



# **Town of Forestburgh Sullivan County, New York Comprehensive Plan 2017**

2017 Comprehensive Plan Committee

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***Section I – INTRODUCTION***

“Comprehensive plan statutes permit a community to look well beyond its zoning law and to identify what a community could be tomorrow and fifty years later. It affords a blueprint for achieving these ends and allows the integration of many disciplines – transportation, human services, recreation, environment, economic development – into a single, cohesive plan. To ‘change the paradigm’ for the comprehensive plan it must be viewed as a tool which can provide the venue and the process for identifying how people in a community want to live, what is important to their lives and what natural and built environments bring to the ‘sense of place’ people crave.” -- From NYS Department of State Legal Memorandum LU09, “Defining a Community Through the Comprehensive Plan”.

**A. Purpose**

The primary purpose of the Forestburgh Comprehensive Plan is to provide guidelines for future growth in the Town of Forestburgh. In order to maintain the rural character and environmental quality of the area, the Comprehensive Plan will be used in updating and revising the Town Zoning Ordinance and Map, which will regulate the uses to which land may be used after its adoption. The Comprehensive Plan will provide residents and nonresidents with an idea of the uses to which all land within the Town may be legally used after revision and adoption of the new Zoning Ordinance. This plan is a flexible document in that it can be revised to accommodate changing conditions and/or policies. The Comprehensive Plan will be reviewed and updated every ten years, or more frequently if necessary, so that it accurately reflects the needs, goals, and desires of the Town.

**B. Goals**

The Town of Forestburgh adopted its first Comprehensive Plan (then called a Master Plan) in 1988. The Forestburgh Planning Board adopted a series of goals that served as a guide in the preparation of the 1988 Plan, and which were also used in the preparation of the Plan in 2005, and again in 2016 and 2017. These are as follows:

1. Preserve the peace and tranquility of Forestburgh life so that residents may continue to enjoy their land and their quality of life.
2. Conserve the quality and quantity of natural, ecological, historic and scenic resources for the use and enjoyment of all residents.
3. Prevent degradation of surface and groundwater resources.
4. Provide for the properly regulated and soundly built development of housing, business, and community facilities within the Town to meet the needs of residents in a balanced manner.
5. Ensure that every dwelling and place of work is supported by an adequate water supply, sewage treatment and disposal system or septic system, solid waste disposal and telephone and internet access.
6. Promote safe, quiet, efficient, and uncongested roads.

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7. Provide adequate land, resources, and maintenance for recreational holdings so as to preserve the Town's rural character.
8. Maintain a balanced and equitable tax base.
9. Protect buildings and residents from the harm of flood, fire, detrimental land use, and impairment of their natural resources and property values.

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***Section II. STATE LEGAL REQUIREMENTS***

“In addition to powers granted in the constitution, the statute of local governments or in any other law, (i) every local government shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law relating to its property, affairs or government....” NYS Municipal Home Rule Law, Section 10, Article 2

“Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens.” NYS Town Law § 272-2a.1 (b). The process of producing a comprehensive plan involves a clear assessment of the town as it stands, an evaluation of existing or potential future needs and a recommendation for a basic plan to achieve a desired future. The comprehensive plan becomes the underlying basis and justification for future zoning by the town and points the town board toward resolution of current and future needs.

**A. New York and the Comprehensive Plan**

Zoning laws restrict the use to which land, privately or publically owned, may be put. The justification for such limitations on land use is that it is for the general welfare of the public – for the greater good. Attacks on zoning laws pit individual property rights against the general welfare of the community. In balancing these competing rights, the courts determined that zoning law must be based on a on a ‘comprehensive’ or ‘well considered’ plan. It was not necessary that an actual plan had been put in place, but there had to be evidence zoning laws were consonant with a total planning strategy, reflecting consideration of the needs of the community. *Udell v. Haas*, 21 NY2d 463 (1968). “What is mandated is that there be comprehensiveness of planning, rather than special interest, irrational *ad hocery*. The obligation is support of comprehensiveness of planning, not slavish servitude to any particular comprehensive plan.” (*Town of Bedford v Village of Mount Kisco*, 33 NY2d 178, 188).

In 1993, the zoning enabling statutes were amended to define “comprehensive plan” and to explain how one may be formulated. (Chapter 209 of the Laws of 1993, adding Town Law, §272-a; Village Law, §7-722; and General City Law, §28-a). If a comprehensive plan is adopted under these statutory provisions, the plan will not only provide the rational basis for regulatory measures such as the local zoning law, but will guide other future decisions, such as capital expenditures. (Town Law, §272-a[11]; Village Law, §7-722[11]; General City Law, §28-a[12]). A brief summary follows of the major and most important legislative requirements affecting this process.

**B. Article 16 of the Town Law: Zoning and Planning**

Section 263 of Article 16 of the Town Law, (effective March 1, 2004) reads:

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“Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor; to facilitate the practice of forestry; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.”

Section 272-a of Article 16 of NY Town Law encourages but does not require the preparation and adoption of a comprehensive plan. It sets out possible topics to be included in a town comprehensive plan.

“The town comprehensive plan may include the following topics at the level of detail adapted to the special requirements of the town:

- a) General statements of goals, objectives, principles, policies and standards upon which proposals for the immediate and long-range enhancement, growth and development of the town are based.
- b) Consideration of regional needs and the official plans of other government units and agencies within the region.
- c) The existing and proposed location and intensity of land uses.
- d) Consideration of agricultural uses, historic and cultural resources, coastal and natural resources and sensitive environmental areas.
- e) Consideration of population, demographic and socio-economic trends and future projections.
- f) The location and types of transportation facilities.
- g) Existing and proposed general location of public and private utilities and infrastructure.
- h) Existing housing resources and future housing needs, including affordable housing.
- i) The present and future general location of educational and cultural facilities, historic sites, health facilities and facilities for emergency services.
- j) Existing and proposed recreation facilities and parkland.
- k) The present and potential future general location of commercial and industrial facilities.
- l) Specific policies and strategies for improving the local economy in coordination with other plan topics.
- m) Proposed measures, programs, devices, and instruments to implement the goals and objectives of the various topics within the comprehensive plan.
- n) All or part of the plan of another public agency.
- o) Any and all other items which are consistent with the orderly growth and development of the Town.

Section 272a of the Town Law also establishes requirements for the process of creating a comprehensive plan. The special board preparing the proposed comprehensive plan must hold a

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public hearing. The plan may be submitted to the Planning Board for review and recommendation. And before being adopted by resolution of the Town Board, a second public hearing is required. Finally, the adopted town comprehensive plan and any amendments thereto are to be filed with the town clerk and a copy filed in the office of the county planning agency.

### **C. Article 8 of Environmental Conservation Law: State Environmental Quality Review (SEQRA)**

“In adopting SEQR, it was the Legislature's intent that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.” 6 NYCRR §617.1(b)

“The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve, may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement.”6 NYCRR §617.1(c).

6 NYCRR §617.2(b)(2) and (3) define “action” to include agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions; and adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment. Thus, both the creation of a comprehensive plan and adoption of zoning are “actions” triggering a SEQRA review. Such a review has been considered by the courts as evidence that the action has been taken pursuant to a well-considered plan.

### **D. Agricultural Districts**

In 1971, the State of New York declared that “the agriculture industry is basic to the life of the State of New York” and enacted the New York Agriculture and Markets Law. Finding that many agricultural lands in New York were in jeopardy of being lost to urban encroachment, it established a locally-initiated mechanism for the protection and enhancement of New York’s agricultural land. It gave the County governments authority to create “Agricultural Districts” upon the application of landowners engaged in agricultural activities upon such land. The economic value of land within the District, for the purpose of real estate assessment and taxation is based upon the value of the land as farm land rather than market value. New York State offers partial reimbursement to the town, and county for tax revenue lost by virtue of inclusion of property in Agricultural Districts. For property within such Agricultural Districts, the agricultural use supervenes any requirements imposed by zoning or other local land use regulation on the property. Additionally, the legal rights of neighbors to object to and challenge noxious intrusions onto their property of the by-products of farming activities is also restricted under the New York Agriculture and Market Law.



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### E. Zoning

Forestburgh first adopted a zoning code in 1972. It codified the predominant land use at the time, which was Residential Recreational and Rural Conservation and the vast proportion of the town was included in these two zoning categories. A third category of land use was recognized and codified as "Business". Conforming to the actual land use at the time of enactment, several small business zones were created, enveloping the areas where business operated. These zoning districts remain unchanged and consistent with the first Master Plan (1988) and the subsequently adopted Comprehensive Plan (2006).

The zoning code provides for the issuance of "Special Use Permits" for certain categories of commercial use in residential areas. Applications for Special Use Permits are heard and decided by the Planning Board.

Since 1972, aside from the two developments discussed below, there has been little demand for commercial activity in Forestburgh; in fact, the amount of commercial activity that occurs in the existing business districts has diminished. A Special Use Permit was granted for a golf course and club, as an "outdoor recreational use", but failed shortly after opening. In the past decade, three other applications were made for Special Use permits, but they were either withdrawn, or abandoned.

In 1977, minimum lot size was decreased to 2.3 acres in the Residential Recreational districts and 5 acres in the Rural Conservation Districts. In 1978, the Town adopted Planned Use Development (PUD) which provided for mixed use developments, allowing for high density in some areas of the development while a minimum of 50% of the gross area of the PUD are preserved as open space. One PUD development, Lake Joseph was approved in 1982. In 2011, the zoning code sections enabling Planned Unit Developments were repealed and replaced by the adoption of Planned Development Districts (PDD). PDDs permit an application for a mixed use, residential and business, high density development as long as a minimum of half the property is left open and undeveloped. The objectives set forth in this local law were, as follows:

1. Creation of a more desirable community environment than what would be possible via a strict application of zoning regulations set forth elsewhere in the Town's zoning regulations.
2. Encourage the permanent preservation of open space for conserving natural areas and native wildlife habitats and for passive recreational use, including the provision of neighborhood parks and trails.
3. Preservation, enhancement and limiting the fragmentation of local natural resources such as water bodies, wetlands, forest, significant topographic and geologic features, and other areas of scenic and ecological value.
4. Efficient use of a site to facilitate adequate and economical construction and maintenance of street and drainage facilities, water supply, and sewerage systems.
5. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.

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6. Meaningful integration of “green building” design and sustainable development practices to help mitigate the environmental, economic and social impacts of development and to prevent sprawl, provide greater choices in transportation, and reduce reliance on the car.
7. Minimize the total amount of disturbance on the site and total new impervious areas.
8. Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure, and housing costs.
9. Further the policies and goals set forth in the Town of Forestburgh Comprehensive Plan.

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**Section III – BACKGROUND AND ANALYSIS**

The following analysis summarizes key facts and trends related to future development in the Town of Forestburgh:

**A. Population Characteristics**

**1. Permanent Population Trends**

Forestburgh has, since 1940, been a community with a small population. The changes have been modest over the years, with population spurts in the 60s, 70s and 90s. The growth rate for the 1960-1980 period was the second highest in the County, with a 68% increase from 1970 to 1980.

As of the year 2010, Forestburgh’s population of 819 ranked as the smallest of the fifteen towns in Sullivan County. It was 63 percent of the size of the fourteenth-ranked town, Cohecton (1,372 persons).

**Chart 1: Forestburgh Year Round Population, 1940-2010**

Year	Population	Change	% Change
1940	389	N/A	N/A
1950	364	-25	-6.40%
1960	356	-8	2.20%
1970	474	118	33.10%
1980	796	322	67.90%
1990	614	-182	-22.90%
2000	833	219	36%
2010	819	-14	-1.70%

Projecting population changes in a second-home community such as Forestburgh is extremely difficult and may not be very useful because the pattern is so dependent on individual development decisions. The aging of its population and an economic recession in the region slowed Forestburgh’s growth for a time, but since the 2010 census, there have been significant changes that will impact the size of the Forestburgh population. A long awaited casino is currently being built in near-by Monticello that will create new employment opportunities for Sullivan County and perhaps more Forestburgh residents. However, a greater impact is expected from the development of one of the several large undeveloped tracts of forestland, potentially adding 2700 homes.

**2. Seasonal Population Trends**

The seasonal population of Forestburgh has long been significant, although it has declined over recent decades. According to the 1970 Census, 215 housing units, 53% of the 408 total number of housing units were “seasonal units”. Although it is difficult to characterize which of the total

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number of housing units have a seasonal use, the census does give an idea of the size of the seasonal community. Since 1970, when summer residents more than doubled the year round population, the number of seasonal homes relative to permanent residents has declined. However, the seasonal population was estimated to be almost 30% of the total population (summer and year round) in the 2010 Census.

Second-home numbers have obvious connotations for land use planning in that second home dwellers tend to demand a more “clean and green” environment, look for recreational opportunities, and seek convenience-type services. A strong second-home industry is also a harbinger of future growth because many of these owners and visitors will continue to convert to permanent residents over a period of time. It should also be noted that “seasonal” homes might be more accurately described as “second” homes as they become winterized and used year round on weekends and holidays. Forestburgh still has a considerable seasonal population and it is important to consider this segment of the population when planning for the future of the Town in any manner.

**B. Age Characteristics**

The Forestburgh population became somewhat older in the decade from 1990 to 2000. Persons 24 years of age or younger dropped from 39.6% of the total in 1980 to 32.6% in 1990 to 27.3% in 2000 and to 23.4% in 2010. Persons aged 25 to 64 years dropped slightly from 56.7% in 2000 to 56% in 2010 and those over 65 years old increased from 16% in 2000 to 20% in 2010. This may well reverse with new in-migration, as has been the case elsewhere, but it indicates that as the population ages, new young families are not moving to Forestburgh

The following statistics regarding the year round residents come from the 2010 federal census:

**Chart 2: Forestburgh Year Round Residents, 2010 Census**

Population (1.6% decrease since 2000)	819
Male	408
Female	411
Under 18	139
18 and Over	680
65 and Over	169
Median Age	49.4

**C. Housing**

**1. History of Growth**

The 1980 Census indicated that there were 477 housing units in Forestburgh. This represented a 17 % increase in the housing stock from 1970, when there were 408 units. Forestburgh's total

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housing units actually declined from 477 in 1980 to 465 in 1990 but increased to 500 units in 2000 and to 550 in 2010. From 2011 through June 2016 the town's assessment records disclose only 11 new residences constructed in Forestburgh. Renter occupied units represented only 7% of the total housing stock in 1990 compared to 12% in 1980, but increased to 17% in 2000 and 17.4% in 2010. There were 30 mobile homes in 1990, a relatively small number representing only 6.5% of the total housing stock. The number of mobile homes in 2000 was 27.

The following statistics come from the 2010 Census:

**Chart 3: Forestburgh Household Occupancy, 2010 Census**

Total Housing Units	550
Number of Vacant Housing Units	195
Number of Occupied Households (Primary Homes)	355
Owner-Occupied Housing Units	293
Renter-Occupied Housing Units	62
Average Household Size	2.27

**2. Subdivision Activity and Building Construction**

Forestburgh has had little subdivision activity throughout its history. Other than small subdivisions (less than 50 lots) the only significant subdivision activity occurred in 1982 (Lake Joseph) and in 2013 (Lost Lake). Building activity has likewise been limited. Since 1984 there have been two periods of increased residential construction. In 1984 25 building permits were issued for new construction. This increase coincided with the availability of lots at Lake Joseph. The next significant increase occurred in 2005, when 47 building permits were issued, 16 of which were for new residential construction resulting in the construction of 14 new residences. From 2006 through June 2016 there has been a steady decline in building permits issued for new residences. Permits for new residential construction totaled 16 in 2005 but totaled only 32 for the next 10.5 years resulting in the construction of only 20 new residences in that time period. See chart 4.

Of interest is the record of deeds recorded in the town contrasted with building permits issued for new residential construction. After the high of 2005 there is a declining trend until 2014 when the new Lost Lake Subdivision commenced the sale of residential lots. See chart 5. Because of the early stage of infrastructure construction at Lost Lake, new owners are not yet permitted to apply for building permits. One can conclude that the availability of building lots in a planned community, coupled with a recovering national economy, resulted in a spike of sales of residential lots and concomitant residential construction. It is reasonable to project that the increase in residential lot sales from the Lost Lake Development will result in an increase in residential construction in the Town of Forestburgh. Increased building development in Orange and Sullivan Counties coupled with the construction of a Gaming Casino and Resort in the neighboring Town of Thompson will likely result in increased demand for housing both year round and seasonal housing in the Town of Forestburgh.

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**Chart 4: Building Permits 2005-2016**

Year	Building Permits	New Residence Permits	New Residences Constructed
2005	47	16	14
2006	29	3	1
2007	15	5	1
2008	38	2	3
2009	37	8	4
2010	20	3	1
2011	12	1	4
2012	12	3	2
2013	15	4	2
2014	9	1	0
2015	19	1	2
2016	9	1	0

**Chart 5: Deeds Recorded: 2005-2016**

Year	All Deeds Recorded	Lost Lake Deeds Recorded
2005	117	
2006	64	
2007	49	
2008	57	
2009	46	
2010	22	
2011	39	
2012	64	
2013	39	
2014	87	35
2015	90	32
2016	94	29

**a. Lake Joseph**

In 1982, 1200 acres of land that had previously been owned by the Catholic Archdiocese of New York, was approved for a Planned Unit Development (PUD). The approved plan included approximately ½ acre parcels bordering Lake Joseph and 1-plus acre parcels for off-lake

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property. The first of three planned phases provided for 48 lots, common open green space and associated infrastructure, including roads, water and sewer service for those lots. A non-profit homeowner's association was created that owned the infrastructure and maintained the common property. The development progressed slowly due to financial setbacks and ownership changed hands several times. In 2007, Phil Barrie, then the owner of the undeveloped property, with the support of the homeowner's association, applied to remove the property reserved for phase 2 and 3 from the PUD. This application was granted and the property thus reverted to RR1 (2.3 acre) zoning. In 2008 the developer/owner filed for bankruptcy, and his property in Lake Joseph was ordered liquidated. The Mortgage holder for that property took title under the name Republic Lake Joseph, and remains the owner to the present time, and is marketing parcels that it owns, both within the phase 1 portion of Lake Joseph, and in the remainder of Lake Joseph. All owners are required to belong to the homeowner's association.

### **b. Lost Lake**

In 2007 Double Diamond Resorts, a Texas-based developer of residential golf communities purchased 2080 acres in Forestburgh with a view of developing a master-planned residential community. Immediately following this transaction, the town undertook to amend its zoning code as it related to subdivisions and repeal the article establishing Planned Unit Developments and replace it with one defining Planned Development Districts.

Once this amendment was enacted in 2008, Double Diamond Resorts submitted an application to develop a project named "Lost Lake Resort". The Town Board declared itself Lead Agency under SEQRA (State Environmental Review Act). The Town Board, as Lead Agency in 2011, completed this environmental review and the Town Board thereupon amended the PDD law to shift responsibility for site plan review from the Planning Board to the Town Board. In January 2012 the Town Board eliminated the Planning Board. The PDD was granted to Lost Lake in August of 2012 and allows for 2,557 single family residences, 30 single family cottages and 40 multi-family townhouse-style condominium dwellings and associated infrastructure including a private road system, an on-site water supply system, electric service distribution and a wastewater treatment plant. Approved amenities, which will be open to the public, will include an 18-hole championship golf course, with a clubhouse/pro shop and restaurant, a 32-room hotel/lodge, a spa and a conference center. Amenities provided solely to the lot owners and guests will include marina and beach facilities, pool and bathhouse, tennis courts and cabana, woodland trails and wildlife observation stations. 52% of the property, or 1082 acres must be left as open space, whether as "managed, unmanaged open space or open water space". Final Master plan and site plan approval for phase 1 (of 7 with a defined schedule of which lots, infrastructure and amenities will be built during each phase) was granted in July 2013. Work has commenced and is proceeding in phase 1 at the present.

Property developed within the PDD is subject to strict design guidelines enforced by deed restrictions and an Architectural Control Committee. The homeowner's association established by the developer will administer and enforce the easements, covenants, restrictions and limitations created in the deeds.

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**E. Education/Income/Occupation Trends (Year Round Residents)**

**1. Education**

The 1988 Master Plan reported that Forestburgh had the highest educated population in Sullivan County. At that time, 82% of the population age 25 and older had a high school diploma, which then compared to 61.8% of the entire county. Forestburgh still has one of the best educated populations in Sullivan County. According to the 2000 Census, 88% of Forestburgh's population over 18 years of age had high school diplomas and fully 37.8% had college degrees. The 2010 Census showed 95% of those over 18 had at least a high school diploma and just over 36% had a bachelor's degree or higher.

**2. Income**

In 1980 the median income of households in Forestburgh was \$17,964, approximately 38% more than that of Sullivan County as a whole (\$12,988). In 1980, over 12% of Forestburgh's families had an income of \$35,000 or more, whereas 9% of the families in Sullivan County had an income over \$35,000. According to the 2000 federal census, the median household income for Forestburgh was \$56,125 as compared to \$36,998 for the County. As of 2000, Forestburgh's median household income was the highest of all towns in Sullivan County. The second highest was Neversink, at \$45,174. The statewide average was \$43,393. The 2010 Census showed a median household income for Forestburgh of \$66,042 compared to \$48,103 median income for the county with the statewide average rising to \$60,596.

The proportion of the 2000 Forestburgh population below the poverty level was 4.1% compared to 11.6% for Sullivan County as a whole, while in 2010 8.6% in Forestburgh were below the poverty level, and the percent in poverty in Sullivan County increased to 17.2%. In 1990 there were no seniors (65 or older) who had incomes below the poverty level; in 2000 there were 7 persons in Forestburgh aged 65 years or more who had incomes below the poverty level. By 2010 that number had increased to 11.6% or 20 seniors living below the poverty level.

**3. Employment**

Census data indicates Forestburgh's employed population is increasingly of a managerial, professional, or administrative occupation, that proportion of the labor force having increased from 22% in 1980 to 41% in 1990 to 45% in 2000, more than doubling over the two decades. In 2010, the percent had declined slightly to 44.8%.

**4. Commuting Patterns**

The 2010 Census indicates that Forestburgh residents typically travel 24.9 minutes to work, versus 23 minutes in 1980.



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**5. Other Census 2010 Statistics**

**Chart 6: Key Statistics of Forestburgh Year Round Residents, 2010 Census**

Number of Households	355
Number of Families	240
Median Family Income	\$66,042
Persons Below Poverty Level	70 (8.6% of 819)
Per Capita Income	\$44,186
Labor Force (Males)	258
Labor Force (Females)	241
Largest Employer	
Education/Health/Social	136
2nd Largest Employer Construction	61
Finance/Insurance and Real Estate Professionals	60
Professional/Scientific/Management/Waste Management	58
Largest Ancestry Group	Irish
Population Working at Home	21
Structures Built after 1989	114

**F. Utilities/Business**

**1. Public Utilities**

Eagle Creek Hydropower LLC currently operates four hydropower plants on the Mongaup River, two of which are on the Forestburgh side of the river. The hydroelectric plants are non-conforming uses in a Residential Recreational Zone. A previous owner of the hydropower facilities protested the municipal tax assessments of the property resulting in a 2004 court settlement which significantly reduced the assessments and required a large tax refund. In 2013 and 2014 Eagle Creek Hydropower LLC brought legal proceedings against the Town, again challenging the Town's assessment of its property. The proceedings were settled resulting in an additional significant reduction of the Town's prospective assessments for the years 2015, 2016 and 2017. As a condition of the settlement Eagle Creek effectively waived any and all tax refunds for the two years in suit. It can be assumed that in the future the owner of the properties will again seek a reduction in the assessment of the properties. As a practical matter, defense of such a suit can only be undertaken as a joint undertaking with the other small towns affected by the tax litigation.

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### **2. Internet:**

Forestburgh is a rural community with internet access that is limited and served by various providers. The luxury of high speed broadband has yet to materialize for most of the town. New housing development in the Lost Lake area will bring high speed broadband, but many of the remaining areas are likely to remain low speed DSL access. In August 2016, New York Governor Cuomo announced a plan to expand broadband to rural areas, and improve bandwidth to underserved communities. Forestburgh should benefit from this in the coming years. Current local broadband providers include Spectrum Cable, Frontier, Exede, and HughesNet. A related issue is wireless coverage. Much of Forestburgh remains outside of modern cell tower coverage zone. Unfortunately this is a function of rural living, as not enough customers reside in Forestburgh to attract more investment in better coverage from the wireless carriers. Currently there are pockets of coverage from select providers, but Forestburgh has a long way to go. Eventual technology improvements and infrastructure investments should improve the situation.

### **3. Renewable Energy**

Forestburgh is a large producer of renewable energy through its multiple hydroelectric generating stations along the Mongaup River. Tax and pricing incentives offered by the State and Federal Governments – as well as the rapidly increasing technological improvements in photovoltaic efficiency have combined to bring about increased interest in both residential and commercial scale development of this renewable resource. Presently, residential (roof and ground-based) solar energy production is permitted in Forestburgh. Recognizing that the Forestburgh Town Code is silent regarding the development of commercial Solar farms, while at the same time not wanting to discourage this type of passive land use in Forestburgh, the Town Board recently adopted a 6 month moratorium on the processing of applications for permits for commercial scale electrical facilities, while a comprehensive local law is developed and adopted providing clear criteria and standards for this type of development in Forestburgh.

The present state of Orange and Rockland’s electrical distribution infrastructure in Forestburgh lacks the capacity to accept significant quantities of community-generated electricity. While the current pricing structure of community-based electricity has triggered something of a “gold rush” mentality amongst Solar Energy providers, this very favorable pricing is under review and is anticipated to undergo substantial changes in the near future.

Off-grid or “behind the meter” generation is not restricted by Orange and Rockland’s current infrastructure, however and it can reasonably be anticipated that its use will increase. In recognition of that increased use, the Solar Law presently under-development will also clarify standards and criteria for this type of solar energy production.

Presently, there is no practical value in wind energy production in Forestburgh – the topography, forest and wind patterns are not favorable.

Geothermal energy use does exist in a small number of homes in Forestburgh. Its substantial up-front cost, and relatively long pay-back period discourages its more widespread adoption.

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### **4. Retail Business**

There is very little existing retail business in Forestburgh. Perhaps the major reason for this limited amount of retail development is the close proximity of Forestburgh to Monticello and Port Jervis. This would account for the heavy traffic on State Highway 42. In Monticello, which is approximately ten miles from Forestburgh, and in Port Jervis, which is approximately 15 miles from Forestburgh, there is a wide range of retail businesses to suit the needs of Forestburgh residents. In 2015 the only retail store in Forestburgh closed, and with it, the Forestburgh Post Office. However, Lost Lake's PDD approval authorizes and anticipates commercial development, including retail establishments within their development district.

### **G. History and Architecture**

#### **1. Background**

Forestburgh lies in Sullivan County, principally between the high ridges of the Neversink River and the Mongaup River; the Orange County Town of Deerpark is at its southern boundary and the Sullivan County Town of Thompson is its primary northern neighbor. The Town was officially established by an act of the State legislature on May 2, 1837. Most of the Town of Forestburgh was taken from the Town of Thompson, except for a few hundred acres which were taken from the Town of Mamakating.

Forestburgh's main industries in its early years were tanning, quarrying and lumbering. The mountains on either side of Bushkill Creek contained quarries of flagging, curbing and building stone (also known as bluestone). The largest of these was Paradise Quarry in Oakland Valley. Stone from this quarry was used to construct the Episcopal Church in Monticello. Many of the old sidewalks in New York City were said to have come from this area.

The largest tannery was at Gilman's Station, which was later renamed St. Joseph's Station. According to French's Gazette, published in 1858, there were thirty-nine tanneries within the township, producing 100,000 sides of leather annually.

The opening of the Monticello and Port Jervis Railroad in the 1870s stimulated the lumbering, tanning and quarrying industries. The railroad entered Forestburgh at the Town's northern border and extended through it in a southerly direction along the Bushkill Creek Valley. In addition to assisting the Town's industrial base, the railroad also brought summer residents from New York City. The population of the Town in 1870 was 916, greater than the present day population of 819.

The quarrying industry began to decline in the late 1890s with the invention of concrete. The oak and hemlock bark used in tanning became scarce, signaling the end of the tanning industry. It was at this point, however, that the resort industry began to flourish in Forestburgh. Many homes in Oakland Valley began operating as boarding houses during the summer months when city residents came north on the train from New York. The Hartwood Club and Merriewold Park were born, and the Convent of St. Joseph's was established. In Dec. 4, 1896 the nuns of the third

## **Town of Forestburgh, Sullivan County, New York Comprehensive Plan**

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order St. Dominic, congregation of Holy Cross, Brooklyn N.Y. purchased 1,450 acres in the towns of Forestburgh and Thompson. In 1913 ground was broken for erection of St. Charles villa, a retreat known as the summer residence of the Cardinal of the Archdiocese of New York; Cardinal Hayes passed away there. This building is now an operating a 4 star bed and breakfast inn.

By the mid-twentieth century, the automobile caused the railroad to cease operation in Forestburgh. This substantially reduced the number of tourists who came to the town. Forestburgh slowly evolved into a rural-residential town, with many people commuting to jobs in nearby towns.

Although small, Forestburgh is very much alive and active. Its Volunteer Fire Company was established in 1963 and proudly serves the Town along with the Cuddebackville Fire Department which provides protection to the southerly portion of Oakland Valley. The townspeople worked diligently to keep St. Thomas Aquinas Church, the only house of worship in Forestburgh, alive. However, despite community efforts, this church was finally closed in 2015. The town provides a summer day camp for the children and grandchildren of residents, and a program for seniors.

For many years, the Forestburgh Theater has been providing classical entertainment for Town residents and visitors. Four actors from New York City, bought a barn for a summer residence and in 1947 established the Forestburgh Playhouse which has become the oldest continuously operating summer theater in New York. Each year young actors from all over the country audition for a spot in the Forestburgh Theater Program; 16 are selected to perform in the summer productions. In the mid-sixties, a Cabaret was added providing meals and entertainment adjacent to the theater. The Playhouse is well known throughout the Catskills and surrounding area.

The Town established its first zoning ordinance in 1973 and has had subdivision regulations since 1978. Large portions of the Town continue to be owned by groups or individuals who have large contiguous tracts, which has until now assured the continued rural/open space character of the Town. This includes two New Jersey Council Boy Scout Camps and the State of New York, which owns a large amount of land in the eastern portion of the Town in the Neversink River Unique Area and in the western portion of Town along the Mongaup River.

A new Town hall building was dedicated in 1980, containing a courtroom, a supervisor's office, an assessor's office, a clerk's office, and a large recreation room. There is also a swimming pool on the property for the use of Town residents, a children's play area by the pool, and a small park like area with an historic log cabin.

Forestburgh has a long and proud heritage. Many of the people who live in the Town are descendants of early settlers. The Town is characterized by the fact that much of its forested land remains, preserving a resource and a way of life highly valued by its residents. In looking toward the future, the Town seeks to protect its heritage so that future generations may enjoy the same quality of life that townspeople enjoy today. (See goals established in Introduction.)

## **Town of Forestburgh, Sullivan County, New York Comprehensive Plan**

### **2. Historical and Architectural Resources**

The historical and architectural resources of Forestburgh are rich and quite diverse in character. Among the most important are the Forestburgh log cabin, one of the earliest structures built in Sullivan County, the Blackbrook District School, the Stokes-Hartwell Mill Foundation, David H. Handy's Grave, the Railroad Station (Gilman's Depot), and the old Hartwood Post Office.

Built in the 18th Century the Forestburgh log cabin was covered up by a later period structure for many years. It was discovered as part of a remodeling project and preserved by the Town with assistance from Town, County, Federal and private individuals and groups.

The Blackbrook District School, located on Route 42 near St. Joseph Road, was a rural school. In 1887, it had an enrollment of 55 children. It was built in 1837 and is Forestburgh's oldest public building. It is in good condition today in private ownership. Along Route 42 and Mill Road are the remains of the Stokes - Hartwell Saw Mill Foundation. Built by Jesse Dickinson, a noted constructor of mills, it was originally owned by Stokes who was a County Judge and a member of the assembly. William Hartwell, also a prominent citizen, later bought the mill in 1850.

David Handy was the first settler in Forestburgh. He served in the American Revolution and died in 1814. His gravesite is noted by one of the eighteen historic markers in the town. The old Railroad Station (Gilman's Depot) is located on St. Joseph's Road. Made of stone and shingle, it served as a railroad station for the Port Jervis to Monticello Railroad from 1871-1958. The railroad was the major transportation mode used to bring visitors to St. Joseph in the late 19th and early 20th centuries.

The Hartwood Post Office was designed by Bradford Gilbert, an architect of the stone and rustic stations on the Ontario and Western Railroad. Built by Willis Butler in 1899, the stone house served as a post office from 1899 to 1945. It is a good example of the stone homes built in Forestburgh during this era.

Other outstanding historical and architectural resources include, the Forest Shrine and Cardinal Hayes Memorial, St. Thomas Aquinas Church, the Old Forestburgh Graveyard, the Ontario and Western Railroad Bridge and the Hartwell - Benzien Stone Wall. While the Old Town Hall was initially built in 1895, it burned to the ground in 1928, set ablaze by a spark from a steam roller. It was rebuilt in 1929 and remains standing today.

### **H. Transportation**

#### **1. Roads**

Forestburgh's highways are maintained by three agencies: the New York State Department of Transportation, the Sullivan County Department of Public Works and the Town of Forestburgh Highway Department. State Route 42 is maintained by the New York State Department of Transportation and runs from the Town's northern border with Thompson to the Town's southern

## **Town of Forestburgh, Sullivan County, New York Comprehensive Plan**

border with Orange County. This road is 7.86 miles long in Forestburgh and has a bituminous asphalt base 18-24 feet wide with paved shoulders and an average speed of 55 miles per hour.

There are six County Roads in Forestburgh. Two roads run parallel to Route 42 and the others traverse the Town in a more east-west direction. Together these roads are 20.96 miles in length and average 16- 20 feet wide with graveled shoulders and average speeds of 45 to 55 miles per hour. St. Joseph Road was paved, but the County scraped the road and never repaved it. It remains a gravel road.

There are 37 Town Highways in Forestburgh totaling 33.63 miles. Paved roads comprise 23.8 miles (70.8%); gravel roads comprise 6.23 miles (18.5%) and dirt roads comprise 3.6 miles (10.7%). Widths, average speeds and conditions vary widely; paved roads are 20 feet wide with average speeds of up to 55 miles an hour, while dirt roads are 14 feet wide with average speeds of less than 25 miles per hour. There are 9 roads which may be considered as more than local collectors. They are French Clearing Road (TH 7), St. Joseph's Hill Road (TH 20), Black Brook Drive (TH 27), Cross Street (TH 29), Valley Road (TH 30), Lake Joseph Drive (TH 19), Lena Rd. (TH 35), V. Toomey Rd. (TH 36), and North Rd. (TH 14).

### **2. Traffic**

Travel in and through Forestburgh is chiefly generated to the north and south via State Route 42 and County Roads, 44, 101, and 102. County Roads 43, 48 and 49 carry east and west traffic. State Route 42 is by far the most heavily traveled road in Forestburgh. It is a major northerly conductor for traffic coming from neighboring Orange County, and from Pennsylvania, to Monticello in the neighboring town of Thompson, and to State Rt. 17 (soon to become Interstate 86). It is also a major southerly conductor for traffic coming from Thompson and elsewhere in Sullivan County.

The traffic volume for county routes is currently classified as low volume. The traffic volume on Forestburgh's portion of Rt. 42 is among the lowest of all state roads in Sullivan County. With the new casino complex being constructed in the Town of Thompson, the conversion of Rt. 17 to an interstate, and with increased development currently being planned for the Town of Thompson and elsewhere in Sullivan county, it is reasonable to expect that traffic volume will increase significantly along Forestburgh's portion of St. Rt. 42 in the next decade, and perhaps on county routes as well, especially CR 49 and CR 101 (Cold Spring Road).

### **I. Water**

The Town of Forestburgh is situated between the Neversink River on the east and the Mongaup River on the west, and is in the Delaware River Basin, the waters of which are described by the state as being "of generally good to excellent quality."

The basis for water quality management in New York State is the Water Classification System promulgated by the Division of Water (DOW) of the New York State DEC. All surface waters and ground waters are classified based on their best uses, such as drinking, bathing, fish

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propagation and/or fish survival. Classifications are reviewed and updated periodically to reflect new information and/or changing conditions.

Once a water is classified as to its best use, corresponding water quality standards are applied to protect its best use. Water quality standards are descriptive limits, generally expressed in numeric concentration, for quantities of certain chemical, biological, and physical constituent in the water. They identify the amounts of substances that can be present in a water without impairing best uses. Based upon studies of the nature and effects of the substance, DOW has adopted specific standards to protect aquatic life, wildlife, and human health. These may be found as Appendix II of this Plan.

### **1. Water Supply**

Among utilities (pipe and wire channels), it is water supply that is likely to be most critical at the community scale. Certainly in Forestburgh, adequate water supply and water quality are of prime concern. At the present time the Town does not regulate individual water supply wells. The quantity, potability, and development of available water may pose a serious check on development or prevent it. Another concern is the effect of drought and the construction of large-capacity deep wells on adjacent smaller wells. The New York State Public Health Law requires community water systems for subdivisions of fifty or more units.

### **2. Groundwater**

Groundwater from individual wells is the source of almost all of Forestburgh's water supply. Although annual rainfall has been sufficient to provide bedrock aquifers with enough recharge to support widespread withdrawals for domestic consumption, groundwater shortages may occur due to locally excessive pumping, decreased recharge (induced by increased runoff), or periods of low annual rainfall. The retention of rainwater is necessary to replenish local groundwater supplies.

It is thus important to protect the Town's freshwater wetlands, as they act as recharge basins for subsurface water supplies. Disturbance or development of these wetlands could reduce the supply of fresh water for domestic consumption. Forestburgh's steep slopes and relatively impermeable soils produce naturally high rates of runoff. Development design that serves to reduce runoff and erosion also functions to increase recharge, and should be emphasized. The stratified sand and gravel deposits located near Oakland Valley, Denton Falls, Gilman Pond, Hartwood, Rio Reservoir (along Black Brook), Forestburgh Pond, St. Joseph's and the Crescent Lake/Stump Pond area are capable of high rates of recharge and yield water to wells at significantly greater rates than bedrock.

### **3. Surface Water**

Although the Town of Forestburgh is heavily wooded it also contains many streams, rivers, lakes and ponds. Approximately 80% of these streams originate outside the Town; therefore, the Town

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has somewhat limited control over the quality of its waters, although it would be wise to be proactive with regard to issues in neighboring communities.

Watercourses in Forestburgh belong to either the Neversink River Sub-Basin or the Mongaup River Sub-Basin. The Mongaup River, which includes three reservoirs (Swinging Bridge, Mongaup Falls, and Rio), serves as Forestburgh's western border. The Neversink River flows in a southerly direction bounded by steep slopes on both sides of its banks. The Neversink River has been recognized by The Nature Conservancy as one of "75 Last Great Places" based on its superior water quality and ability to support rare and pollution-sensitive species of mussels, which occur in the Neversink River approximately 6.5 miles below the Unique Area. The portion of the Neversink River flowing through Forestburgh has long been recognized as having an excellent trout fishery. Other important bodies of free-flowing water include Eden Brook, Little Eden Brook, Turner Brook, Bush Kill Creek, Burnt Hope Stream, Black Brook and Mullet Brook.

The majority of the watercourses in Forestburgh are categorized by the New York State Department of Environmental Conservation (DEC) as "Class B". Class B waters are best used for primary contact recreation - swimming, boating and fishing. Some of Forestburgh's waters are categorized as "Class B (T)", a higher and more stringent designation because they are capable of supporting trout. Forestburgh is also endowed with more than 15 lakes and streams. St. Joseph Lake, Merriewold Lake, Ruddick Pond, Burnt Hope Lake, Echo Lake, Hemlock Lake, Lost Lake, a/k/a Trout Lake, and Gillman Pond are among the largest in the Town. Many streams feed into these lakes and ponds; therefore, the quality of the Town's free-flowing waters directly affects the quality of its lakes and ponds. In addition, the best-drained soils in Forestburgh are located near many lakes. Development is most likely to occur in such areas because of good soil and the aesthetic location. Such development must be carefully undertaken so that groundwater is not polluted through these high recharge areas.

### **4. Freshwater Wetlands**

Freshwater wetlands are one of the most diverse and important ecosystems in nature. Wetlands aid in flood and storm control, absorbing large amounts of water during periods of heavy rainfall. They assist in recharging groundwater supplies and in reducing pollution. Erosion activity is considerably reduced by wetlands, which hold suspended particles and reduce the velocity of flowing water. Wetlands recycle organic and chemical nutrients, serve as habitat for a wide range of wildlife and fish, and provide hunters, anglers, hikers, and bird watchers with recreational opportunities. Wetlands are also educational and scientific research areas and serve an important role in open space preservation.

The Freshwater Wetlands Act (FWA) – Article 24 of the Environmental Conservation Law – provides DEC with the authority to regulate freshwater wetlands in the state. The NYS Legislature passed the Freshwater Wetlands Act in 1975 in response to uncontrolled losses of wetlands and problems resulting from those losses, such as increased flooding. The FWA protects those wetlands larger than 12.4 acres (5 hectares) in size, and certain smaller wetlands of unusual local importance.



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The law requires DEC to classify and map those wetlands that are protected by the FWA. Around every regulated wetland is a regulated adjacent area of 100 feet, which serves as a buffer area for the wetland. Anyone wishing to dam, dredge, or build on or within 100 feet of a State wetland must first obtain a permit from the DEC. Wetlands smaller than 12.4 acres are subject to regulation by the Federal government through the U.S. Army Corps of Engineers. Anyone wishing to dam, dredge, or build on or within 100 feet of such a wetland must first notify the Corps of Engineers and follow their regulatory procedures.

According to the Freshwater Wetlands Maps created by the Department of Environmental Conservation in 1986, Forestburgh has 39 state-designated wetlands at least 12.4 acres in size, defined by vegetation and soil types from aerial photographs, soil maps and field work. There are 31 such wetlands wholly within Forestburgh, plus 8 that straddle Town boundaries. Forestburgh's freshwater wetlands range in size from 12.4 acres to 112 acres.

The 1988 Forestburgh Master Plan stated that 1,511 acres of the Town of Forestburgh, or 4.2% of its land area, was comprised of wetlands. That total could not be confirmed in 2004, and it is unclear whether it included all or part of the wetlands that had shared boundaries. Nevertheless, a fair amount of the town's land area is designated as wetlands of 12.4 acres or more in size. Furthermore, there are additional freshwater wetlands in the town that are smaller than 12.4 acres.

It is possible for the Town to enact a wetlands protection ordinance that is more stringent than the state FWA. Under the Municipal Home Rule Law in New York State, communities have the right to enact local legislation governing wetland, water body, and watercourse protection. Local governments have the greatest potential power to implement comprehensive and effective management of wetlands and watercourses.

Numerous towns throughout the state have adopted local ordinances. In Dutchess County, the Towns of Pawling and LaGrange have adopted local wetland protection laws. The local ordinances define wetlands using the Federal definition, which includes vegetation, soils, and hydrology. The New York FWA defines wetlands primarily using only vegetation. Thus, a local ordinance may be used to regulate State designated and non-designated wetlands smaller than 12.4 acres whether or not the guidelines to assume regulatory authority under Article 24 are also adopted.

### **5. Storm Water Drainage**

The chief problem concerning storm water relates to sudden flooding due to increases in the amount of impermeable cover resulting from land development. Related problems include erosion and sedimentation on land and in streams due to improper runoff. Most local storm drainage problems are caused by undersized culverts, ditches, and drains, inadequately protected embankments, sediment, and debris-blocked channels. A combination of firm land use controls (such as good subdivision regulations, special permit procedures and site plan review) and comprehensive development regulations are necessary to prevent such problems. Natural streams and swales are appropriate channels for storm water, provided that the additional runoff

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generated by new construction is diverted into retention basins or dry wells by properly constructed drainage channels. The least expensive and most beneficial form of drainage, of course, consists of allowing nature to do the work. New York State law requires that anyone who disturbs more than one acre of land needs a permit from the DEC, and must plan and provide for erosion and sediment control.

### **6. Flood Hazard Areas**

The Town of Forestburgh has no areas in the 100-year flood plain. Flood plain maps were rescinded in 1984 and the Town was declared by the Federal Emergency Management Agency (FEMA) to be in the regular phase of the Flood Hazard Program. This means that although the Town has no flood-prone areas, persons are eligible to buy low-cost flood insurance if they so desire.

This does not mean that there is no flooding in the town, however. Some flooding has occurred after unusually heavy rains, usually because streams have overflowed their banks. While there has been little or no damage to personal property, the Town has experienced damage to some roadways, ditches, and bridges. The storm-related flooding of Black Brook in late 2003 damaged the bridge near the confluence of Black Brook and the Mongaup River, causing the entire bridge to be replaced at considerable expense to the Town in 2004.

The town experienced the worst flooding event in at least 50 years on April 2, 2005, when over 5 inches of rain, aided by snow residue in the woods and no ground absorption of water, caused massive runoff and stream and river flooding throughout the entire town. Between \$750,000 and \$1 million dollars' worth of damage was done to town roads. This included the washout of two bridges and the partial washout of several other bridges, as well as severe damage to 28 out of 33 miles of the town's roads.

Further extensive development along areas adjacent to any water body, or that would increase storm water runoff to these water bodies, could exacerbate flooding-related problems in the future, and cause more problems for the Town of Forestburgh highway department.

### **7. Waste Treatment**

The disposal of sanitary waste will have an important effect on the future growth and development of Forestburgh. Individual household sewage disposal systems will continue to be the dominant method of sewage treatment throughout the Town. Adequate household sewage disposal system standards will provide for the safe and sanitary disposal of household wastewater. Properly designed, maintained and operated sewage disposal systems will minimize the chances of disease transmission and the possibility of contaminating either ground or surface waters. The absence of septic odor, sewage overflow, and other environmental problems caused by malfunctioning treatment systems can be achieved through sewage disposal in a sanitary manner.

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New York Public Health Law 201, Section 75-A, provides detailed minimum acceptable standards for the construction of individual septic systems. It also stipulates that other agencies may set more stringent standards, which supersede state standards, and notes that when individual sewage systems overlay a drinking water aquifer, local health departments may establish population density limits and minimum lot sizes for residential development with onsite sewage treatment systems.

The law specifies various matters with regard to site investigation, most notably that slopes greater than 15% are unacceptable; soils with very rapid percolation rates (faster than one minute per inch) are not suitable for subsurface absorption systems unless the site is modified by blending with a less permeable soil to reduce the infiltration rate throughout the area to be used; and subsurface treatment systems and components of the sewage system shall be separated from buildings, property lines, utilities and wells, to maintain system performance, permit repairs and reduce undesirable effects of underground sewage flow and dispersion. It also notes that reduced separation distances may be approved upon request when the site evaluation by a design professional or soil scientist clearly establishes there will be no adverse environmental impact and will not interfere with the satisfactory operation and maintenance of the system.

Goals to be achieved in the construction of new septic systems include preventing contamination of water supplies; preventing the creation of a breeding place for insects, rodents, and other possible disease carriers which may come into contact with food and drinking water; health hazards due to exposed and accessible ground sewage; violation of state laws and local regulations governing water pollution or sewage disposal; pollution of the waters of any bathing beach or other recreational area; and the nuisance of obnoxious odors and unsightly conditions.

To achieve these goals, the Health Department has established certain minimum standards for the installation of household sewage disposal systems. For shallow subsurface disposal units such as absorption fields, there must be at least four feet of useable soil available above rock, unsuitable soil, and high seasonal groundwater for the installation of a conventional absorption field system.

Disposal systems should be designed to reflect the most severe conditions encountered; in other words, groundwater levels should be determined at the wettest time of the year, usually April or May. Separation distances from wastewater sources suggested by the State Health Department are:

from a septic tank - 50 feet to a well or water body, and 10 feet to a dwelling or property line; from a distribution box - 100 feet to a well or water body, 20 feet to a dwelling, and 10 feet to a property line; and from an absorption field - 100 feet from a well (200 feet if located upgrade) or water body, 20 feet from a dwelling, and 10 feet from a property line.

### **J. Natural Features**

#### **1. Vegetation**

Approximately ninety percent of Forestburgh's 35,000 acres is forested land; this percentage is believed to be the highest in Sullivan County. West of Route 42 the land is a mixture of

## **Town of Forestburgh, Sullivan County, New York Comprehensive Plan**

deciduous (hardwoods) and coniferous (evergreen) forest. The area north of Hartwood Road between Route 42 and the Cold Spring Road is about 75% deciduous cover with a sizable amount of brush and wetlands. The area south of Hartwood Road between Route 42 and the Cold Spring Road is predominantly coniferous and mixed forest. East of the Cold Spring Road the land is a mixture of brush, wooded wetland, deciduous and mixed forest. Here the banks of the Neversink River are clearly marked by a mixed forest of coniferous and deciduous trees. Many of the oak forests in the area have been replaced by mixed forests predominantly made up of maple, beech, birch and white pine.

### **2. Slopes**

The slope or incline of the land is one of the most important factors that determine where development may take place. Constraints on development become apparent when the land exhibits a slope exceeding 25%. This, of course, can be exacerbated by soils, depth to bedrock, rock strata and the level of the water table. Mitigation measures can be used to develop land with a slope of over 25%, but such actions become very costly and do not always ensure safeguards for public health and safety. Forestburgh is a town with rolling hills and some steep slopes. Steeply sloping areas run the full length of the Mongaup River on the western edge of the Town. The banks of the Neversink River are also extremely steep. In many areas along the River they exceed 30%. Other areas in the Town that have slopes exceeding 30% include the area directly northwest of Oakland Valley, the Bush Kill River southeast of Crane's Pond and the west bank of Little Eden Brook.

### **3. Soils**

Like most of Sullivan County, Forestburgh's soils are not first-grade soils suitable for farming or intense development. According to a Sullivan County Soil Survey conducted by the Sullivan County Planning Board and the Natural Resources Conservation Service, the most developable soil types in Forestburgh lie in the Oakland Valley area, along the Rio River, and in the northwestern part of the Town.

A good portion of Forestburgh consists of four major soil types - Catskill Very Stony Loam (Co); Culvers Stony Loam (Cu), Lackawanna Very Stony Silt Loam (Lm) and Lackawanna Very Stony Silt Loam, Shallow Phase (Lms). The majority of this land is pasture, hay or forested. In most instances these soils have severe and moderate limitations for the construction of dwelling units (with and without basements), roads and streets, septic tank absorption fields and campsites.

### **K. Wildlife**

Forestburgh is home to a wide variety of wildlife, including several federally or State protected species. The Town should strive to conserve and protect its wildlife and their habitats as appropriate. Whitetail deer, black bear, eastern cottontail, varying hare, red and gray squirrels, ruffed grouse and eastern wild turkey are commonly encountered in the area. Furbearers such as the eastern coyote, red and gray fox, bobcat, mink, otter, beaver, muskrat and fisher are also

## **Town of Forestburgh, Sullivan County, New York Comprehensive Plan**

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prevalent. The endangered Indiana bat and Eastern woodrat have also been identified as inhabiting the area.

Approximately 200 species of birds have been identified in the area through a natural resource study for the Upper Delaware Scenic and Recreational River. Migratory birds found to inhabit and sometimes nest in the area include woodcock, Canada geese, and other waterfowl, including snipe, rails and a wide variety of duck species. The area is also home to a variety of birds of prey, including several varieties of hawks and owls, as well as osprey, falcons, herons, the occasional golden eagle, and the increasingly common and popular southern bald eagle.

The bald eagle has become an over-wintering, year-round inhabitant of the area, especially on the Mongaup Valley Wildlife Management Area and the surrounding area, with many more bald eagles wintering in the area. As a result of the growing population of bald eagles, eagle watching has become a tourist attraction within the town, which is known as the "Winter Home of the Bald Eagle". The town is also home to a variety of reptiles and amphibians, including the protected timber rattlesnake.

Wildlife conservation and protection is a key component in protecting Forestburgh's environmental quality. Wildlife provides the community recreational and educational opportunities through activities such as nature study, hunting, fishing, hiking, and wildlife watching. Scientific consensus acknowledges that while some of the species mentioned can coexist with low density development, others such as the bald eagle and timber rattlesnake may be jeopardized by development or human intrusion. The Town Planning Board should give careful consideration and special priority to wildlife and their habitat prior to granting any approvals for development.

### **L. Public Park and Recreation Resources**

State-owned public lands comprise 7,202 acres, slightly more than 20.5% of the town's acreage. This amounts to nearly 8.8 acres per resident as of 2010. Due to significant land acquisitions by the State in the 1990's, these numbers are more than double those of the 1980's. Under the management of the Department of Environmental Conservation, these lands provide hunting, fishing, hiking, boating and wildlife watching (especially winter eagle viewing) opportunities to the public

The Town of Forestburgh owns only a small amount of land, most of that situated at the site of the Town Hall along King Road and Route 42. Recreational facilities and programs provided by The Town of Forestburgh include an outdoor swimming pool located at the Town Hall; the historic Forestburgh log cabin, one of the earliest structures built in Sullivan County; a skiing program for children in cooperation with Holiday Mountain Ski area; a children's summer arts and crafts program; and a senior citizen's program, which includes monthly meetings at the Town Hall and field trips.

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### **1. Neversink River Unique Area**

The State of New York owns an extensive amount of land in Forestburgh that is under the supervision of the New York State Department of Environmental Conservation. Foremost of this is the 6,580 acre Neversink River Unique Area, sometimes called the Neversink Gorge.

Under State law, a unique area is defined as a parcel of land owned by the state acquired due to its special natural beauty, wilderness character, or for its geological, ecological, or historical significance for the state nature and historical preserve, and may include lands within a forest preserve county outside the Adirondack and Catskill Parks.

A Unit Management Plan (UMP) for the Neversink River Unique Area was prepared in 1997. It provides for generally passive recreational use (motorized vehicles, for example, are prohibited) with somewhat limited recreational development in an effort to protect the area's unique natural resources. The UMP addressed the fact that Unique Area usage has been relatively low, and that this was likely to change in the future:

“As with most of the Lower Hudson and Upper Delaware Valley regions, this Unit is within two hours' drive of the New York City metropolitan area and is easily reachable by tens of millions of people within a day's drive. The suburban areas of the metropolitan area continue to grow and develop. This increases the use and demand on public open space and especially areas with 'unique' characteristics. A principal economic objective of Sullivan County is to increase the number of visitors that come to enjoy the County's natural beauty and resources, commonly called 'eco-tourism'. The Neversink River Unique Area has the potential to be one of the most valuable natural resource assets within the County and the larger regional area.

In 2013, the DEC adopted an amendment to the UMP, which updated public information on the Unique Area and authorized additional access improvements such as new parking and foot trails as additional State resources become available in the future. In addition to authorizing projects to allow expanded use and access, the amendment noted the addition of 1,790 acres in 2001-2002 and the termination of the lease with the privately operated Eden Brook Fish Hatchery in 2011.

At the time the Amendment was being finalized, the DEC received significant public concern relating to the proposal of increasing public access and usage of the Unique Area without providing increased law enforcement resources in the form of Forest Rangers and Environmental Conservation Officers (ECOs). While enforcement efforts have improved in recent years, there remain some problems relating to the illegal use of ATV's and the illegal taking (poaching) of fish and wildlife within the Unique Area. Currently, there are only four Forest Rangers and two ECOs assigned for all of Sullivan County.

### **2. Mongaup Valley Wildlife Management Area**

New York State also owns 6,313 acres of land that straddles the Mongaup River in the Town of Forestburgh and the neighboring Towns of Lumberland (Sullivan County) and Deer Park (Orange County). The State also holds conservation easements on an additional 5,542 acres,

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preserving a total of 11,967 acres of open space in the Mongaup Valley. Eagle Creek Renewable Energy owns an additional 764 acres of land along the Mongaup River.

The total assemblage spanning the Towns of Forestburgh and Lumberland was designated the Mongaup Valley Wildlife Management Area (WMA) in the late 1980s after land and conservation easements were acquired.

The Mongaup Valley WMA is subject to general WMA regulations as provided by NYS Environmental Conservation Law. Because lands and easements were acquired to preserve sensitive bald eagle habitats and nesting sites, it is important to protect this area from extensive human intrusion. Off-road vehicles are prohibited on these lands and their access roads; outboard motors are prohibited on boats; and certain areas have restricted access. There are, however, public access opportunities for hunting, fishing, hiking, and boating. Eagle watching is extremely popular here in the winter, when bald eagles are numerous.

In June 2000, the DEC established the Mongaup Valley Bird Conservation Area, which in total incorporates 11,967 acres. A Management Guidance Summary (MGS) was written the same month; excerpts from the MGS follow:

“The Mongaup Valley Bird Conservation Area includes all of the Mongaup Valley Wildlife Management Area, and consists of a series of reservoirs, the Mongaup River, and creeks flowing through the Mongaup River Valley to the Delaware River. The river corridor is surrounded by relatively undisturbed and forested rolling hills. The area hosts one of the largest Bald Eagle wintering sites in the state, and also supports several active eagle nests. Rare communities include: a perched bog, a flood-plain forest, and pitch pine oak-heath woodland. Rare species, other than birds, include Timber Rattlesnake and Spotted Salamander....”

“Eagles continue to require open water during winter. Human disturbance around feeding areas and roost sites for eagles will be minimized (December through March). Eagle nesting sites should be left undisturbed during the breeding season. The use of power boats (outboard motors) will be restricted on the Mongaup River and reservoirs....”

There have been few reported problems in the Forestburgh portion of the Mongaup Valley WMA or BCA, other than traffic concerns where vehicles gather at the eagle viewing station at the head of Mongaup Falls Reservoir. However, the Town must be pro-active if, and when, a draft UMP is prepared by the DEC.

### **M. Private Lands**

Private recreational resources comprise a lot of the total open space in the Town of Forestburgh. Two Boy Scouts of America Councils own a total of 1,967 acres. There are various clubs in the Town that collectively own 4,992 acres of land. While the Boy Scouts and some of the state lands (Mongaup Valley Wildlife Management Area) are tax-exempt, the hunting clubs provide recreational lands while still paying taxes on the land they own. Additionally, some individuals, families, or other groups own large contiguous tracts of undeveloped property, most if not all of

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them being in the state forest tax exemption program, which provides significant tax benefits for keeping property in a forested state, as well as state imposed penalties for withdrawal. The Town must be pro-active in seeing that it receives monies from such penalties.

### **1. Merriewold**

Merriewold Club was founded in 1889 by followers of the famous economist and social progressive Henry George and included approximately 1,500 acres of land. It was originally envisioned as a summer community, and was subdivided into many small parcels, and over the ensuing years, infrastructure including roads, bridges, an Inn, tennis courts, golf course, and a beach for swimming and boating were developed.

Henry George Jr., a United States Congressman, introduced his wife's oldest sister and her husband Jokichi Takamine (who was a famous Japanese scientist and industrialist) to Merriewold. They bought adjacent property in the Park to be close to family. When the Government of Japan later gave Dr. Takamine its Exhibit at the 1904 World's Fair located in St Louis – a replica of a palace in Kyoto Japan - he transported the exhibit by train from St Louis to Gilman's station. It was then transported it via horse drawn carriage into Merriewold where it was painstakingly reassembled it on their property as their family homestead. Extensive Japanese gardens were also created on their property. This homestead was re-named Sho Fu-Den, which means the Palace of Pine and Maple, and stands to this day – although unoccupied for many years. During the 1950s, an attempt to operate a restaurant at Sho-Fu Den was made, and failed, and brought about a legal separation of Sho Fu Den from Merriewold membership.

The Club itself owns the vast majority of the property in Merriewold Park (with individual members owning the rest). Each member pays an initiation fee when joining the Club – which is structured as a membership corporation – and also pays annual dues to pay for the maintenance of the Club's facilities. Through the 20<sup>th</sup> century and now into the 21<sup>st</sup> Merriewold looks, feels and functions much the same as it has been since its inception. This is by design. Although initially Merriewold was used by its members only in the summertime, in the later part of the last century and continuing to the present there has been a vast increase in the use of the Club in all four seasons. The increased use of the Club by expanding families in the summertime, and greater year round intensity of use has caused the Club to cap membership at 65. Every home built or rebuilt since the at least 1980 has been for four-season use. At least 50 of the 64 homes at present are habitable year round.

### **2. Hartwood**

The Hartwood Club was founded in 1893 by Judge William H. Crane (brother of author Stephen Crane) as a hunting and fishing club to appeal to New York area sportsmen and families that wanted a rural escape. The property includes four lakes, 7,000 acres, and several miles of trout fishing streams. Over the decades, land has been added and occasionally swapped or sold, but the core of the Club remains in the Park area between Echo and Hemlock lakes. Throughout Hartwood's 124 year history, many captains of industry, inventors, authors, and dignitaries have been guests or members.



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The Hartwood Club today spans across Sullivan and Orange Counties (Towns of Forestburgh and Deerpark). There are approximately 58 member families and 35 cottages. While hunting and fishing are still a primary focus, Hartwood is a year round destination for many of its member families. Hiking, biking, swimming, tennis, camping, relaxing, bird watching, photography, skating, skiing, and target shooting are some of the many activities that have supplemented the original hunting and fishing use. Some of the families have been coming for many generations and consider Hartwood their first home. Many weddings, birthdays, dinner parties, and holidays are celebrated at the Club. Traditions include big social events on Memorial Day, Fourth of July, Labor Day, Halloween, Thanksgiving, and New Year's Eve. The century-old clubhouse serves as a gathering place for social events, meals, and meetings, as well as having 10 bedrooms upstairs available to members and guests. Hartwood is administered by an elected 12-person Board of Trustees, with dozens of volunteer committees helping to keep the Club running.

Hartwood is a thriving independent community that considers itself the stewards of their land for the next few centuries. Club members enjoy the rustic feel of unpaved roads and walking trails throughout the grounds. There are internal rules that prevent the use of loud gas powered boats, ATV's, snowmobiles, and other recreational machines. The Club is a tranquil escape from the hustle and bustle of city and suburban life for its members. It has the feel of an endless summer camp, which cements lifelong bonds and memories for both children and adults.

In 2013, Hartwood earned the Tree Farm of the Year award for the State of New York, which honored their conservation efforts and dedication towards modern forest stewardship and habitat management. Hartwood is a proud member of the Forestburgh community.

### **3. Boy Scout Properties in Forestburgh**

#### **(a) Monmouth Council**

The Forestburgh Scout Reservation was once the estate of Dr. Thomas Darlington, (1858-1945) Health Commissioner of New York City from 1904-1910. The initial 635 acre parcel was purchased by Monmouth Council, Boy Scouts of America from Mrs. Florence Darlington in 1955. The first summer camp session for Boy Scouts was held in 1956. In 1965, Monmouth Council purchased an additional 600 acres from the former Metauk Rod & Gun Club, and in 1979, donated approximately 4.29 acres near King Road, to the Town of Forestburgh for public and municipal purposes. The Forestburgh Town Hall is currently located on this site.

The three most notable land features of Forestburgh Scout Reservation are Burnt Hope Lake, Tecumseh Rock, and Darlington Falls. Burnt Hope Lake is a manmade lake originally named Hope Lake, after the Hope Lumber Company, but was renamed Burnt Hope Lake after fires in 1805 and 1864 put the company out of business.

Tecumseh Rock is a fifty foot natural rock face. It provides an impressive backdrop for program. Darlington Falls, formerly known as the Great Falls, was renamed in honor of Dr. Darlington. The camp currently encompasses approximately 1230 acres and serves thousands of youth annually from all over the world.

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### **(b) Drukker Scout Reservation (Camp Turrell and Camp Kluge)**

The 950 acre of the Drukker Reservation contains two Boy Scout camps: Camp Turrell and Camp Kluge. The parcel includes a portion of Beaver Dam Pond, a 118 acre lake. Beaver Dam Pond was originally a brook that was dammed for use by the Delaware and Hudson Canal. It was used as a water reservoir to supplement the canal to transport slate, coal, lumber, and leather from the tanneries in Oakland Valley. In 1920 Michael Galligan purchased a large tract known as Beaver Dam, on which he had a large quarry, employing 400 workers. By 1930, large scale quarrying ended and in 1940 the last load of slate was taken from Beaver Dam. In 1969, Margaret Galligan, representing the estate of Michael Galligan, sold the Beaver Dam Tract to the Alhataha Council of the Boy Scouts. A legal battle ensued which lasted many years, regarding the ownership and control of Beaver Dam Lake, previously owned by the D& H Canal Co. Finally, the case was settled and the Northern New Jersey Boy Scout Council and the Hartwood Club agreed to share in the use of the pristine lake. In 1972, the newly formed Passaic Valley Council opened the first summer scout camp season. The camp grounds now include a Health Lodge, dining hall and handicraft and archery pavilions. Currently the Reservation is under the auspices of the Northern New Jersey Council after the merging of the Passaic Valley council with several others.

### **N. Recreation, Open Space and Tax Issues**

In summary, the Town of Forestburgh presently has adequate open space for public recreation. Its open space areas provide recreational opportunities especially enjoyed by hunting, fishing, hiking, and boating enthusiasts. Residents of the Town have to travel elsewhere to participate in such recreational activities as tennis, golf, and softball, which is not unusual for a rural, low-density town.

The 1988 Master Plan and subsequent Comprehensive Plans have recommended that Forestburgh should endeavor to keep such a high ratio of open space to developed land, as it grows and develops. However, that may prove to be a challenge in the years ahead.

Forestburgh has maintained its namesake rural character and forested landscapes, and is proud of this heritage. However, the beauty comes at a price. While New York State reimburses the Town annually for taxes on the full assessed value of the lands included within the Neversink River Unique Area as if it were privately owned, the lands of the Mongaup Valley Wildlife Management Area are classified differently under State law and the Town does not receive funds from the State because they are considered tax exempt. Property owned by the Boy Scouts is also tax exempt. In addition, many parcels are owned by conservation-minded individuals and clubs who desire to keep their property largely undeveloped and forested. Many landowners have taken advantage of attractive economic incentives to maintain forest lands through New York State's Forest Tax Law program, under section 480-a of the Real Property Tax Law. Landowners of 50 acres or more are eligible to enroll in the program, which requires a commitment to maintaining forest lands and undertaking sustainable forestry practices under an approved forestry plan for a rolling ten year period in exchange for a significant reduction in their property taxes. Approximately 13,000 acres in Forestburgh (37% of Forestburgh's total acreage) are

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enrolled in the 480-a program. Although towns with large enrollments in the program are unable to collect the full tax levy they otherwise could and thus budgets are negatively impacted, large undeveloped tracts of land require far fewer municipal services and don't pressure town budgets in any of the many ways widespread development would. Given the fact that the formula and rates of reimbursement the State provides for towns impacted by 1% or more from lands enrolled in the program have not been updated in over a decade, updates to modernize local reimbursement rates are needed to alleviate some of the financial stresses and pressures the program places on local budgets. As a result of participation in the Forest Tax Law program and the prevalence of conservation-minded landowners, the forest, its rich natural resources and landscapes have been preserved in Forestburgh through an era when many other communities have not been as fortunate. However, town officials must remain vigilant and communicate with the appropriate State officials to ensure the Town receives its fair share of reimbursement funds resulting from the program's local impact on property tax revenues.

### **O. Land Use**

Forestburgh has a total land area of approximately 35,000 acres, chiefly in forestland. There are many large land holdings in the Town: Eagle Creek; Councils of the Boy Scouts of America; Lake Joseph Development Corporation; Merriewold Club Inc.; and the Hartwood Club are some of the large landholders in the Town of Forestburgh. Several individuals or groups of people also own sizable forested tracts of land.

There is currently little farm use in Forestburgh, and commercial use is extremely limited. Land use in settled areas is almost exclusively residential. Community facilities such as the Town Hall, the firehouse, and the Forestburgh Theater are located on or closely adjacent to Route 42 and Forestburgh Road (the blinking light at the intersection of Route 42, Forestburgh Road and Hartwood Road.)

### **P. Existing Zoning Districts, Uses and Minimum Lot Sizes**

Concerns about maintaining the character of Forestburgh, and protecting its resources and the quality of life of its residents, led the Planning and Town Boards in 1977, to implement 2.3 acre (100,000 square feet) Residential Recreational zones and 5 acre minimum lot size in Rural Conservation Zones. The purpose behind the creation of 2.3 acre zoning was not only to protect the land but also to increase the likelihood of properly functioning septic systems and individual wells on each lot. The 5-acre rural district was created because steep slopes, erodible soils, wetlands and large forested tracts of land warranted greater protection.

There is relatively little demand for new commercial development in the area, considering the proximity of the Town to both Monticello and Port Jervis and the business districts established in 1972 remain unchanged.

Three zoning districts remain in effect today. These include: Residential Recreational (**RR-1**), Rural Conservation (**RC**) and Business (**B-1**). An explanation of these, as they were identified in the 1988 Plan, follows:

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**1. Residential Recreational (RR-1) District**

A great portion of the Town has been designated as Residential Recreational. Current land uses in these areas consist of low-density residential areas, hunting areas, and summer camps. In order to adhere to the previously established goals, this rural and natural atmosphere should be preserved. Therefore, the following Permitted and Special Uses are recommended.

**Permitted Uses**

1. One-and Two-Family Residences (less than 15% slope)
2. Agriculture
3. Forest Management
4. Public Utilities
5. Non-Commercial Outdoor Recreation

**Special Uses (Subject to site plan approval by the Planning Board).**

1. One-and Two-Family Residences (greater than 15% slope)
2. Animal Husbandry
3. Wildlife Management
4. Places of Worship (including parish houses, seminaries, convents, churches and other related uses)
5. Schools and Colleges
6. Campgrounds
7. Nurseries, Greenhouses and Fish Hatcheries
8. Hunting and Fishing Cabins
9. Boarding; Tourist Homes or Country Inns
10. Clubhouses for social organizations with related recreational facilities
11. Hotels and motels
12. Nursing homes, medical and dental facilities
13. Parks, libraries, museums and theaters
14. Cemeteries and mortuaries
15. Mineral Extraction

**Bulk and Yard Regulations**

Lot Width	200 feet
Front Yards	75 feet
Side Yard	50 feet (each side yard)
Rear Yard	100 feet
Lot Area	100,000 square feet
Building Height	30 feet
Dwelling Units per lot	1

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**2. Rural Conservation (RC) District**

The unique character of various areas of the town necessitates the designation of a second rural zoned area. The areas along the Neversink Gorge and the Mongaup River are steep and exhibit highly erodible soils. Preservation of these scenic and valuable lands is of prime importance in this zoning district. The proposed Permitted and Special Uses are listed below.

**Permitted Uses**

1. One-and Two-Family Residences (less than 15% slope)
2. Forest Management
3. Wildlife Management

**Special Uses**

1. One-and Two-Family Residences (greater than 15% slope)
2. Hunting and Fishing Cabins
3. Schools
4. Churches

**Bulk and Yard Regulations**

Lot Area	5 acres
Lot Width	300 feet
Front Yards	150 feet
Side Yard	50 feet (each side yard)
Rear Yard	150 feet
Building Height	30 feet
Dwelling Units per lot	1

**3. Business District (B-1) District**

The Business District consists of three distinct areas in the Town. The first area is on the west side of Route 42 at the southern intersection with Dill Road. The second area is at the intersection of Route 42 and French Clearing Road and consists of property on both sides of Route 42. The third area is in Oakland Valley along County Road 49. These areas currently support light commercial businesses.

The following are the suggested Permitted and Special Uses for the Business District.

**Permitted Uses**

1. One-and Two-Family Residences (less than 15% slope)
2. Retail and Service Stores

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3. Eating and Drinking Establishments
4. Professional Offices
5. Funeral Homes

**Special Uses**

1. Business Offices
2. Other Offices
3. Roadside Business
4. Churches
5. Schools
6. Registered Motor Vehicles Service Stations
7. Hotels, Motels
8. Auction Houses

**Bulk and Yard Regulations**

Lot Area	100,000 square feet
Lot Width	200 feet
Front Yards	100 feet
Side Yard	50 feet (each side yard)
Rear Yard	100 feet
Building Height	30 feet

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***Section IV - RECOMMENDATIONS***

Forestburgh's southerly location in Sullivan County on the Orange County border, its nearness to the village of Monticello and to State Rt. 17 (Interstate 86), and its largely undeveloped nature, suggest it may be subject to land-development pressures in the near future. Several actions are needed to address this challenge and ensure that growth enhances, rather than detracts, from the quality of life within the Town of Forestburgh.

**A. Recommended Actions Toward Achieving Goals**

The issues included in Section III, along with a concern for the future growth and development of the Town, has led the Comprehensive Plan Committee to develop a number of recommendations toward the achievement of the nine goals that were listed at the beginning of this document.

Those goals are repeated below, with general recommendations following each.

***1. Preserve the peace and tranquility of Forestburgh life so that residents may continue to enjoy their land and their quality of life.***

- a. Preserve the existing low-density single-family residential nature of the Town using both large-lot zoning and open space design development as well as developing a specific zoning district (Residential Settlement District) for the protection of already higher-density developed areas of the Town.
- b. Preserve the existing rural and natural character of the Town in applying site-plan review procedures and supplementary regulations from the Town Zoning Law. Clarify terms and definitions of the zoning code.
- c. Develop a "noise" ordinance with robust enforcement capability.

***2. Conserve the quality and quantity of natural, historic and scenic resources for the use and enjoyment of all residents.***

- a. Encourage preservation of historical architectural styles using State Environmental Quality Review and site-plan review procedures.
- b. Preserve the visual quality of the Town as viewed from its highways through inclusion of this specific concern in site plan review and development standards.
- c. Protect important wildlife habitats, such as trout streams; protect endangered and threatened species, especially the bald eagle and rattlesnake; and protect sensitive areas, particularly wetlands, pursuant to DEC regulations.

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- d. Control the amount of tree and vegetative clearing allowed for development and avoid the introduction of invasive species (as identified by the DEC).
- e. Enforce land use, development, and sign regulations.
- f. Encourage private use of conservation easements where appropriate to protect valuable landmarks and natural areas.

**3. *Promote prevention of degradation of surface and groundwater resources.***

- a. Control storm water runoff and erosion and sedimentation from new development.
- b. Carefully evaluate all proposed discharges of effluent to Town streams as part of development and the site plan review process.
- c. Enforce regulations for the design, location and repair of on-site sewage disposal systems.

**4. *Provide for the properly regulated and soundly built development of housing, business, and community facilities within the Town to meet the needs of residents in a balanced manner.***

- a. Regulate location and design standards with respect to individual site development.
- b. Control the density of development by zoning district.
- c. Update the current subdivision code utilizing objectives, standards and criteria similar to those included in the 2007 PDD zoning amendment (quoted on page 8, Section 11 (E) above).
- d. Manage development on very steep slopes (25% or more) and poor soils by limiting the ratio of impervious surface lot size, requiring special design or otherwise mitigating the natural effects of building on such environmentally sensitive lands.
- e. Create new Residential Settlement (RS) District to address pre-existing non-conforming uses in Forestburgh.
- f. Require developers of major subdivision, PDDs and commercial development to provide financial security to the Town to pay for close scrutiny and enforcement in the construction of infrastructure and in compliance with master plan and site plan approvals and conditions in addition to a performance bond.



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***5. Enforce land-use control ordinances so as to ensure that every dwelling and place of work is supported by an adequate water supply, sewage treatment and disposal system or septic system, solid waste disposal, telephone and Internet access.***

- a. Assure adequate staffing and professional qualifications for the Forestburgh Building Department. Particularly as building in the Lost Lake Development ramps up, consider whether the current part-time status of our single licensed building inspector is sufficient to meet the town's ability to assure appropriate inspection and code enforcement.
- b. Assure that escrow and bonding requirements for approved developments is collected and is adequate to defray any expense that the town may be exposed to as it carries out its supervisory and enforcement functions

***6. Promote safe, quiet, efficient, and uncongested roads.***

- a. Employ special use and site-plan review criteria to evaluate traffic impacts and provide for protection of scenery and other aesthetic features.
- b. Discourage roadside strip development.

***7. Provide adequate land, resources, and maintenance for recreational holdings so as to preserve the Town's rural character.***

- a. Encourage the New York State Department of Environmental Conservation to properly manage and maintain its lands, and to periodically develop/update Unit Management Plans that provide for public use of state lands in a manner that meets the needs and interests of the people of Forestburgh.
- b. Encourage the New York State Department of Environmental Conservation to adequately staff its enforcement units to prevent the degradation of their property within Forestburgh through lack of enforcement.

***8. Maintain a balanced and equitable tax base.***

- a. Determine if the State of New York is properly reimbursing Forestburgh under Real Property Tax Law §480(a) which provides a substantial tax reduction for property owners who are enrolled in a Forest Management Program. To the extent it is not receiving property re-imburement, the town should pursue these funds to which it is entitled. Additionally, the town should object to any change or amendment of the Real Property Tax Law that takes additional property off Forestburgh's tax rolls.
- b. Determine if the State of New York is properly reimbursing the town for diminished property tax revenue resulting from the reduced assessed value of Forestburgh property included in Sullivan County Agricultural District #4. To the extent that it is not

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receiving Agricultural District property tax loss re-imbusement, the town should pursue these funds to which it is entitled.

- c. If the town chooses to not opt out of Real Property Tax Law section 487 (which provides a 15 year tax abatement to producers of “clean energy”) it should insist on obtaining PILOT (Payment in Lieu of Taxes) agreements with commercial producers of qualifying energy in Forestburgh.
- d. Continue the current Revaluation project and reassessment of all Forestburgh property as expeditiously and efficiently as possible, and keep updating town assessments on a regular basis to insure that Forestburgh property owners are paying a fair share of town, county and school taxes.
- e. Establish – perhaps in conjunction with adjoining towns – a legal fund to defend the Town against property tax challenges brought by hydro-power generating companies, as has occurred in the past.
- f. Resist further removal of Forestburgh property from property tax rolls by New York State, Sullivan County (IDA) while they incentivize economic activity without compensation to Forestburgh.

***9. Protect buildings and residents from the harm of flood, fire, detrimental land use, and impairment of their natural resources and property values.***

- a. Preserve existing wetlands, both Federal and State Designated.
- b. Preserve forestlands through proper forest management.
- c. Practice good soil stabilization techniques as recommended by the Sullivan County Soil and Water Conservation District.
- d. Enforce existing Town Zoning Ordinances, Town Subdivision Regulations, and the New York State Uniform Fire Protection Building Construction Code.

***10. Implement the recommendations of the Sullivan 2020 Comprehensive Plan to the extent applicable to the Town of Forestburgh and consistent with this Plan.***

- a. Allow for growth and development through the use of innovative, progressive implementation techniques such as conservation subdivision.
- b. Provide for sustainable development that is compatible with the natural environment and allows Forestburgh to remain Forestburgh in the context of its overall appearance.
- c. Promote eco-tourism opportunities within the Town and County.

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- d. Develop and protect the character of those unique destinations that draw visitors to the area.
- e. Contain the rate of growth at a manageable level to ensure it can be accommodated properly.

**B. Recommended Actions Regarding Zoning and Subdivision Regulations**

The Town of Forestburgh made revisions to its subdivision and zoning regulations in conjunction with the enactment of the 1988 Master Plan, and has made some further minor revisions and additions in the intervening years. Subsequent experience with these laws and the results of preparing the new Comprehensive Plan suggest the need for further revisions. The following are recommended changes and improvements to existing Town land use regulations:

**1. *Update the Town Subdivision Law to conform to current requirements of New York State Town Law and the State Environmental Quality Review Act.***

This includes:

- a. Clarifying procedures for exemptions.
- b. Establishing more detailed standards for controlling storm water run-off as well as erosion and sedimentation.
- c. Encourage the use of open space design development concepts in the form of conservation subdivisions.

**2. *Amend the Town Zoning Law to refine the Zoning Map, incorporate new Special Use/SEQR procedures under Town Law, and add new requirements for particular Special Uses and clarify and provide consistent and clear definitions of terms, words and concepts throughout the code.***

Specifically recommended improvements include:

- a. Creation of a Residential Settlement District to encompass existing higher density single family residential areas of the Town. The intent of this District should be to provide areas within the Town where residential uses are primary and will be protected from intrusion by other incompatible activities and uses and special uses. Development standards within this district should be comparable to the existing Residential Recreation District excepting that building size and lot coverages would be more strictly limited. This type of zoning district is not envisioned to accommodate multi-family or extended family housing.

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- b. Refinement of the purposes of the existing Rural Conservation, Residential Recreation and Business Districts to better distinguish between each on the basis of allowed uses and statements of interest.
- c. Develop a more practical procedure for handling changes in non-conforming use as Special Uses, so as to offer more flexibility but retain control.
- d. Provide procedures and incentives to encourage the use of conservation subdivision techniques as a means of preserving the large areas of open space that give the Town of Forestburgh its distinctive character.
- e. Protect Forestburgh's stream corridors and reduce the potential for increased flooding by limiting clearing for building purposes and other land disturbances within these areas (e.g. 50 to 100 feet building setback from streams designated as significant).
- f. Protect the character of Forestburgh's historical properties by providing specific incentives for their preservation and productive use.
- g. Develop architectural and exterior design standards and provisions that will enhance and reflect and maintain the character of Forestburgh.
- h. Review and expand special uses to be permitted in the RR1 district, such as adding home occupations and other uses that will not, in their nature, disrupt or adversely impact their residential neighbors, but will provide for increased value and efficiency of use of the property.

**3. *Additional Recommendations:***

- a. Review and update Forestburgh's Emergency Plan to adequately provide for Forestburgh residents in the event of a crisis. Municipal buildings should all have stand-by generators. A review should include consideration of potential needs of a displaced populace such as shelter, water and first aid provisions.
- b. Analyze and update the town's permit and fee structure so that the costs associated with the providing of municipal inspection, licensing, permitting and enforcement including the staffing costs) are not carried out at a net loss to the town.

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**Appendix I**

**Historical/Architectural Resources  
Inventory (from 1988 Plan)**

**Commercial**

1. Old Gilman's Store Educational
2. Blackbrook District School
3. Oakland Valley District School
4. Old School House Governmental
5. Hartwood Post office (Stone House)
6. Town Hall Industrial
7. Flagstone Mining Derrick
8. Stokes - Hartwell Mill Foundation
9. Stokes - Hartwell Mill Pond Dam
10. Stokes - Hartwell Race and Stone Support for Flume

**Religious**

11. David Handy's Grave
12. Forest Shrine and Cardinal Hayes Memorial
13. Old Forestburgh Graveyard (pioneers)
14. Old Hartwood Cemetery
15. St. Thomas Aquinas Church
16. St. Thomas Aquinas Cottage

**Residential/Agricultural**

17. Barn
18. Binschoff Home (originally Matthews House, early pioneer)
19. Cleveland House
20. Edmond Crane House Site (brother to Stephen Crane)
21. Forestburgh Log Cabin
22. Gate House at Merriewold Park
23. Japanese Barn
24. Philwold Lodge
25. Shofu - Den

**Transportation**

26. Monticello and Port Jervis Railroad Bridge
27. Railroad Bridge (Ontario and Western)
28. Railroad Station, Gilman's Depot

**Other**

29. Hartwell - Benzien Stone Wall

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**Appendix II**

**State Water Quality Classifications**

An outline of the New York State Water Quality Classifications that pertain to Forestburgh follows here, and is derived from New York State Water Quality Regulations (Title 6 NYCRR, Parts 800-941), and from Appendix C of the DOW's report, "New York Water Quality 2000," issued in October 2000.

**Fresh Surface Waters**

**Class N fresh surface waters.**

(a) The best usages of Class N waters are the enjoyment of water in its natural condition and, where compatible, as a source of water for drinking or culinary purposes, bathing, fishing, fish propagation, and recreation.

(b) There shall be no discharge of sewage, industrial wastes, or other wastes, waste effluents or any sewage effluents not having had filtration resulting from at least 200 feet of lateral travel through unconsolidated earth. A greater distance may be required if inspection shows that, due to peculiar geologic conditions, this distance is inadequate to protect the water from pollution.

(c) These waters shall contain no deleterious substances, hydrocarbons or substances that would contribute to eutrophication, nor shall they receive surface runoff containing any such substance.

**Class AA-Special (AA-S) fresh surface waters.**

(a) The best usages of Class AA-S waters are: a source of water supply for drinking, culinary or food processing purposes; primary

and secondary contact recreation; and fishing. The waters shall be suitable for fish propagation and survival.

(b) These waters shall contain no floating solids, settleable solids, oil, sludge deposits, toxic wastes, deleterious substances, colored or other wastes or heated liquids attributable to sewage, industrial wastes or other wastes.

(c) There shall be no discharge or disposal of sewage, industrial wastes or other wastes into these waters.

(d) These waters shall contain no phosphorus and nitrogen in amounts that will result in growths of algae, weeds and slimes that will impair the waters for their best usages.

**Class A-Special (A-S) fresh surface waters.**

(a) The best usages of Class A-S waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish propagation and survival.

(b) This classification may be given to those international boundary waters that, if subjected to approved treatment, equal to coagulation, sedimentation, filtration and disinfection with additional treatment, if necessary, to reduce naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

**Class AA fresh surface waters.**

(a) The best usages of Class AA waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The

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waters shall be suitable for fish propagation and survival.

(b) This classification may be given to those waters that, if subjected to approved disinfection treatment, with additional treatment if necessary to remove naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

**Class A fresh surface waters.**

(a) The best usages of Class A waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish propagation and survival.

(b) This classification may be given to those waters that, if subjected to approved treatment equal to coagulation, sedimentation, filtration and disinfection, with additional treatment if necessary to reduce naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

**Class B fresh surface waters.**

The best usages of Class B waters are primary and secondary contact recreation and fishing. These waters shall be suitable for fish propagation and survival.

**Class C fresh surface waters.**

The best usage of Class C waters is fishing. These waters shall be suitable for fish propagation and survival. The water quality shall be suitable for primary and secondary

contact recreation although other factors may limit the use for these purposes.

**Class D fresh surface waters.**

The best usage of Class D waters is fishing. Due to such natural conditions as intermittency of flow, water conditions not conducive to propagation of game fishery, or stream bed conditions, the waters will not support fish propagation. These waters shall be suitable for fish survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.

**Ground Waters Class GA fresh ground waters.**

The best usage of Class GA waters is as a source of potable water supply. Class GA waters are fresh ground waters. According to the aforementioned DOW report, agricultural activity is the most frequently cited nonpoint source of water quality impact/use impairment and threat to New York State rivers, lakes, and reservoirs. Agricultural sources contribute excess nutrients and silt to waterbodies. The nutrients cause excessive weed and algae growth which can impair recreational uses of the waters. Silt and sediment loads result in excessive turbidity which can impair recreation, aquatic life support and water supply uses. Currently Forestburgh has few agricultural uses. Hydrologic/habitat modification (and streambank erosion) are also frequently cited sources of water quality impact/impairment in rivers and lakes. This category includes a variety of activities that alter the nature of a stream corridor or wetland area such as changes to the bed and banks of a stream, dredging or filling of wetlands, and removal of riparian vegetation from stream banks.

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Flow regulation is the most common subcategory. Surface impoundments can cause detrimental effects both upstream and downstream of a dam. Water level fluctuations within the impoundment disturb fish habitat. Changes in downstream flow conditions also affect aquatic life, fish survival and spawning.

Changes to land use that may impact or impair Forestburgh streams, rivers, and lakes, require the vigilance of the Town's Planning Board and Building Inspector.

Urban runoff, stormwater runoff and combined sewer overflows (CSOs) are also cited as primary nonpoint sources of water quality impairment. These sources contribute pathogen/bacteria, petroleum products, heavy metals, silt, floatables, and oxygen demanding substances. While some of these sources may be derived from outside of the Town of Forestburgh, they likewise require vigilance from the Planning Board. Failing on-site septic systems are also frequently cited as significant sources of water quality impairment and threat.

Failing systems contribute nutrients, pathogens and other pollutants which restrict recreational uses. Through its appropriate boards and officers, the Town is obligated to take measures to correct failing on-site septic systems, or to alert appropriate agencies, such as the Board of Health, to take such measures.