

<sup>8</sup> The Town of Fallsburg, New York Comprehensive Plan - Population and Housing, adopted October 10, 2006 -

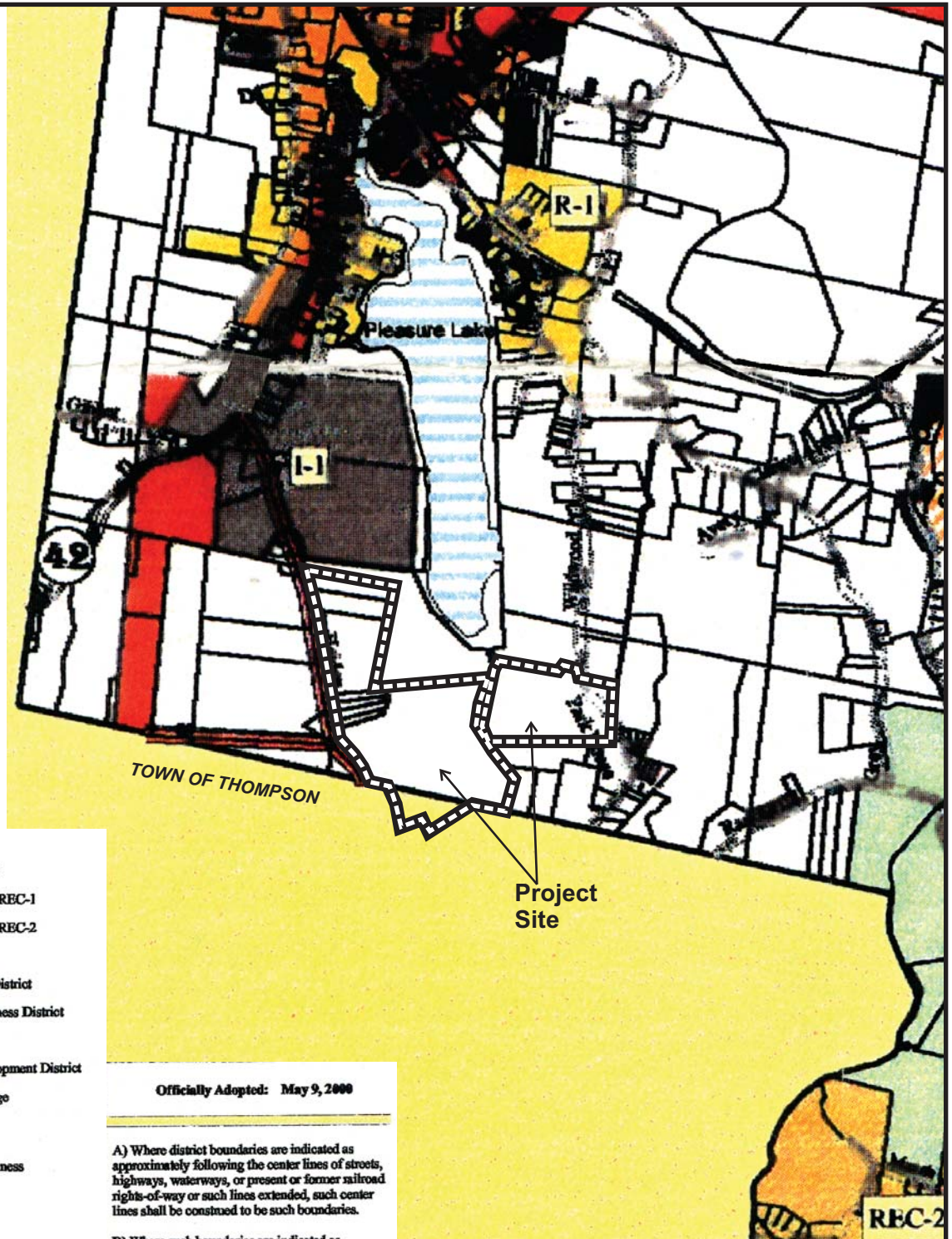
<sup>9</sup> The Town of Fallsburg, New York Comprehensive Plan, adopted October 10, 2006 and the 2000 US Census.

### **3.7.4 Mitigation Measures**

The proposed development has been designed at a density that is generally compatible with the surrounding area while preserving substantial portions of the project site in existing vegetative cover. The proposed housing and roads have been laid out in smaller neighborhood clusters with integral recreational facilities and largely surrounded by open space. This project has been designed to minimize disturbance to the existing wetlands and steep slopes located on the site and preserve significant wooded buffers around the perimeter of the developed areas. The proposed plan has been designed to complement the surrounding development.

As there are no significant adverse impacts to land use identified that would result from implementation of the proposed development, therefore no mitigation measures are needed or proposed.





**Zoning Districts**

- Agricultural District
- Recreation District, REC-1
- Recreation District, REC-2
- Residence District
- Hamlet Residence District
- Neighborhood Business District
- Planned Unit Development District
- Village of Woodridge

**Overlay Zone**

- Adult Oriented Business

**Fallsburg Tax Parcels**

- State Road
- County Road
- Town Road
- County Line
- Town Line
- Parcel
- Water

Officially Adopted: May 9, 2000

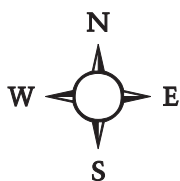
A) Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways, or present or former railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.

B) Where such boundaries are indicated as approximately following the property lines of public owned lands, or the boundaries of official taxing districts, such lines shall be construed to be such boundaries.

C) Unless otherwise shown, all district boundaries running parallel to a street shall be construed to be six hundred (600) feet back from the right-of-way of said streets.

**LEGEND**

Site Property Boundary



**Figure 3.7-1: Zoning Map**  
 Raleigh and Heiden Properties  
 Town of Fallsburg, Sullivan County, New York  
 Source: Town of Fallsburg Zoning Map  
 Scale: 1" = 2000'