

TOWN OF GOSHEN PLANNING BOARD MEETING

PUBLIC MEETING
October 20, 2016



126 East 56th Street, Fifth Floor New York, New York 10022

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TOWN OF GOSHEN PLANNING BOARD MEETING

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22 Wells Farm Road
Goshen, New York

October 20, 2016
7:37 p.m.

PROCEEDINGS in the above-referenced matter
taken before Sadie L. Herbert, a RPR and Notary
Public of the States of New York and New Jersey.

ELLEN GRAUER COURT REPORTING CO. LLC
126 East 56th Street, Fifth Floor
New York, New York 10022
212-750-6434
REF: 113326

1 A P P E A R A N C E S:

2

3 TOWN OF GOSHEN PLANNING BOARD:

4 LEE BERGUS, Chairman

5 PHIL DROPKIN, Deputy Chairman

6 GIOVANNI PIRRAGLIA

7 REYNELL ANDREWS

8 KRISTOPHER BAKER

9 DAVID GAWRONSKI

10 DAVE CRAWFORD, Alternate

11

12

13 BURKE, MIELE & GOLDEN LLP

14 Appearing on Behalf of Town of Goshen:

15 40 Matthews Street

16 Suite 209

17 Goshen, New York 10924

18 BY: KELLY M. NAUGHTON, ESQ.

19 RICHARD B. GOLDEN, ESQ.

20 Phone: 845.294.4080

21 knaughton@bmglawyers.com

22

23

24

25

1 A P P E A R A N C E S: (Cont'd)

2

3 DRAKE & LOEB PLLC

4 On Behalf of Merlin Entertainments:

5 555 Hudson Valley Avenue

6 Suite 100

7 New Windsor, New York 12553

8 BY: DOMINIC CORDISCO, ESQ.

9 Phone: 845.561.0550

10 dcordisco@drakeloeb.com

11

12

13 ALSO PRESENT:

14

15 ON BEHALF OF TOWN OF GOSHEN:

16

17 SEAN HOFFMAN, P.E., Riddick Associates

18 WILLIAM A. CANAVAN, CPG, LSRP, HydroEnvironmental

19 KENNETH MACKIEWICZ, P.E., TRC

20 RALPH E. HUDDLESTON, JR., Carpenter Environmental

21 NEAL HALLORAN, Building Inspector

22

23

24

25

1 A P P E A R A N C E S: (Cont'd)

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3 A L S O P R E S E N T :

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5 O N B E H A L F O F M E R L I N E N T E R T A I N M E N T S :

6

7 J O H N O ' R O U R K E , L a n c & T u l l y E n g i n e e r i n g

8 P H I L I P G R E A L Y , P E , M a s e r C o n s u l t i n g , P A

9 P H I L I P R O Y L E , M e r l i n E n t e r t a i n m e n t s

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P R O C E E D I N G S

CHAIRMAN BERGUS: If everyone would please rise for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN BERGUS: Thank you.

One other item, just for housekeeping purposes.

Again, portions of the agenda are for the Board to act on certain projects with public support and public input, and other projects do not require public input at this time, nor will it be accepted.

If there's an opportunity for certain projects where there is to be public input, I'll let you know it's a public hearing and you're welcome to stand up and speak, go on the record.

If it's not a public hearing, then all the activity is going to take place up here. And you are welcome to hear what we have to say and take pictures of us, that's fine, but the activity is

1 PROCEEDINGS

2 going to be up here and not in the
3 audience. If we have to keep stopping
4 because of disruptions or comments or
5 heckling, asides, anything like that,
6 it's just a distraction to the whole
7 process. So I would appreciate, and I
8 know the Board would appreciate as
9 well, if you let us do our jobs.

10 First item on the agenda is the
11 approval of minutes, first one being
12 September 1st, 2016.

13 Do we have any comments or
14 revisions that need to be made?

15 BOARD MEMBER DROPKIN: I have one
16 comment. On Page 5, the third full
17 paragraph, second line, it says,
18 "Mr. Hoffman stated that the area that
19 Mr. Dropkin was indicating to was..."

20 The word "to" should just be taken
21 out. That's it.

22 CHAIRMAN BERGUS: Other comments?

23 (No affirmative response.)

24 CHAIRMAN BERGUS: I do have a few.
25 On Page 6, last paragraph, third

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line, should say "Route 17M is acceptable."

Page 7, third paragraph up from the bottom, second line should say, "Mr. Higgins replied."

Page 8, first paragraph, last line should say "water main."

Under "Vote by proper motion," a little further down, "seconded by Mr. Dropkin".

Page 9, second paragraph, "The Town Code has very specific requirements."

And Page 10, first paragraph, second-to-last line should say "condition," I believe, "has written" --

BOARD MEMBER GAWRONSKI: Maybe "as written in the discretion."

KELLY NAUGHTON: I think it's -- I think it is actually supposed to be "and the condition as written is in the discretion."

CHAIRMAN BERGUS: That's all I have.

1 PROCEEDINGS

2 Other comments?

3 (No affirmative response.)

4 CHAIRMAN BERGUS: If not, could I
5 have a motion to accept the minutes?6 BOARD MEMBER DROPKIN: I'll make
7 that motion.

8 CHAIRMAN BERGUS: Phil.

9 BOARD MEMBER GAWRONSKI: Second.

10 CHAIRMAN BERGUS: Dave, second.

11 All in favor?

12 (Chorus of ayes.)

13 CHAIRMAN BERGUS: Next is the
14 minutes of September 15th, 2016.15 Again, do we have any comments or
16 revisions?17 BOARD MEMBER DROPKIN: Page 6,
18 second full paragraph, third line up
19 from the bottom, the word "on" should
20 be "one." "One of his concerns."21 Page 8, right after Graham
22 Trelstead[ph], it should indicate that
23 "Mr. Dropkin recused himself at this
24 time," it says the top of the page.

25 CHAIRMAN BERGUS: Other comments?

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(No affirmative response.)

CHAIRMAN BERGUS: Page 3, third paragraph down, "to have the public scoping session to give or afford the public the opportunity to comment."

Page 10, last line, "temporary parking for volunteers is located are relatively."

And Page 11, second line up from the bottom of the last paragraph, "The Board has the right to comment on that and make determinations."

Other comments?

(No affirmative response.)

CHAIRMAN BERGUS: If not, could I have a motion?

BOARD MEMBER PIRRAGLIA: So moved.

CHAIRMAN BERGUS: Giovanni.

Seconded by?

BOARD MEMBER ANDREWS: Second.

CHAIRMAN BERGUS: Renny.

All in favor, say "aye."

(Chorus of ayes.)

CHAIRMAN BERGUS: Against?

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(No affirmative response.)

CHAIRMAN BERGUS: Next item on the agenda is the approval of the minutes of September 28th, 2016.

Do we have comments or revisions?

BOARD MEMBER DROPKIN: Page 2, last paragraph, fourth line up from the bottom, "Dad said this," the word "this" should be stricken, and for clarity, it should say, "The applicant's project would be visible," fourth line up from the bottom, Page 2. Delete the word "this."

CHAIRMAN BERGUS: Okay. We got it. Others?

BOARD MEMBER DROPKIN: Yes. Page 4, the fourth paragraph, third line, "325" -- "325,000," I believe that should be "375 gallons" and it should be followed by "GPD."

CHAIRMAN BERGUS: "375,000 GPD"?

BOARD MEMBER DROPKIN: 375,000, right.

Next paragraph, four lines down,

1 PROCEEDINGS

2 right after the word "would," insert
3 the word "be." "Would be."

4 CHAIRMAN BERGUS: Page 2, top line,
5 "out of site" should be S-I-G-H-T.

6 Other comments? Any other changes?

7 (No affirmative response.)

8 CHAIRMAN BERGUS: If not, can I
9 have a motion to accept the minutes of
10 September 28, 2016 as modified.

11 BOARD MEMBER PIRRAGLIA: So moved.

12 CHAIRMAN BERGUS: Giovanni.

13 Seconded by?

14 BOARD MEMBER DROPKIN: I second
15 that.

16 CHAIRMAN BERGUS: Phil.

17 All in favor, say "aye."

18 (Chorus of ayes.)

19 CHAIRMAN BERGUS: Against?

20 (No affirmative response.)

21 CHAIRMAN BERGUS: Okay. Minutes
22 approved.

23 (Whereupon, Town business unrelated
24 to LEGOLAND was conducted.)

25 CHAIRMAN BERGUS: The next item on

PROCEEDINGS

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2 the agenda is Merlin Entertainments
3 Group/LEGOLAND New York, 11-1-45, 46,
4 47, 49.2, 58, 62 through 69, and
5 15-1-59: Application for a site plan,
6 special permit and subdivision for a
7 commercial recreational facility on 523
8 plus or minus acres -- that's the
9 total -- along Harriman Drive, Arcadia
10 Road and Conklingtown Road in the RU
11 and HR Districts with AQ-3, Scenic
12 Road, Floodplain and Ponding and Stream
13 Corridor and Reservoir Overlay
14 Districts.

15 Tonight we're here to take a look
16 at the DEIS as submitted, and we're
17 here to look at it for the intent of
18 completeness. It's not the technical
19 aspects of it internally so much as how
20 it adjusts the scope, whether it was
21 compliant with the scope as designed.

22 RICHARD GOLDEN: Also, Mr. Chairman, I
23 just want to clarify, because I think
24 although it's commonly referred to as
25 "completeness," I think it's a

1 PROCEEDINGS

2 misleading term, and it's not really
3 the term or phrase that's used in the
4 SEQR regulations.

5 What the Board is now determining
6 is whether or not the DEIS that was
7 submitted by the Applicant is adequate
8 for public review and for review by the
9 various agencies, interested and
10 involved agencies.

11 So although it's a fairly low level
12 to see whether or not it's adequate for
13 public review, the adequacy is, as you
14 describe, whether or not it was
15 responsive properly to the scope that
16 was done.

17 If not, then the Applicant has to
18 go back, revise the DEIS, and come back
19 again before the Board to see whether
20 or not, at that time, it's adequate for
21 public review.

22 Once it's deemed by this Board as
23 adequate for review, then it can be
24 released to the public and it can be
25 released to the involved and interested

PROCEEDINGS

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2 agencies.

3 And the reason that the Draft
4 Environmental Impact Statement is not
5 released before that time is that you
6 would then have the possibility of two
7 different versions of the DEIS out
8 there, which would make it more
9 confusing for purposes of people
10 relying upon and other agencies relying
11 upon it, because, presumably, as soon
12 as they get a copy of it, especially
13 the involved and interested agencies,
14 they would start reviewing it. And it
15 may change in minor form; it may change
16 in a substantial form.

17 And so that's why the -- this draft
18 of a Draft Environmental Impact
19 Statement isn't ready yet until this
20 Board determines that it's adequate for
21 public review.

22 CHAIRMAN BERGUS: Thank you.

23 John, would you like to introduce
24 yourself and your project?

25 JOHN O'ROURKE: Certainly.

1 PROCEEDINGS

2 John O'Rourke with Lanc & Tully
3 Engineering, here representing Merlin
4 and LEGOLAND.

5 We completely concur with what your
6 attorney stated. We had submitted the
7 initial DEIS for your review for
8 completeness. We are now just awaiting
9 comments from the Board members.

10 We received some comments from your
11 consultants. We realize there's some
12 additional work that we have to do to
13 address some, as we feel, minor issues,
14 but certainly some more clarifications
15 and additional work on the DEIS.

16 So we're basically just here for
17 this Board if you have any additional
18 comments or to discuss any specific
19 comments that your consultants have,
20 but we're satisfied with where we stand
21 right now.

22 CHAIRMAN BERGUS: Thank you.

23 Let's start with our engineer,
24 Sean.

25 SEAN HOFFMAN: Sure.

1 PROCEEDINGS

2 As the Applicant stated, we
3 prepared written comments that are
4 essentially a list of deficiencies.

5 Our approach in reviewing is to
6 just use the scope and identify any
7 items that need to be included in a
8 DEIS that may have been left out.

9 We had an eight-page memo, which
10 was pretty detailed. The Applicant
11 received a copy, I think, last week.
12 For some of the more technical items, I
13 think they're just moving forward with
14 those.

15 We did have several items that we
16 thought that the Board should discuss
17 tonight in terms of whether the items
18 should be included in the DEIS or not.

19 One related to water demands and
20 wastewater generation. Your scope
21 required the Applicant to consider both
22 the California and Florida sites. The
23 Applicant performed an analysis
24 internally and determined that the
25 Windsor site was more representative of

1 PROCEEDINGS

2 the proposed Goshen site, and provided
3 flow data from the Windsor site.

4 This may be an appropriate
5 analysis, but since your scope required
6 California and Florida, I think that
7 the DEIS should also include that and
8 should include some additional data
9 other than just a number in terms of
10 one number of flow.

11 We were looking for an evaluation
12 of the flow, so perhaps a consideration
13 of the size of the Windsor facility,
14 the size of the California facility,
15 the average attendance, rainfall, those
16 items, just so we can confirm that that
17 use of the Windsor facility is
18 accurate.

19 BOARD MEMBER PIRRAGLIA: Sean, just
20 a question. Was that because the
21 Windsor facility is the facility that
22 does not have the water park?

23 SEAN HOFFMAN: Yes. My
24 understanding, based on the Applicant's
25 DEIS, is that the Windsor facility is

1 PROCEEDINGS

2 more representative in terms of the
3 season as well as the water park.

4 JOHN O'ROURKE: That is correct.
5 We have no issue putting those initial
6 forms in there, but we did use the
7 Windsor because, again, no water park
8 and its open season. California and
9 Florida, as we discussed with you, are
10 open year-round and both have a water
11 park, so Windsor is much more
12 compatible for comparison.

13 CHAIRMAN BERGUS: How do they
14 compare Windsor versus the proposed
15 New York facility in terms of gate, the
16 number of guests?

17 JOHN O'ROURKE: Approximately the
18 same.

19 CHAIRMAN BERGUS: It's about the
20 same for the same season? Okay.

21 Sean?

22 SEAN HOFFMAN: Yeah, the other item
23 that we had was the potential emergency
24 connection to the Arcadia Hills water
25 system.

PROCEEDINGS

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2 The Applicant is obtaining water
3 supply from the Village of Goshen.
4 They will be bringing a water main down
5 Harriman Drive and connecting into the
6 project site. Arcadia Hills
7 subdivision is just to the east.

8 We have recommended in the scope
9 and the Board determined it was
10 appropriate to study an emergency
11 connection.

12 The Applicant simply stated in the
13 DEIS that there was no intention for
14 that connection to be constructed in
15 connection with this project;
16 therefore, no analysis was done.

17 We think a little more evaluation
18 than that is necessary, particularly
19 considering that if an emergency
20 connection was ever to be realized,
21 we'd like that to confirm that the size
22 of the main constructed at Harriman
23 Drive is adequate.

24 CHAIRMAN BERGUS: Now, with that in
25 mind, the wells that are being offered

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2 to the Town as potential backup
3 sources, emergency sources for the
4 Arcadia system, how are they being
5 developed or left for the Town? In
6 what state are they?

7 JOHN O'ROURKE: Right now we're
8 proposing those wells. As we're not
9 using any water on the site, we're just
10 proposing to give those well to the
11 Town for whatever purposes they wish to
12 use them for.

13 We're not proposing any development
14 of those wells, any testing of those
15 wells, because, again, we're not
16 mitigating anything with those wells
17 because we're not using that water.

18 As to the emergency connection, we
19 can certainly put in there the size of
20 the main, but because of the difficulty
21 with intramunicipal agreements and
22 coordination of that connection, you
23 know, that's why we're not proposing
24 any interconnection at that time,
25 especially with giving the wells to the

PROCEEDINGS

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2 Town for their use.

3 But we certainly can give you
4 calculations for size of the main.
5 That's fairly straightforward and we
6 have no issue with that.

7 SEAN HOFFMAN: I think that would
8 satisfy what's required in the scope.

9 In terms of just larger items that
10 needed the Board's input, those are
11 essentially it.

12 As I stated when I started, we had
13 a number of individual comments and
14 detailed sections in the DEIS. If the
15 Board has any questions on those or if
16 the Applicant has any questions, we'd
17 be happy to review those.

18 BOARD MEMBER GAWRONSKI: Section M,
19 you're mentioning here, "Scope requires
20 discussion of potential changes to
21 local economy at three- and five-year
22 period."

23 What metrics were you looking for,
24 Sean?

25 SEAN HOFFMAN: The scope -- it's

1 PROCEEDINGS

2 not incomplete because of metrics; it's
3 incomplete because of the timing. The
4 scope specifically stated that you
5 wanted financial impact at three and
6 five years.

7 It wasn't provided at that time
8 frame, so this comment is just looking
9 for the fiscal information from those
10 years; that's three years after
11 buildout and five years after buildout.

12 BOARD MEMBER GAWRONSKI: And what
13 was provided in terms of metrics? It
14 was essentially -- it was tax benefits
15 and also -- you can elaborate.

16 JOHN O'ROURKE: Well, I'm not sure
17 of the question. In the DEIS, we
18 submitted some information. At that
19 time, we didn't have, to be honest with
20 you, the three- and the five-year
21 numbers. So Sean pointed that out,
22 what we provided is the numbers we had
23 up to that date. So we will provide
24 that additional information.

25 BOARD MEMBER GAWRONSKI: I tend to

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think that we might be leaving something out of the scope here. I think -- I think we should have some look into indirect, you know, fiscal impacts, although it may not be relevant whether to go ahead.

JOHN O'ROURKE: That is in the scope. I mean, we do have that. So that was deemed complete, that portion of it.

SEAN HOFFMAN: Again, I just want to clarify. The determination of completeness is just like Rick indicated earlier, that it's adequate for the public to review it. Not that we or the Board agree with the financial numbers or anything like that; it's just whether it's adequate to release to the public and the involved agencies.

BOARD MEMBER GAWRONSKI: Okay.

CHAIRMAN BERGUS: Sean, anything else?

SEAN HOFFMAN: That was all I had,

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unless the Board has questions.

CHAIRMAN BERGUS: Does anyone on the Board have any questions for our engineer? We'll start that way.

(No affirmative response.)

CHAIRMAN BERGUS: If not, Ken?

KENNETH MACKIEWICZ: Yes. We have prepared a detailed memorandum that is over 14 pages long dealing with the traffic issues. I will not go through all the items in detail. I would welcome questions from the Board.

I will touch on a few items that we think we -- that the information needs to be expanded or is not contained in the document as presented.

One of the things that were contained in the scope was the desire and request for an analysis wherever the project would generate 100 or more additional trips at any nearby intersection within Goshen or an adjacent township. There's no discussion of that in the DEIS.

1 PROCEEDINGS

2 It is noted the Applicant did
3 supply rather detailed accident
4 information and analysis compared to
5 statewide averages, but they
6 acknowledge that there's information
7 still pending on the FOILs that they
8 have filed.

9 They need that information. They
10 need to continue with that analysis to
11 identify mitigative measures needed in
12 the high accident locations that exceed
13 the statewide averages.

14 The scope required details on
15 LEGOLAND existing facilities, including
16 Carlsbad, California, and Winter Haven,
17 Florida.

18 They have referenced a table of
19 trip generation that is derived from
20 Carlsbad, California, information.
21 There was no mention of Winter Haven.

22 There is no supporting data as to
23 how the figures are presented for six
24 hours of analysis. They give the
25 entering and exiting volumes, but how

PROCEEDINGS

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2 those are derived based on an
3 independent variable related either to
4 attendance, employees, and/or rides is
5 lacking. So we want to see more backup
6 on that.

7 Likewise, there's a request --
8 there have been files provided dealing
9 with the analysis. We have requested
10 simulation modeling, that the Synchro
11 files that enable that to occur are
12 present -- are presented there, but we
13 would like to see the actual simulation
14 modeling. The Applicant makes
15 reference that it's available, but as
16 of yet, we have to go through that.

17 We have asked for more detail on
18 queueing analysis relative to
19 intersections. They represent service
20 and queueing lengths that are derived,
21 but they don't relate them to the
22 available stacking. So more
23 information is needed there.

24 They have presented information on
25 11 adjacent developments in accordance

1 PROCEEDINGS

2 with the scope, and the volumes are
3 shown and depicted on figures.

4 But, again, the underlying
5 assignment of that traffic and where it
6 was obtained from and the trip
7 generations used in that would be
8 helpful to create a complete picture of
9 the volumes that were assigned to the
10 road system as part of the background
11 growth.

12 BOARD MEMBER PIRRAGLIA: Can I
13 interrupt you one second?

14 KENNETH MACKIEWICZ: Sure.

15 BOARD MEMBER PIRRAGLIA: I
16 apologize for the interruption, but I
17 don't want to lose this question.

18 The 11 different developments that
19 you say that they call out
20 specifically, I went through the entire
21 3100-plus-page appendix line by line.
22 I couldn't find it.

23 Could you tell me where that is?

24 KENNETH MACKIEWICZ: It's in
25 figures related to the no-build traffic

PROCEEDINGS

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2 and the growth -- give me a minute.

3 BOARD MEMBER PIRRAGLIA: I could
4 not find it.

5 BOARD MEMBER DROPKIN: Giovanni,
6 it's in the Executive Summary.

7 JOHN O'ROURKE: Yeah, I was going
8 to say, not to delay the Board,
9 certainly we can get that information.

10 BOARD MEMBER PIRRAGLIA: I'll check
11 it. I didn't see it there.

12 KENNETH MACKIEWICZ: I believe
13 there were some summary figures that
14 showed the adjacent development
15 traffic, but it is not broken down in
16 sufficient detail where we can really
17 look at the actual developments in the
18 traffic and how it is assigned. But it
19 is presented in the document.

20 BOARD MEMBER PIRRAGLIA: Okay.
21 Thank you.

22 KENNETH MACKIEWICZ: One other
23 element was the aspect of construction
24 traffic. And as part of the scope, we
25 were asking for details relevant to the

PROCEEDINGS

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2 amount and extent of construction
3 traffic, the shifts, the anticipated
4 truck traffic, arrivals and departures,
5 and the size of the vehicles and the
6 ability of the road system to handle,
7 given the existing geometries. We find
8 that to be deficient.

9 Another element in the scope was
10 the analysis of emergency response
11 times, and I do not find that present
12 in the DEIS.

13 There are other elements, very -- I
14 won't say minute, but more specific
15 details. As I say, I don't want to get
16 into 14 pages of comments.

17 I think two of the most -- more
18 significant things are some specific
19 requirements relevant to the need for
20 Route 17 main line widening, which was
21 addressed as part of the scope, which
22 there's not a lot of specifics on that,
23 as well as there is a presentation of
24 an alternative scheme that allows for a
25 flyover over Route 17 and avoids South

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2 Street completely. That scheme is
3 presented there.

4 But as part of the scope, it was
5 required to do a comparative level of
6 service analysis that would give the
7 Board more of an indication of the pros
8 and cons of such a scheme; and, again,
9 I don't find that present in the
10 document.

11 That's a short summary of, I think,
12 some of the key points that need to be
13 addressed.

14 CHAIRMAN BERGUS: Thank you.

15 MR. CANAVAN: Staying in line, I'm
16 not going to go through every
17 individual comment I had. I will stick
18 to the main ones that I think might
19 require some Board input.

20 Under "Surface Water Resources and
21 Wetlands," I would ask that they --
22 they mentioned that there were
23 wetland-adjacent areas that were going
24 to be a given acreage that were going
25 to be disturbed, and I would ask that

PROCEEDINGS

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2 they specifically address the need for
3 permits and where in the -- in the
4 document.

5 Under "Vegetation and Wildlife,"
6 basically I would ask that they address
7 the loss of the 79 acres of forest
8 wetlands and how that is anticipated to
9 impact wildlife as set forth in the
10 scope.

11 CHAIRMAN BERGUS: As far as the
12 wetlands or --

13 MR. CANAVAN: No, no, no, no.
14 That's moving on. I said "Vegetation
15 and Wildlife," moving on away from
16 wetlands. Just in relationship to the
17 forest removal for the facility itself.

18 CHAIRMAN BERGUS: Yup. Okay.

19 MR. CANAVAN: DEIS does not have
20 any indication of correspondence with
21 US Fish and Wildlife. I would just
22 recommend that we give them a heads-up.

23 We've seen in the past people go
24 make assumptions on what's going to be
25 required for batch studies, and then

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PROCEEDINGS

they end up having to do quite a bit more after the fact. So that's a time consideration and efficiency thing for the Applicant.

The DEIS also states that prior studies were used in assessing the on-site wildlife. I would ask them to please identify those studies, pull the lists from those studies, so we can see where, what, when and how, and maybe that will fulfill a little bit of my concern about how many months were actually inventoried.

Another area that -- I've said this before; I'll say it again. I understand that the professionals, you know, understand the regulations and the guidelines, and there's a tendency to forget that we do this for a living. This document needs to be user-friendly to the public and the layman.

So in the "Noise" section, basically when you're using guidelines and numbers, if you could kind of lay

PROCEEDINGS

1
2 that out for the layman as to what they
3 mean and what you really saw and see in
4 your measurements.

5 In the scope, it called for times
6 and dates and receptor measurements.
7 Those I did not see in the document.

8 The Echo Ridge phenomenon. That's
9 another -- I'm just bringing it up for
10 a life-saving, time-saving situation.

11 I know it's a concern of the
12 public. It's something I've been able
13 to find very little tie-down in my kind
14 of sideline investigation of. But the
15 Echo Ridge phenomena from a noise point
16 of view is something I think we need to
17 look at.

18 Let's see. Under "Solid Waste,"
19 the scope calls for anticipated trips
20 and paths, I didn't see anything along
21 those lines.

22 Again, discussing the toxicity of
23 the LEGO bricks and disposal of those.
24 If that is to occur, it's something
25 that needed to be addressed.

1 PROCEEDINGS

2 And then, again, as with noise, the
3 air quality. Again, the DEIS simply --
4 I couldn't find that it really
5 discusses the types of stationary
6 contributors, levels of contaminants,
7 estimates of contamination, traffic
8 projections, cumulative impacts of
9 other projects, all of which are asked
10 for the scope.

11 So I understand how that happens.
12 You go to the regs, the guidelines;
13 they say, "If you're not meeting this
14 measurement, then you don't have to do
15 X, Y and Z." But fill that gap in for
16 the public so they can see how and why
17 you're not doing X, Y and Z and where
18 those things are considered.

19 Unless there's questions, that's
20 really what I have.

21 CHAIRMAN BERGUS: Thank you.

22 Who am I missing? Rick.

23 RICHARD GOLDEN: We had four pages
24 of comments. They're all pretty
25 straightforward. The Board has them

PROCEEDINGS

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2 now, and we have provided a copy to the
3 Applicant. I think that there's no
4 need to go over them.

5 But we saw that there were
6 deficiencies in the DEIS that need to
7 be corrected; that in certain areas,
8 the DEIS, indeed, was not responsive to
9 the scope, in our opinion. But our
10 comments are contained in the memo.

11 BOARD MEMBER DROPKIN: Ken, you
12 indicate that the Applicant used a
13 1 percent annualized compound growth
14 rate for general background traffic
15 growth.

16 Is that -- you were questioning the
17 basis, I believe, for using 1 percent?

18 KENNETH MACKIEWICZ: We're just
19 asking for the backup. That may be
20 within the normal range of what you
21 would expect. We're just wondering the
22 source, what historical numbers they
23 have looked at along 17 for that
24 1 percent.

25 And I should point out, though, the

PROCEEDINGS

1
2 1 percent growth probably pales in
3 comparison to including 11 major
4 adjacent developments and the traffic
5 sites specific to them to the road
6 system.

7 So you're talking about a 1 percent
8 growth plus the traffic from the other
9 developments. So that certainly is a
10 proper way to proceed.

11 BOARD MEMBER DROPKIN: And then you
12 also point out that the Applicant -- or
13 suggesting that the Applicant identify
14 an independent variable for the
15 proposed project trip generation. I'm
16 not sure what you meant by "independent
17 variable."

18 KENNETH MACKIEWICZ: Well, what
19 that means is you generate traffic for
20 any land use based on a variable that
21 is quantifiable, such as for a shopping
22 center, you measure the gross leasable
23 area.

24 And through the ITE, Institute of
25 Traffic Engineers, Trip Generation

PROCEEDINGS

1
2 Manual, they have studied thousands of
3 shopping centers, and one can readily
4 relate the amount of peak hour traffic
5 to the 1,000 square feet of a given
6 shopping center, and uniformly it
7 appears to be within 10 percent.

8 What I'm saying here is the
9 LEGOLAND facility is somewhat unique.
10 And they have presented peak hour trip
11 generations, but they are not tied to
12 the number of employees, the number of
13 rides they will have, the acreage.

14 It is just a presentation of "Here
15 is the peak hour volumes anticipated
16 based upon our experience in
17 California."

18 There's no way to check that. It
19 is a -- sort of a take-it-or-leave-it
20 sort of a presentation.

21 What I'm saying is, where is the
22 backup to say that you will generate --
23 when you're going to generate 1500 cars
24 in an hour, how did you arrive at that
25 number, based on what variable or

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PROCEEDINGS

independent variable that would give us some level of comfort.

BOARD MEMBER DROPKIN: Okay. Thank you.

BOARD MEMBER ANDREWS: Well, the traffic report certainly is a very thorough report. And there are areas that need to be adjusted, so I think that you should be cleaning those up before we present it to the public.

BOARD MEMBER DROPKIN: Excuse me, Lee. I just wanted to point out that you're missing Page 123.

MS. NAUGHTON: The printing actually showed up with an extra 128 in there. The 123 was on the electronic version.

CHAIRMAN BERGUS: Also Page 49.

JOHN O'ROURKE: We did that just to make sure you were paying attention. That was very close, very close.

But, yes, we realized there was a couple of those, so we'll straighten those out.

1 PROCEEDINGS

2 CHAIRMAN BERGUS: Should the Town
3 of Goshen Planning Board be listed as
4 an involved agency -- I mean Lead
5 Agency? Should it give us as involved
6 since we do issue approvals?

7 RICHARD GOLDEN: Yes.

8 CHAIRMAN BERGUS: Because that's
9 not in here.

10 RICHARD GOLDEN: Yes, I believe we
11 mentioned that in our memo as well.

12 CHAIRMAN BERGUS: Yeah, I didn't
13 get an opportunity to read yours just
14 yet.

15 Also, one other item that I had
16 raised earlier on, we have the post
17 date. It goes out 30 years and then
18 just ends. Is that the intent as far
19 as the analysis on that?

20 And also, it's based on 2 million
21 visitors per year, the number that was
22 placed is in here. Is there a minimum
23 guarantee to the host Town of Goshen?

24 JOHN O'ROURKE: I'll just play
25 engineer. I don't know, and we will

PROCEEDINGS

1
2 clarify that.

3 CHAIRMAN BERGUS: You're saying
4 there is, and that will be in the --

5 SEAN HOFFMAN: I had a very similar
6 comment. I think your scope addressed
7 it. Your scope potentially required
8 the Applicant identify that there would
9 be a minimum fee, not subject to the
10 annual average attendance or anything
11 like that. So...

12 CHAIRMAN BERGUS: Right. But it
13 did not show in the DEIS?

14 SEAN HOFFMAN: I could not find it
15 in the DEIS. If it's in there, the
16 Applicant typically just points out
17 where it was located if it wasn't in
18 the section that we anticipated it to
19 be in there. But it was a requirement
20 of scope.

21 JOHN O'ROURKE: So we will clarify
22 that.

23 CHAIRMAN BERGUS: Thank you.

24 Page 49 was just mentioned.

25 I spoke about the wells; that was

1 PROCEEDINGS

2 addressed.

3 That's all I have.

4 Giovanni?

5 BOARD MEMBER PIRRAGLIA: Well, I
6 had some technical comments that I'm
7 going to hold off on for right now
8 since they're in the middle of review
9 right now, so I won't address those.

10 But what I will address is I concur
11 with Rick's statement that the DEIS --

12 AUDIENCE MEMBER: Could you use the
13 microphone, please?

14 BOARD MEMBER PIRRAGLIA: Sure.

15 AUDIENCE MEMBER: Thank you.

16 BOARD MEMBER PIRRAGLIA: I do agree
17 with Rick, with his statement that the
18 DEIS is -- I would call it severely
19 lacking, especially in the area of
20 traffic.

21 I did not write up my comments in
22 memo form, but I'll go through them
23 right now. I think it is not very
24 responsive to the scope in the area of
25 traffic at all.

PROCEEDINGS

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2 So my comments are, on Page 13,
3 under H1, the "Existing Conditions," I
4 think the Study Locations, the actual
5 names that are used in the DEIS should
6 match what's in the scope, and I don't
7 believe they do right now, from what I
8 was looking at.

9 The locations that will experience
10 100 or more additional project-generated
11 trips, that bullet on Page 13, I
12 couldn't find it anywhere.

13 CHAIRMAN BERGUS: That's what Ken
14 was talking about.

15 BOARD MEMBER PIRRAGLIA: That's
16 what Ken had mentioned. I agree with
17 that.

18 The analysis, the last bullet on
19 Page 14 of the scope, the analysis that
20 was done with regard to the three years
21 of accident data, I only found it in
22 the appendix.

23 I believe it should be included in
24 the text of the DEIS as well. I don't
25 think it's a reasonable expectation for

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PROCEEDINGS

somebody to go into the appendix that's 3100-some-odd pages of study data to find that kind of analysis. It should be summarized in the DEIS.

Again, Ken mentioned he found the other 11 developments that were supposed to be considered with and accounted for as part of the additional annual growth factor. I could not find it. I couldn't find it anywhere. If he found it, I would welcome the information on where that could be located, but I could not find it.

KENNETH MACKIEWICZ: Excuse me. I've had more time to look through the thickness of this. But starting on Figure Number 18 and extending through 30 pages to Figure 25.

BOARD MEMBER PIRRAGLIA: Are you talking about in Appendix G, Ken?

In the traffic study data itself; right.

KENNETH MACKIEWICZ: Yes, in the traffic study itself.

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PROCEEDINGS

BOARD MEMBER PIRRAGLIA: So
Figure Number 18?

KENNETH MACKIEWICZ: Starting on
Figure 18.

BOARD MEMBER PIRRAGLIA: Okay.
I'll take a look. Thank you.

KENNETH MACKIEWICZ: It's Figures 1
to 50B. Starting on Figure 18, there's
some of the extensive detail here.

BOARD MEMBER PIRRAGLIA: On
Page 16, the first bullet on the page
describes typical operations
anticipated at the proposed project,
including number of anticipated
employees, arrival and departures,
shift times, average number of patrons.
I could not find most of that
information.

The second bullet down, I also
could not find data on visitors and
ridership for the existing facilities
in Carlsbad, Winter Haven. I could not
find that -- any of that information.

Same page, third bullet up from the

PROCEEDINGS

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2 bottom, "Calculate the total number of
3 parking spaces expected to be needed,"
4 I found where they stated the number of
5 parking spaces needed, but I could not
6 find a calculation and I could not find
7 a comparison to the other existing
8 LEGOLAND facilities in California and
9 Florida.

10 The next bullet down, "High
11 accident locations being identified,
12 discussing the projected increase in
13 traffic volumes of the movement
14 involved," I could not find any of that
15 data. I did not find any discussion of
16 any type of high accident locations, or
17 lack of.

18 Page 17, I highlighted almost the
19 entire page, as I could not find it.

20 The second bullet down, "Evaluate
21 safety aspects with respect to
22 bicyclists and pedestrians along
23 Harriman Drive."

24 "Evaluate potential impacts" --
25 which is the next bullet down.

PROCEEDINGS

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2 "Evaluate potential impacts to BOCES
3 site driveways during BOCES peak pickup
4 and dropoff times." I didn't find any
5 mention whatsoever of any type of BOCES
6 pickup and dropoff times.

7 The next bullet down, "Evaluate
8 construction-related impacts," I could
9 not find any of that information.

10 As well as the next bullet down,
11 "Evaluate traffic that may access the
12 project site from the southwest of the
13 project site." Couldn't find any
14 information specific to that.

15 The middle of the page, Number 4
16 under "Proposed Mitigation," I couldn't
17 find any of that information, with the
18 exception of the second-to-last bullet
19 on Page 17, where it says, "Evaluate
20 the potential elimination of New York
21 State Route 17 Westbound Exit 15 on-
22 and off-ramps."

23 I did find that, but as far as that
24 entire Page 17, Number 4, that was the
25 only bullet that I found. All the

PROCEEDINGS

1
2 other ones were missing.

3 Continuing on to Page 18, the same
4 section, 4, under "Proposed
5 Mitigations," the first bullet on
6 Page 18, could not find that.

7 "The need to evaluate Route 17 main
8 line from two lanes to three lanes," I
9 could not find that discussion.

10 The next bullet down, I did find,
11 so I have no comment on there. But all
12 the rest of them, I could not find --
13 well, I shouldn't say "the rest." The
14 next three bullets, I could not find
15 any discussion of any of those topics.

16 The next two are -- were fine, but
17 then the second-to-last bullet where it
18 says, "Identify who will be responsible
19 for funding the measures and who will
20 be responsible for ensuring that the
21 measures are implemented or carried
22 out," I could not find any information
23 as far as that goes.

24 So that was what I found from the
25 scoping document missing in the DEIS.

1 PROCEEDINGS

2 Then I have some comments about
3 what is specifically written in the
4 DEIS.

5 And I'm just curious how you're
6 going to correct all these, because I
7 don't see anybody taking any notes.

8 JOHN O'ROURKE: We're taking
9 minutes.

10 BOARD MEMBER PIRRAGLIA: Oh, okay.
11 That's awesome. That's fantastic.
12 Thank you. Thank goodness, because I
13 was really confused for a minute.

14 JOHN O'ROURKE: So we will be
15 reviewing those, and we'll either point
16 out where it is in the document or add
17 that information.

18 BOARD MEMBER PIRRAGLIA: Thankfully
19 somebody's smarter than me.

20 Okay. Page 75 of the DEIS,
21 Table 3-2, you have a table addressing
22 existing levels of service. I believe
23 it should also show build and no-build
24 conditions, as well as future growth, I
25 believe should be shown in that same

PROCEEDINGS

1
2 table.

3 I already mentioned about the
4 accident data, but Table 3-3 on
5 Page 77, I think the analysis and the
6 discussion needs to be added to that
7 table. All it is is raw data of number
8 of accidents, and the public is not
9 going to really understand what that
10 means. So a little analysis taken out
11 of the -- or not taken out, but
12 duplicated from the study to be added
13 to that table would be very helpful.

14 Again, I have some technical
15 comments, but I'll hold off on those.

16 I believe on Page 78 in the middle
17 of the page, where they're talking
18 about the capacity analysis, at each of
19 the study intersections, using
20 site-generated traffic volumes, I think
21 that, similar to Table 3-2, when we
22 talk about existing levels of service,
23 I think we should have a table there
24 similar to that, to show in a table
25 format that data.

PROCEEDINGS

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2 This is one of the biggest, glaring
3 things that I could find. The bottom
4 of the page on 79 where we talk about
5 the westbound ramp to Harriman Drive
6 from Exit 125, what we're calling "the
7 flyover," I couldn't find that
8 anywhere. I couldn't find it anywhere
9 in the entire Appendix G. I could not
10 locate it. I saw a discussion and a
11 lot of data on public transportation
12 options, but I did not find anything
13 mentioning the flyover whatsoever.

14 Then on Figure 3-11, I feel that,
15 to be a little more inclusive, we
16 should include all the improvements
17 from the traffic study, including the
18 ones on -- proposed for the Heritage
19 Trail. They seem to be missing from
20 Figure 3-11 in the DEIS.

21 And that was it as far as my
22 comments on the completeness.

23 Like I said, I have more technical
24 comments, but I'll hold off on those.

25 CHAIRMAN BERGUS: Thank you.

1 PROCEEDINGS

2 Dave?

3 BOARD MEMBER GAWRONSKI: Just to
4 clarify something I said before, I said
5 that I didn't see somewhere the
6 indirect physical impacts, but actually
7 it's listed under "Community Services."

8 These -- it says here, "The scope
9 requires" -- actually, Sean, you made
10 the comment. "The scope requires
11 discussion of the additional cost to
12 taxpayers for additional services,
13 personnel or equipment necessary."

14 I just wanted to, I guess, say that
15 should probably be a detailed
16 discussion of the cost to the taxpayers
17 while that's, you know -- yeah, I
18 said -- I think any sort of indirect
19 cost to the taxpayer should at least be
20 brought out and discussed.

21 JOHN O'ROURKE: Sure.

22 CHAIRMAN BERGUS: Kris?

23 BOARD MEMBER BAKER: I think also
24 under "Community Services," where fire,
25 ambulance and police services are

PROCEEDINGS

1
2 discussed, the scope called for
3 references between both Florida and
4 California, and just the Florida data
5 is cursorily mentioned here. I think
6 an expansion of the discussion on
7 emergency service is probably
8 warranted, given the scope.

9 CHAIRMAN BERGUS: And Dave.

10 BOARD MEMBER CRAWFORD: Just a
11 quick one.

12 Under Chapter 5, the "Sustainable
13 Approaches," there was something
14 mentioned about turbines and then it
15 was taken out later on in the
16 description. So if it's not going to
17 be something that would be permitted by
18 the Town, would we even want to put it
19 in the scoping document?

20 JOHN O'ROURKE: I believe it was in
21 the scoping document, but we're not
22 proposing any turbine there. So we can
23 clarify that for you.

24 BOARD MEMBER CRAWFORD: Okay.
25 Thank you.

1 PROCEEDINGS

2 BOARD MEMBER DROPKIN: Chapter 5,
3 Page 136, the next-to-the-last
4 paragraph ends in mid-sentence, so you
5 need to take a look at that.

6 JOHN O'ROURKE: Okay.

7 BOARD MEMBER BAKER: Good catch.

8 CHAIRMAN BERGUS: Any other
9 comments?

10 Any other comments from our
11 consultants that were not cited at this
12 point?

13 (No affirmative response.)

14 CHAIRMAN BERGUS: From what I'm
15 hearing, it sounds like there's still
16 some work that needs to be done on the
17 DEIS to make it responsive to the scope
18 as it was approved.

19 Rick, would you like to comment on
20 that?

21 RICHARD GOLDEN: Yeah. I think
22 what would be appropriate is a motion
23 at this time be framed either in the
24 positive or the negative, but whether
25 or not the DEIS as presented is

1 PROCEEDINGS

2 adequate for public review.

3 So someone needs to make a motion
4 either that it is and have a vote, or
5 that it is not and have a vote.

6 CHAIRMAN BERGUS: Could I have a
7 motion one way or the other? And be
8 clear on how you're making the motion,
9 whether the DEIS is ready for public
10 review, to be released to the public
11 agencies as well as the public, or if
12 it's not yet ready and requires
13 additional work before we can deem it
14 appropriate for release to the public.

15 BOARD MEMBER DROPKIN: Well, to
16 state the obvious, I think that the
17 DEIS is not yet ready for public
18 review, and I'll make that as a motion.

19 That's my motion.

20 CHAIRMAN BERGUS: We have a motion
21 that it is not yet ready for public
22 release.

23 Do I have a second?

24 BOARD MEMBER PIRRAGLIA: I'll
25 second it.

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CHAIRMAN BERGUS: Okay. Giovanni.

All in favor?

(Chorus of ayes.)

CHAIRMAN BERGUS: Against?

(No affirmative response.)

RICHARD GOLDEN: That's it.

CHAIRMAN BERGUS: John?

JOHN O'ROURKE: Thank you very
much. We'll address those comments and
be resubmitting shortly.

(Time noted: 9:42 p.m.)

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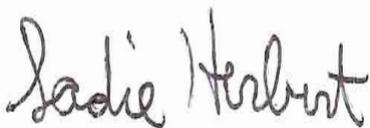
C E R T I F I C A T E

I, SADIE L. HERBERT, a Registered Professional Reporter and Notary Public, do hereby certify:

That the within transcription is a true and accurate record of the stenographic notes taken by me.

I further certify that I am not related to any of the parties by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of October 2016.



SADIE L. HERBERT, RPR

	13:13	39:19;42:18,19;43:4;	37:24	basis (1)
*	adequate (9)	49:5,10,18	asides (1)	35:17
***** (1)	13:7,12,20,23;	and/or (1)	6:5	batch (1)
55:13	14:20;19:23;23:15,	26:4	aspect (1)	31:25
A	19;54:2	ANDREWS (2)	28:23	Behalf (2)
	adjacent (4)	9:21;38:6	aspects (2)	3:4,15
	24:24;26:25;28:14;	annual (2)	12:19;45:21	benefits (1)
	36:4	40:10;43:10	assessing (1)	22:14
ability (1)	adjusted (1)	annualized (1)	32:7	BERGUS (55)
29:6	38:9	35:13	assigned (2)	5:2,7;6:22,24;7:24;
able (1)	adjusts (1)	anticipated (7)	27:9;28:18	8:4,8,10,13,25;9:3,
33:12	12:20	29:3;31:8;33:19;	assignment (1)	16,19,22,25;10:3,15,
accept (2)	affirmative (10)	37:15;40:18;44:14,	27:5	22;11:4,8,12,16,19,
8:5;11:9	6:23;8:3;9:2,15;	15	Associates (1)	21,25;14:22;15:22;
acceptable (1)	10:2;11:7,20;24:6;	apologize (1)	3:17	18:13,19;19:24;
7:3	53:13;55:6	27:16	assumptions (1)	23:23;24:3,7;30:14;
accepted (1)	afford (1)	appears (1)	31:24	31:11,18;34:21;
5:15	9:5	37:7	attendance (3)	38:19;39:2,8,12;40:3,
access (1)	Again (14)	appendix (5)	17:15;26:4;40:10	12,23;42:13;50:25;
46:11	5:10;8:15;13:19;	27:21;42:22;43:2,	attention (1)	51:22;52:9;53:8,14;
accident (6)	18:7;20:15;23:12;	21;50:9	38:21	54:6,20;55:2,5,8
25:3,12;42:21;	27:4;30:8;32:16;	Applicant (18)	attorney (1)	bicyclists (1)
45:11,16;49:4	33:22;34:2,3;43:6;	13:7,17;16:2,10,21,	15:6	45:22
accidents (1)	49:14	23;19:2,12;21:16;	audience (3)	biggest (1)
49:8	Against (3)	25:2;26:14;32:5;	6:3;41:12,15	50:2
accordance (1)	9:25;11:19;55:5	35:3,12;36:12,13;	available (2)	bit (2)
26:25	agencies (7)	40:8,16	26:15,22	32:2,12
accounted (1)	13:9,10;14:2,10,	applicant's (2)	Avenue (1)	Board (67)
43:9	13;23:21;54:11	10:12;17:24	3:5	5:11;6:8,15;7:18;
accurate (1)	agency (2)	Application (1)	average (3)	8:6,9,17;9:12,18,21;
17:18	39:4,5	12:5	17:15;40:10;44:17	10:7,17,23;11:11,14;
acknowledge (1)	agenda (4)	appreciate (2)	averages (2)	13:5,19,22;14:20;
25:6	5:10;6:10;10:4;	6:7,8	25:5,13	15:9,17;16:16;17:19;
acreage (2)	12:2	approach (1)	avoids (1)	19:9;21:15,18;22:12,
30:24;37:13	agree (3)	16:5	29:25	25;23:17,22;24:2,4,
acres (2)	23:17;41:16;42:16	Approaches (1)	awaiting (1)	13;27:12,15;28:3,5,8,
12:8;31:7	agreements (1)	52:13	15:8	10,20;30:7,19;34:25;
act (1)	20:21	appropriate (4)	away (1)	35:11;36:11;38:4,6,
5:11	ahead (1)	17:4;19:10;53:22;	31:15	12;39:3;41:5,14,16;
activity (2)	23:7	54:14	awesome (1)	42:15;43:20;44:2,6,
5:22,25	air (1)	approval (2)	48:11	11;48:10,18;51:3,23;
actual (3)	34:3	6:11;10:4	aye (2)	52:10,24;53:2,7;
26:13;28:17;42:4	Allegiance (2)	approvals (1)	9:23;11:17	54:15,24
actually (5)	5:4,6	39:6	eyes (4)	Board's (1)
7:21;32:14;38:16;	allows (1)	approved (2)	8:12;9:24;11:18;	21:10
51:6,9	29:24	11:22;53:18		BOCES (3)
add (1)	almost (1)	Approximately (1)	B	46:2,3,5
48:16	45:18	18:17	back (2)	both (3)
added (2)	along (4)	AQ-3 (1)	13:18,18	16:21;18:10;52:3
49:6,12	12:9;33:20;35:23;	12:11	background (2)	bottom (7)
additional (11)	45:22	Arcadia (4)	27:10;35:14	7:5;8:19;9:11;10:9,
15:12,15,17;17:8;	alternative (1)	12:9;18:24;19:6;	backup (4)	13;45:2;50:3
22:24;24:22;42:10;	29:24	20:4	20:2;26:5;35:19;	bricks (1)
43:9;51:11,12;54:13	although (3)	area (5)	37:22	33:23
address (6)	12:24;13:11;23:6	6:18;32:15;36:23;	BAKER (2)	bringing (2)
15:13;31:2,6;41:9,	ambulance (1)	41:19,24	51:23;53:7	19:4;33:9
10;55:10	51:25	areas (3)	based (6)	broken (1)
addressed (5)	amount (2)	30:23;35:7;38:8	17:24;26:2;36:20;	28:15
29:21;30:13;33:25;	29:2;37:4	arrival (1)	37:16,25;39:20	brought (1)
40:6;41:2	analysis (18)	44:16	basically (3)	51:20
addressing (1)	16:23;17:5;19:16;	arrivals (1)	15:16;31:6;32:24	build (1)
49:21	24:20;25:4,10,24;	29:4		48:23

3:21 buildout (2) 22:11,11 bullet (15) 42:11,18;44:12,20, 25;45:10,20,25;46:7, 10,18,25;47:5,10,17 bullets (1) 47:14 business (1) 11:23	5:2,7;6:22,24;7:24; 8:4,8,10,13,25;9:3, 16,19,22,25;10:3,15, 22;11:4,8,12,16,19, 21,25;12:22;14:22; 15:22;18:13,19; 19:24;23:23;24:3,7; 30:14;31:11,18; 34:21;38:19;39:2,8, 12;40:3,12,23;42:13; 50:25;51:22;52:9; 53:8,14;54:6,20;55:2, 5,8	compare (1) 18:14 compared (1) 25:4 comparison (3) 18:12;36:3;45:7 compatible (1) 18:12 complete (2) 23:10;27:8 completely (2) 15:5;30:2 completeness (5) 12:18,25;15:8; 23:14;50:22 compliant (1) 12:21 compound (1) 35:13 concern (2) 32:13;33:11 concerns (1) 8:20 concur (2) 15:5;41:10 condition (2) 7:16,22 Conditions (2) 42:3;48:24 conducted (1) 11:24 confirm (2) 17:16;19:21 confused (1) 48:13 confusing (1) 14:9 Conklingtown (1) 12:10 connecting (1) 19:5 connection (7) 18:24;19:11,14,15, 20;20:18,22 cons (1) 30:8 consider (1) 16:21 consideration (2) 17:12;32:4 considered (2) 34:18;43:8 considering (1) 19:19 constructed (2) 19:14,22 construction (2) 28:23;29:2 construction-related (1) 46:8 consultants (3) 15:11,19;53:11	24:16,19;35:10 contaminants (1) 34:6 contamination (1) 34:7 Cont'd (1) 3:1 continue (1) 25:10 Continuing (1) 47:3 contributors (1) 34:6 coordination (1) 20:22 copy (3) 14:12;16:11;35:2 CORDISCO (1) 3:8 corrected (1) 35:7 correspondence (1) 31:20 Corridor (1) 12:13 cost (3) 51:11,16,19 couple (1) 38:24 CPG (1) 3:18 CRAWFORD (2) 52:10,24 create (1) 27:8 cumulative (1) 34:8 curious (1) 48:5 cursorily (1)	deemed (2) 13:22;23:10 deficiencies (2) 16:4;35:6 deficient (1) 29:8 DEIS (35) 12:16;13:6,18; 14:7;15:7,15;16:8, 18;17:7,25;19:13; 21:14;22:17;24:25; 29:12;31:19;32:6; 34:3;35:6,8;40:13, 15;41:11,18;42:5,24; 43:5;47:25;48:4,20; 50:20;53:17,25;54:9, 17 delay (1) 28:8 Delete (1) 10:14 demands (1) 16:19 departures (2) 29:4;44:16 depicted (1) 27:3 derived (3) 25:19;26:2,20 describe (1) 13:14 describes (1) 44:13 description (1) 52:16 designed (1) 12:21 desire (1) 24:19 detail (4) 24:12;26:17;28:16; 44:10 detailed (5) 16:10;21:14;24:9; 25:3;51:15 details (3) 25:14;28:25;29:15 determination (1) 23:13 determinations (1) 9:13 determined (2) 16:24;19:9 determines (1) 14:20 determining (1) 13:5 developed (1) 20:5 development (2) 20:13;28:14 developments (6)
C				
Calculate (1) 45:2 calculation (1) 45:6 calculations (1) 21:4 California (9) 16:22;17:6,14; 18:8;25:16,20;37:17; 45:8;52:4 call (2) 27:19;41:18 called (2) 33:5;52:2 calling (1) 50:6 calls (1) 33:19 can (15) 11:8;13:23,24; 17:16;20:19;21:3; 22:15;27:12;28:9,16; 32:10;34:16;37:3; 52:22;54:13 CANAVAN (4) 3:18;30:15;31:13, 19 capacity (1) 49:18 Carlsbad (3) 25:16,20;44:23 Carpenter (1) 3:20 carried (1) 47:21 cars (1) 37:23 catch (1) 53:7 center (2) 36:22;37:6 centers (1) 37:3 certain (3) 5:11,17;35:7 Certainly (7) 14:25;15:14;20:19; 21:3;28:9;36:9;38:7	change (2) 14:15,15 changes (2) 11:6;21:20 Chapter (2) 52:12;53:2 check (2) 28:10;37:18 Chorus (4) 8:12;9:24;11:18; 55:4 cited (1) 53:11 clarifications (1) 15:14 clarify (6) 12:23;23:13;40:2, 21;51:4;52:23 clarity (1) 10:11 cleaning (1) 38:10 clear (1) 54:8 close (2) 38:22,22 Code (1) 7:13 comfort (1) 38:3 comment (9) 6:16;9:6,12;22:8; 30:17;40:6;47:11; 51:10;53:19 comments (28) 6:4,13,22;8:2,15, 25;9:14;10:6;11:6; 15:9,10,18,19;16:3; 21:13;29:16;34:24; 35:10;41:6,21;42:2; 48:2;49:15;50:22,24; 53:9,10;55:10 commercial (1) 12:7 commonly (1) 12:24 Community (2) 51:7,24 comparative (1)	compare (1) 18:14 compared (1) 25:4 comparison (3) 18:12;36:3;45:7 compatible (1) 18:12 complete (2) 23:10;27:8 completely (2) 15:5;30:2 completeness (5) 12:18,25;15:8; 23:14;50:22 compliant (1) 12:21 compound (1) 35:13 concern (2) 32:13;33:11 concerns (1) 8:20 concur (2) 15:5;41:10 condition (2) 7:16,22 Conditions (2) 42:3;48:24 conducted (1) 11:24 confirm (2) 17:16;19:21 confused (1) 48:13 confusing (1) 14:9 Conklingtown (1) 12:10 connecting (1) 19:5 connection (7) 18:24;19:11,14,15, 20;20:18,22 cons (1) 30:8 consider (1) 16:21 consideration (2) 17:12;32:4 considered (2) 34:18;43:8 considering (1) 19:19 constructed (2) 19:14,22 construction (2) 28:23;29:2 construction-related (1) 46:8 consultants (3) 15:11,19;53:11	24:16,19;35:10 contaminants (1) 34:6 contamination (1) 34:7 Cont'd (1) 3:1 continue (1) 25:10 Continuing (1) 47:3 contributors (1) 34:6 coordination (1) 20:22 copy (3) 14:12;16:11;35:2 CORDISCO (1) 3:8 corrected (1) 35:7 correspondence (1) 31:20 Corridor (1) 12:13 cost (3) 51:11,16,19 couple (1) 38:24 CPG (1) 3:18 CRAWFORD (2) 52:10,24 create (1) 27:8 cumulative (1) 34:8 curious (1) 48:5 cursorily (1)	D
			Dad (1) 10:9 data (13) 17:3,8;25:22; 42:21;43:3,22;44:21; 45:15;49:4,7,25; 50:11;52:4 date (2) 22:23;39:17 dates (1) 33:6 Dave (3) 8:10;51:2;52:9 dcordisco@drakeloebcom (1) 3:10 dealing (2) 24:10;26:8 deem (1) 54:13	

36:4,9;43:7 different (2) 14:7;27:18 difficulty (1) 20:20 discretion (2) 7:19,23 discuss (2) 15:18;16:16 discussed (3) 18:9;51:20;52:2 discusses (1) 34:5 discussing (2) 33:22;45:12 discussion (10) 21:20;24:25;45:15; 47:9,15;49:6;50:10; 51:11,16;52:6 disposal (1) 33:23 disruptions (1) 6:4 distraction (1) 6:6 Districts (2) 12:11,14 disturbed (1) 30:25 document (10) 24:17;28:19;30:10; 31:4;32:21;33:7; 47:25;48:16;52:19, 21 DOMINIC (1) 3:8 done (4) 13:16;19:16;42:20; 53:16 down (12) 7:10;9:4;10:25; 19:4;28:15;44:20; 45:10,20,25;46:7,10; 47:10 Draft (3) 14:3,17,18 DRAKE (1) 3:3 Drive (5) 12:9;19:5,23; 45:23;50:5 driveways (1) 46:3 DROPKIN (17) 6:15,19;7:11;8:6, 17,23;10:7,17,23; 11:14;28:5;35:11; 36:11;38:4,12;53:2; 54:15 dropoff (2) 46:4,6 duplicated (1)	during (1) 46:3 E earlier (2) 23:15;39:16 east (1) 19:7 Echo (2) 33:8,15 economy (1) 21:21 efficiency (1) 32:4 eight-page (1) 16:9 either (4) 26:3;48:15;53:23; 54:4 elaborate (1) 22:15 electronic (1) 38:17 element (2) 28:23;29:9 elements (1) 29:13 elimination (1) 46:20 else (1) 23:24 emergency (7) 18:23;19:10,19; 20:3,18;29:10;52:7 employees (3) 26:4;37:12;44:16 enable (1) 26:11 end (1) 32:2 ends (2) 39:18;53:4 engineer (3) 15:23;24:5;39:25 Engineering (1) 15:3 Engineers (1) 36:25 ensuring (1) 47:20 entering (1) 25:25 Entertainments (2) 3:4;12:2 entire (4) 27:20;45:19;46:24; 50:9 Environmental (3) 3:20;14:4,18 equipment (1) 51:13	14:12;20:25;41:19 ESQ (1) 3:8 essentially (3) 16:4;21:11;22:14 estimates (1) 34:7 Evaluate (7) 45:20,24;46:2,7,11, 19;47:7 evaluation (2) 17:11;19:17 even (1) 52:18 everyone (1) 5:2 exceed (1) 25:12 exception (1) 46:18 Excuse (2) 38:12;43:15 Executive (1) 28:6 existing (7) 25:15;29:7;42:3; 44:22;45:7;48:22; 49:22 Exit (2) 46:21;50:6 exiting (1) 25:25 expanded (1) 24:16 expansion (1) 52:6 expect (1) 35:21 expectation (1) 42:25 expected (1) 45:3 experience (2) 37:16;42:9 extending (1) 43:18 extensive (1) 44:10 extent (1) 29:2 extra (1)	factor (1) 43:10 fairly (2) 13:11;21:5 fantastic (1) 48:11 far (5) 31:11;39:18;46:23; 47:23;50:21 favor (4) 8:11;9:23;11:17; 55:3 fee (1) 40:9 feel (2) 15:13;50:14 feet (1) 37:5 few (2) 6:24;24:14 Figure (7) 43:18,19;44:3,5,9; 50:14,20 figures (5) 25:23;27:3,25; 28:13;44:8 filed (1) 25:8 files (2) 26:8,11 fill (1) 34:15 financial (2) 22:5;23:18 find (36) 27:22;28:4;29:7, 11;30:9;33:13;34:4; 40:14;42:12;43:4,10, 11,14;44:18,21,24; 45:6,6,14,15,19;46:4, 9,13,17,23;47:6,9,10, 12,14,22;50:3,7,8,12 fine (2) 5:25;47:16 fire (1) 51:24 First (6) 6:10,11;7:7,14; 44:12;47:5 fiscal (2) 22:9;23:5 Fish (1) 31:21 five (2) 22:6,11 five-year (2) 21:21;22:20 Floodplain (1) 12:12 Florida (7) 16:22;17:6;18:9; 25:17;45:9;52:3,4	17:3,10,12 flyover (3) 29:25;50:7,13 FOILs (1) 25:7 followed (1) 10:21 forest (2) 31:7,17 forget (1) 32:20 form (3) 14:15,16;41:22 format (1) 49:25 forms (1) 18:6 forth (1) 31:9 forward (1) 16:13 found (6) 42:21;43:6,12; 45:4;46:25;47:24 four (2) 10:25;34:23 fourth (3) 10:8,13,18 frame (1) 22:8 framed (1) 53:23 fulfill (1) 32:12 full (2) 6:16;8:18 funding (1) 47:19 further (1) 7:10 future (1)
		F	G	
		facilities (3) 25:15;44:22;45:8 facility (10) 12:7;17:13,14,17, 21,21,25;18:15; 31:17;37:9 fact (1) 32:3	gallons (1) 10:20 gap (1) 34:15 gate (1) 18:15 GAWRONSKI (7) 7:18;8:9;21:18; 22:12,25;23:22;51:3 general (1) 35:14 generate (4) 24:21;36:19;37:22, 23 generation (4) 16:20;25:19;36:15, 25 generations (2)	

27:7;37:11 geometries (1) 29:7 Giovanni (5) 9:19;11:12;28:5; 41:4;55:2 given (4) 29:7;30:24;37:5; 52:8 giving (1) 20:25 glaring (1) 50:2 goes (2) 39:17;47:23 GOLDEN (6) 12:22;34:23;39:7, 10;53:21;55:7 Good (1) 53:7 goodness (1) 48:12 GOSHEN (6) 3:15;17:2;19:3; 24:23;39:3,23 GPD (2) 10:21,22 Graham (1) 8:21 gross (1) 36:22 Group/LEGOLAND (1) 12:3 growth (8) 27:11;28:2;35:13, 15;36:2,8;43:10; 48:24 guarantee (1) 39:23 guess (1) 51:14 guests (1) 18:16 guidelines (3)	heads-up (1) 31:22 hear (1) 5:23 hearing (3) 5:19,21;53:15 heckling (1) 6:5 helpful (2) 27:8;49:13 Heritage (1) 50:18 Higgins (1) 7:6 high (3) 25:12;45:10,16 highlighted (1) 45:18 Hills (2) 18:24;19:6 himself (1) 8:23 historical (1) 35:22 HOFFMAN (11) 3:17;6:18;15:25; 17:23;18:22;21:7,25; 23:12,25;40:5,14 hold (3) 41:7;49:15;50:24 honest (1) 22:19 host (1) 39:23 hour (4) 37:4,10,15,24 hours (1) 25:24 housekeeping (1) 5:9 HR (1) 12:11 HUDDLESTON (1) 3:20 Hudson (1) 3:5 HydroEnvironmental (1)	improvements (1) 50:16 include (3) 17:7,8;50:16 included (3) 16:7,18;42:23 including (4) 25:15;36:3;44:15; 50:17 inclusive (1) 50:15 incomplete (2) 22:2,3 increase (1) 45:12 indeed (1) 35:8 independent (4) 26:3;36:14,16;38:2 indicate (2) 8:22;35:12 indicated (1) 23:15 indicating (1) 6:19 indication (2) 30:7;31:20 indirect (3) 23:5;51:6,18 individual (2) 21:13;30:17 information (19) 22:9,18,24;24:15; 25:4,6,9,20;26:23,24; 28:9;43:13;44:19,24; 46:9,14,17;47:22; 48:17 initial (2) 15:7;18:5 input (5) 5:13,14,18;21:10; 30:19 insert (1) 11:2 Inspector (1) 3:21 Institute (1) 36:24 intent (2) 12:17;39:18 intention (1) 19:13 interconnection (1) 20:24 interested (3) 13:9,25;14:13 internally (2) 12:19;16:24 interrupt (1) 27:13 interruption (1) 27:16	24:23 intersections (2) 26:19;49:19 into (4) 19:5;23:5;29:16; 43:2 intramunicipal (1) 20:21 introduce (1) 14:23 inventoried (1) 32:14 investigation (1) 33:14 involved (7) 13:10,25;14:13; 23:21;39:4,5;45:14 issue (3) 18:5;21:6;39:6 issues (2) 15:13;24:11 ITE (1) 36:24 item (6) 5:8;6:10;10:3; 11:25;18:22;39:15 items (8) 16:7,12,15,17; 17:16,21,24,12,14	51:22 L lack (1) 45:17 lacking (2) 26:5;41:19 Lanc (1) 15:2 land (1) 36:20 lanes (2) 47:8,8 larger (1) 21:9 last (7) 6:25;7:7;9:7,11; 10:7;16:11;42:18 later (1) 52:15 lay (1) 32:25 layman (2) 32:22;33:2 Lead (1) 39:4 leasable (1) 36:22 least (1) 51:19 leaving (1) 23:2 Lee (1) 38:13 left (2) 16:8;20:5 LEGO (1) 33:23 LEGOLAND (5) 11:24;15:4;25:15; 37:9;45:8 lengths (1) 26:20 level (3) 13:11;30:5;38:3 levels (3) 34:6;48:22;49:22 life-saving (1) 33:10 Likewise (1) 26:7 line (17) 6:17;7:2,5,7,15; 8:18;9:7,10;10:8,13, 19;11:4;27:21,21; 29:20;30:15;47:8 lines (2) 10:25;33:21 list (1) 16:4 listed (2)
H	I	J	J	
H1 (1) 42:3 HALLORAN (1) 3:21 handle (1) 29:6 happens (1) 34:11 happy (1) 21:17 Harriman (5) 12:9;19:5,22; 45:23;50:5 Haven (3) 25:16,21;44:23	identified (1) 45:11 identify (6) 16:6;25:11;32:9; 36:13;40:8;47:18 Impact (4) 14:4,18;22:5;31:9 impacts (6) 23:6;34:8;45:24; 46:2,8;51:6 implemented (1) 47:21	jobs (1) 6:9 John (19) 14:23,25;15:2; 18:4,17;20:7;22:16; 23:8;28:7;38:20; 39:24;40:21;48:8,14; 51:21;52:20;53:6; 55:8,9 JR (1) 3:20	K keep (1) 6:3 KELLY (1) 7:20 Ken (6) 24:7;35:11;42:13, 16;43:6,21 KENNETH (12) 3:19;24:8;27:14, 24;28:12,22;35:18; 36:18;43:15,24;44:4, 8 key (1) 30:12 kind (3) 32:25;33:13;43:4 Kris (1)	

<p>lists (1) 32:10</p> <p>little (6) 7:10;19:17;32:12; 33:13;49:10;50:15</p> <p>living (1) 32:20</p> <p>local (1) 21:21</p> <p>locate (1) 50:10</p> <p>located (3) 9:8;40:17;43:14</p> <p>locations (5) 25:12;42:4,9; 45:11,16</p> <p>LOEB (1) 3:3</p> <p>long (1) 24:10</p> <p>look (8) 12:15,17;23:5; 28:17;33:17;43:16; 44:7;53:5</p> <p>looked (1) 35:23</p> <p>looking (4) 17:11;21:23;22:8; 42:8</p> <p>lose (1) 27:17</p> <p>loss (1) 31:7</p> <p>lot (2) 29:22;50:11</p> <p>low (1) 13:11</p> <p>LSRP (1) 3:18</p>	<p>may (7) 14:15,15;16:8; 17:4;23:6;35:19; 46:11</p> <p>Maybe (2) 7:18;32:11</p> <p>mean (3) 23:9;33:3;39:4</p> <p>means (2) 36:19;49:10</p> <p>meant (1) 36:16</p> <p>measure (1) 36:22</p> <p>measurement (1) 34:14</p> <p>measurements (2) 33:4,6</p> <p>measures (3) 25:11;47:19,21</p> <p>meeting (1) 34:13</p> <p>MEMBER (48) 6:15;7:18;8:6,9,17; 9:18,21;10:7,17,23; 11:11,14;17:19; 21:18;22:12,25; 23:22;27:12,15;28:3, 5,10,20;35:11;36:11; 38:4,6,12;41:5,12,14, 15,16;42:15;43:20; 44:2,6,11;48:10,18; 51:3,23;52:10,24; 53:2,7;54:15,24</p> <p>members (1) 15:9</p> <p>memo (4) 16:9;35:10;39:11; 41:22</p> <p>memorandum (1) 24:9</p> <p>mention (2) 25:21;46:5</p> <p>mentioned (8) 30:22;39:11;40:24; 42:16;43:6;49:3; 52:5,14</p> <p>mentioning (2) 21:19;50:13</p> <p>Merlin (3) 3:4;12:2;15:3</p> <p>metrics (3) 21:23;22:2,13</p> <p>microphone (1) 41:13</p> <p>middle (3) 41:8;46:15;49:16</p> <p>mid-sentence (1) 53:4</p> <p>might (2) 23:2;30:18</p> <p>million (1)</p>	<p>mind (1) 19:25</p> <p>minimum (2) 39:22;40:9</p> <p>minor (2) 14:15;15:13</p> <p>minus (1) 12:8</p> <p>minute (3) 28:2;29:14;48:13</p> <p>minutes (7) 6:11;8:5,14;10:4; 11:9,21;48:9</p> <p>misleading (1) 13:2</p> <p>missing (5) 34:22;38:14;47:2, 25;50:19</p> <p>mitigating (1) 20:16</p> <p>Mitigation (1) 46:16</p> <p>Mitigations (1) 47:5</p> <p>mitigative (1) 25:11</p> <p>modeling (2) 26:10,14</p> <p>modified (1) 11:10</p> <p>months (1) 32:13</p> <p>more (19) 14:8;15:14;16:12, 25;18:2,11;19:17; 24:21;26:5,17,22; 29:14,17;30:7;32:3; 42:10;43:16;50:15, 23</p> <p>most (2) 29:17;44:18</p> <p>motion (12) 7:9;8:5,7;9:17; 11:9;53:22;54:3,7,8, 18,19,20</p> <p>moved (2) 9:18;11:11</p> <p>movement (1) 45:13</p> <p>moving (3) 16:13;31:14,15</p> <p>much (3)</p>	<p>24:22</p> <p>necessary (2) 19:18;51:13</p> <p>need (13) 6:14;16:7;25:9,10; 29:19;30:12;31:2; 33:16;35:4,6;38:9; 47:7;53:5</p> <p>needed (6) 21:10;25:11;26:23; 33:25;45:3,5</p> <p>needs (5) 24:15;32:21;49:6; 53:16;54:3</p> <p>negative (1) 53:24</p> <p>New (5) 3:7,7;12:3;18:15; 46:20</p> <p>Next (11) 8:13;10:3,25; 11:25;45:10,25;46:7, 10;47:10,14,16</p> <p>next-to-the-last (1) 53:3</p> <p>no-build (2) 27:25;48:23</p> <p>Noise (3) 32:23;33:15;34:2</p> <p>nor (1) 5:14</p> <p>normal (1) 35:20</p> <p>noted (2) 25:2;55:12</p> <p>notes (1) 48:7</p> <p>number (17) 17:9,10;18:16; 21:13;37:12,12,25; 39:21;43:18;44:3,15, 17;45:2,4;46:15,24; 49:7</p> <p>numbers (5) 22:21,22;23:18;</p>	<p>on- (1) 46:21</p> <p>Once (1) 13:22</p> <p>One (15) 5:8;6:11,15;8:20, 20;16:19;17:10; 24:18;27:13;28:22; 37:3;39:15;50:2; 52:11;54:7</p> <p>ones (3) 30:18;47:2;50:18</p> <p>only (2) 42:21;46:25</p> <p>on-site (1) 32:8</p> <p>open (2) 18:8,10</p> <p>operations (1) 44:13</p> <p>opinion (1) 35:9</p> <p>opportunity (3) 5:16;9:6;39:13</p> <p>options (1) 50:12</p> <p>O'ROURKE (17) 14:25;15:2;18:4, 17;20:7;22:16;23:8; 28:7;38:20;39:24; 40:21;48:8,14;51:21; 52:20;53:6;55:9</p> <p>Others (1) 10:16</p> <p>out (20) 6:21;11:5;14:7; 16:8;22:21;23:3; 27:19;33:2;35:25; 36:12;38:13,25; 39:17;40:16;47:22; 48:16;49:10,11; 51:20;52:15</p> <p>over (3) 24:10;29:25;35:4</p> <p>Overlay (1)</p>
M		O		P
<p>MACKIEWICZ (12) 3:19;24:8;27:14, 24;28:12,22;35:18; 36:18;43:15,24;44:4, 8</p> <p>main (8) 7:8;19:4,22;20:20; 21:4;29:20;30:18; 47:7</p> <p>major (1) 36:3</p> <p>makes (1) 26:14</p> <p>making (1) 54:8</p> <p>Manual (1) 37:2</p> <p>many (1) 32:13</p> <p>match (1) 42:6</p>	<p>memorandum (1) 24:9</p> <p>mention (2) 25:21;46:5</p> <p>mentioned (8) 30:22;39:11;40:24; 42:16;43:6;49:3; 52:5,14</p> <p>mentioning (2) 21:19;50:13</p> <p>Merlin (3) 3:4;12:2;15:3</p> <p>metrics (3) 21:23;22:2,13</p> <p>microphone (1) 41:13</p> <p>middle (3) 41:8;46:15;49:16</p> <p>mid-sentence (1) 53:4</p> <p>might (2) 23:2;30:18</p> <p>million (1)</p>	<p>names (1) 42:5</p> <p>NAUGHTON (2) 7:20;38:15</p> <p>NEAL (1) 3:21</p> <p>nearby (1)</p>	<p>obtained (1) 27:6</p> <p>obtaining (1) 19:2</p> <p>obvious (1) 54:16</p> <p>occur (2) 26:11;33:24</p> <p>off (3) 41:7;49:15;50:24</p> <p>offered (1) 19:25</p> <p>off-ramps (1) 46:22</p>	<p>Page (38) 6:16,25;7:4,7,12, 14;8:17,21,24;9:3,7, 10;10:7,13,18;11:4, 38;14,19;40:24;42:2, 11,19;44:12,12,25; 45:18,19;46:15,19, 24;47:3,6;48:20; 49:5,16,17;50:4;53:3</p> <p>pages (5) 24:10;29:16;34:23; 43:3,19</p> <p>pales (1) 36:2</p>

paragraph (13) 6:17,25;7:4,7,12, 14;8:18;9:4,11;10:8, 18,25;53:4	46:3,6 picture (1) 27:8 pictures (1) 5:24 PIRRAGLIA (19) 9:18;11:11;17:19; 27:12,15;28:3,10,20; 41:5,14,16;42:15; 43:20;44:2,6,11; 48:10,18;54:24	29:23;37:14,20 presented (8) 24:17;25:23;26:12, 24;28:19;30:3;37:10; 53:25 presumably (1) 14:11 pretty (2) 16:10;34:24 printing (1) 38:15 prior (1) 32:6 probably (3) 36:2;51:15;52:7 proceed (1) 36:10 PROCEEDINGS (50) 6:1;7:1;8:1;9:1; 10:1;11:1;12:1;13:1; 14:1;15:1;16:1;17:1; 18:1;19:1;20:1;21:1; 22:1;23:1;24:1;25:1; 26:1;27:1;28:1;29:1; 30:1;31:1;32:1;33:1; 34:1;35:1;36:1;37:1; 38:1;39:1;40:1;41:1; 42:1;43:1;44:1;45:1; 46:1;47:1;48:1;49:1; 50:1;51:1;52:1;53:1; 54:1;55:1 process (1) 6:7 professionals (1) 32:17 project (9) 10:12;14:24;19:6, 15;24:21;36:15; 44:14;46:12,13 projected (1) 45:12 project-generated (1) 42:10 projections (1) 34:8 projects (4) 5:12,13,17;34:9 proper (2) 7:9;36:10 properly (1) 13:15 proposed (7) 17:2;18:14;36:15; 44:14;46:16;47:4; 50:18 proposing (5) 20:8,10,13,23; 52:22 pros (1) 30:7 provide (1) 22:23	17:2;22:7,13,22; 26:8;35:2 public (28) 5:12,12,14,18,19, 21;9:4,6;13:8,13,21, 24;14:21;23:16,20; 32:22;33:12;34:16; 38:11;49:8;50:11; 54:2,9,10,11,14,17,21 pull (1) 32:9 purposes (3) 5:9;14:9;20:11 put (2) 20:19;52:18 putting (1) 18:5	reason (1) 14:3 reasonable (1) 42:25 received (2) 15:10;16:11 receptor (1) 33:6 recited (1) 5:6 recommend (1) 31:22 recommended (1) 19:8 record (1) 5:20 recreational (1) 12:7 recused (1) 8:23 reference (1) 26:15 referenced (1) 25:18 references (1) 52:3 referred (1) 12:24 regard (1) 42:20 regs (1) 34:12 regulations (2) 13:4;32:18 relate (2) 26:21;37:4 related (3) 16:19;26:3;27:25 relationship (1) 31:16 relative (1) 26:18 relatively (1) 9:9 release (3) 23:20;54:14,22 released (4) 13:24,25;14:5; 54:10 relevant (3) 23:7;28:25;29:19 relying (2) 14:10,10 removal (1) 31:17 Renny (1) 9:22 replied (1) 7:6 report (2) 38:7,8 represent (1)
	place (1) 5:22 placed (1) 39:22 plan (1) 12:5 Planning (1) 39:3 play (1) 39:24 please (3) 5:3;32:9;41:13 Pledge (2) 5:3,5 PLLC (1) 3:3 plus (2) 12:8;36:8 pm (1) 55:12 point (6) 33:15;35:25;36:12; 38:13;48:15;53:12 pointed (1) 22:21 points (2) 30:12;40:16 police (1) 51:25 Ponding (1) 12:12 portion (1) 23:10 portions (1) 5:10 positive (1) 53:24 possibility (1) 14:6 post (1) 39:16 potential (6) 18:23;20:2;21:20; 45:24;46:2,20 potentially (1) 40:7 prepared (2) 16:3;24:9 PRESENT (5) 3:13;26:12;29:11; 30:9-38:11		Q	
			quality (1) 34:3 quantifiable (1) 36:21 queuing (2) 26:18,20 quick (1) 52:11 quite (1) 32:2	
			R	
			rainfall (1) 17:15 raised (1) 39:16 RALPH (1) 3:20 ramp (1) 50:5 range (1) 35:20 rate (1) 35:14 rather (1) 25:3 raw (1) 49:7 read (1) 39:13 readily (1) 37:3 ready (5) 14:19;54:9,12,17, 21 realize (1) 15:11 realized (2) 19:20;38:23 really (7) 13:2;28:16;33:3; 34:4,20;48:13;49:9	

<p>representative (2) 16:25;18:2</p> <p>representing (1) 15:3</p> <p>request (2) 24:20;26:7</p> <p>requested (1) 26:9</p> <p>require (2) 5:14;30:19</p> <p>required (7) 16:21;17:5;21:8; 25:14;30:5;31:25; 40:7</p> <p>requirement (1) 40:19</p> <p>requirements (2) 7:13;29:19</p> <p>requires (4) 21:19;51:9,10; 54:12</p> <p>Reservoir (1) 12:13</p> <p>Resources (1) 30:20</p> <p>respect (1) 45:21</p> <p>response (11) 6:23;8:3;9:2,15; 10:2;11:7,20;24:6; 29:10;53:13;55:6</p> <p>responsible (2) 47:18,20</p> <p>responsive (4) 13:15;35:8;41:24; 53:17</p> <p>rest (2) 47:12,13</p> <p>resubmitting (1) 55:11</p> <p>review (13) 13:8,8,13,21,23; 14:21;15:7;21:17; 23:16;41:8;54:2,10, 18</p> <p>reviewing (3) 14:14;16:5;48:15</p> <p>revise (1) 13:18</p> <p>revisions (3) 6:14;8:16;10:6</p> <p>RICHARD (6) 12:22;34:23;39:7, 10;53:21;55:7</p> <p>Rick (4) 23:14;34:22;41:17; 53:19</p> <p>Rick's (1) 41:11</p> <p>Riddick (1) 3:17</p> <p>ridership (1) 44:22</p>	<p>rides (2) 26:4;37:13</p> <p>Ridge (2) 33:8,15</p> <p>right (12) 8:21;9:12;10:24; 11:2;15:21;20:7; 40:12;41:7,9,23; 42:7;43:23</p> <p>rise (1) 5:3</p> <p>Road (6) 12:10,10,12;27:10; 29:6;36:5</p> <p>Route (5) 7:2;29:20,25; 46:21;47:7</p> <p>RU (1) 12:10</p>	<p>54:23,25</p> <p>seconded (3) 7:10;9:20;11:13</p> <p>second-to-last (3) 7:15;46:18;47:17</p> <p>Section (4) 21:18;32:23;40:18; 47:4</p> <p>sections (1) 21:14</p> <p>seem (1) 50:19</p> <p>September (4) 6:12;8:14;10:5; 11:10</p> <p>SEQR (1) 13:4</p> <p>service (5) 26:19;30:6;48:22; 49:22;52:7</p> <p>Services (4) 51:7,12,24,25</p> <p>session (1) 9:5</p> <p>set (1) 31:9</p> <p>several (1) 16:15</p> <p>severely (1) 41:18</p> <p>shift (1) 44:17</p> <p>shifts (1) 29:3</p> <p>shopping (3) 36:21;37:3,6</p> <p>short (1) 30:11</p> <p>shortly (1) 55:11</p> <p>show (3) 40:13;48:23;49:24</p> <p>showed (2) 28:14;38:16</p> <p>shown (2) 27:3;48:25</p> <p>sideline (1) 33:14</p> <p>S-I-G-H-T (1) 11:5</p> <p>significant (1) 29:18</p> <p>similar (3) 40:5;49:21,24</p> <p>simply (2) 19:12;34:3</p> <p>simulation (2) 26:10,13</p> <p>site (10) 11:5;12:5;16:25; 17:2,3;19:6;20:9; 46:3,12,13</p> <p>site-generated (1)</p>	<p>49:20</p> <p>sites (2) 16:22;36:5</p> <p>situation (1) 33:10</p> <p>six (1) 25:23</p> <p>size (6) 17:13,14;19:21; 20:19;21:4;29:5</p> <p>smarter (1) 48:19</p> <p>Solid (1) 33:18</p> <p>somebody (1) 43:2</p> <p>somebody's (1) 48:19</p> <p>someone (1) 54:3</p> <p>somewhat (1) 37:9</p> <p>somewhere (1) 51:5</p> <p>soon (1) 14:11</p> <p>sort (3) 37:19,20;51:18</p> <p>sounds (1) 53:15</p> <p>source (1) 35:22</p> <p>sources (2) 20:3,3</p> <p>South (1) 29:25</p> <p>southwest (1) 46:12</p> <p>spaces (2) 45:3,5</p> <p>speak (1) 5:20</p> <p>special (1) 12:6</p> <p>specific (6) 7:13;15:18;29:14, 18;36:5;46:14</p> <p>specifically (4) 22:4;27:20;31:2; 48:3</p> <p>specifics (1) 29:22</p> <p>spoke (1) 40:25</p> <p>square (1) 37:5</p> <p>stacking (1) 26:22</p> <p>stand (2) 5:20;15:20</p> <p>start (3) 14:14;15:23;24:5</p> <p>started (1)</p>	<p>21:12</p> <p>starting (3) 43:17;44:4,9</p> <p>state (3) 20:6;46:21;54:16</p> <p>stated (7) 6:18;15:6;16:2; 19:12;21:12;22:4; 45:4</p> <p>Statement (4) 14:4,19;41:11,17</p> <p>states (1) 32:6</p> <p>statewide (2) 25:5,13</p> <p>stationary (1) 34:5</p> <p>Staying (1) 30:15</p> <p>stick (1) 30:17</p> <p>still (2) 25:7;53:15</p> <p>stopping (1) 6:3</p> <p>straighten (1) 38:24</p> <p>straightforward (2) 21:5;34:25</p> <p>Stream (1) 12:12</p> <p>Street (1) 30:2</p> <p>stricken (1) 10:10</p> <p>studied (1) 37:2</p> <p>studies (4) 31:25;32:7,9,10</p> <p>study (8) 19:10;42:4;43:3, 22,25;49:12,19;50:17</p> <p>subdivision (2) 12:6;19:7</p> <p>subject (1) 40:9</p> <p>submitted (4) 12:16;13:7;15:6; 22:18</p> <p>substantial (1) 14:16</p> <p>sufficient (1) 28:16</p> <p>suggesting (1) 36:13</p> <p>Suite (1) 3:6</p> <p>summarized (1) 43:5</p> <p>Summary (3) 28:6,13;30:11</p> <p>supply (2) 19:3;25:3</p>
	S			
	<p>safety (1) 45:21</p> <p>same (6) 18:18,20,20;44:25; 47:3;48:25</p> <p>satisfied (1) 15:20</p> <p>satisfy (1) 21:8</p> <p>saw (3) 33:3;35:5;50:10</p> <p>saying (3) 37:8,21;40:3</p> <p>Scenic (1) 12:11</p> <p>scheme (3) 29:24;30:2,8</p> <p>scope (36) 12:20,21;13:15; 16:6,20;17:5;19:8; 21:8,19,25;22:4;23:3, 9;24:19;25:14;27:2; 28:24;29:9,21;30:4; 31:10;33:5,19;34:10; 35:9;40:6,7,20; 41:24;42:6,19;51:8, 10;52:2,8;53:17</p> <p>scoping (4) 9:5;47:25;52:19,21</p> <p>SEAN (17) 3:17;15:24,25; 17:19,23;18:21,22; 21:7,24,25;22:21; 23:12,23,25;40:5,14; 51:9</p> <p>season (3) 18:3,8,20</p> <p>second (14) 6:17;7:5,12;8:9,10, 18;9:10,21;11:14; 27:13;44:20;45:20;</p>			

<p>support (1) 5:12</p> <p>supporting (1) 25:22</p> <p>supposed (2) 7:21;43:8</p> <p>Sure (7) 15:25;22:16;27:14; 36:16;38:21;41:14; 51:21</p> <p>Surface (1) 30:20</p> <p>Sustainable (1) 52:12</p> <p>Synchro (1) 26:10</p> <p>system (5) 18:25;20:4;27:10; 29:6;36:6</p>	<p>thorough (1) 38:8</p> <p>though (1) 35:25</p> <p>thought (1) 16:16</p> <p>thousands (1) 37:2</p> <p>three (5) 22:5,10;42:20; 47:8,14</p> <p>three- (2) 21:21;22:20</p> <p>tied (1) 37:11</p> <p>tie-down (1) 33:13</p> <p>times (5) 29:11;33:5;44:17; 46:4,6</p> <p>time-saving (1) 33:10</p> <p>timing (1) 22:3</p> <p>Tonight (2) 12:15;16:17</p> <p>top (2) 8:24;11:4</p> <p>topics (1) 47:15</p> <p>total (2) 12:9;45:2</p> <p>touch (1) 24:14</p> <p>TOWN (10) 3:15;7:12;11:23; 20:2,5,11;21:2;39:2, 23;52:18</p> <p>township (1) 24:24</p> <p>toxicity (1) 33:22</p> <p>traffic (24) 24:11;27:5,25; 28:15,18,24;29:3,4; 34:7;35:14;36:4,8,19, 25;37:4;38:7;41:20, 25;43:22,25;45:13; 46:11;49:20;50:17</p> <p>Trail (1) 50:19</p> <p>transportation (1) 50:11</p> <p>TRC (1) 3:19</p> <p>Trelstead[ph] (1) 8:22</p> <p>trip (5) 25:19;27:6;36:15, 25;37:10</p> <p>trips (3) 24:22;33:19;42:11</p> <p>truck (1)</p>	<p>29:4</p> <p>Tully (1) 15:2</p> <p>turbine (1) 52:22</p> <p>turbines (1) 52:14</p> <p>two (4) 14:6;29:17;47:8,16</p> <p>type (2) 45:16;46:5</p> <p>types (1) 34:5</p> <p>typical (1) 44:13</p> <p>typically (1) 40:16</p>	<p>13:9</p> <p>Vegetation (2) 31:5,14</p> <p>vehicles (1) 29:5</p> <p>version (1) 38:18</p> <p>versions (1) 14:7</p> <p>versus (1) 18:14</p> <p>view (1) 33:16</p> <p>Village (1) 19:3</p> <p>visible (1) 10:12</p> <p>visitors (2) 39:21;44:21</p> <p>volumes (6) 25:25;27:2,9; 37:15;45:13;49:20</p> <p>volunteers (1) 9:8</p> <p>Vote (3) 7:9;54:4,5</p>	<p>24:20</p> <p>whole (1) 6:6</p> <p>widening (1) 29:20</p> <p>Wildlife (5) 31:5,9,15,21;32:8</p> <p>WILLIAM (1) 3:18</p> <p>Windsor (10) 3:7;16:25;17:3,13, 17,21,25;18:7,11,14</p> <p>Winter (3) 25:16,21;44:23</p> <p>wish (1) 20:11</p> <p>within (3) 24:23;35:20;37:7</p> <p>wondering (1) 35:21</p> <p>word (6) 6:20;8:19;10:9,14; 11:2,3</p> <p>work (4) 15:12,15;53:16; 54:13</p> <p>write (1) 41:21</p> <p>written (5) 7:17,19,22;16:3; 48:3</p>
<p>T</p> <p>table (10) 25:18;48:21,21; 49:2,4,7,13,21,23,24</p> <p>take-it-or-leave-it (1) 37:19</p> <p>talk (2) 49:22;50:4</p> <p>talking (4) 36:7;42:14;43:21; 49:17</p> <p>tax (1) 22:14</p> <p>taxpayer (1) 51:19</p> <p>taxpayers (2) 51:12,16</p> <p>technical (5) 12:18;16:12;41:6; 49:14;50:23</p> <p>temporary (1) 9:7</p> <p>tend (1) 22:25</p> <p>tendency (1) 32:19</p> <p>term (2) 13:2,3</p> <p>terms (6) 16:17;17:9;18:2, 15;21:9;22:13</p> <p>testing (1) 20:14</p> <p>Thankfully (1) 48:18</p> <p>therefore (1) 19:16</p> <p>thickness (1) 43:17</p> <p>third (7) 6:16,25;7:4;8:18; 9:3;10:18;44:25</p>	<p>U</p> <p>Under (10) 7:9;30:20;31:5; 33:18;42:3;46:16; 47:4;51:7,24;52:12</p> <p>underlying (1) 27:4</p> <p>uniformly (1) 37:6</p> <p>unique (1) 37:9</p> <p>unless (2) 24:2;34:19</p> <p>unrelated (1) 11:23</p> <p>up (15) 5:20,23;6:2;7:4; 8:18;9:10;10:8,13; 22:23;32:2;33:9; 38:10,16;41:21; 44:25</p> <p>upon (3) 14:10,11;37:16</p> <p>use (7) 16:6;17:17;18:6; 20:12;21:2;36:20; 41:12</p> <p>used (5) 13:3;27:7;32:7; 35:12;42:5</p> <p>user-friendly (1) 32:21</p> <p>using (5) 20:9,17;32:24; 35:17;49:19</p>	<p>W</p> <p>warranted (1) 52:8</p> <p>Waste (1) 33:18</p> <p>wastewater (1) 16:20</p> <p>water (12) 7:8;16:19;17:22; 18:3,7,10,24;19:2,4; 20:9,17;30:20</p> <p>way (4) 24:5;36:10;37:18; 54:7</p> <p>week (1) 16:11</p> <p>welcome (4) 5:19,23;24:13; 43:12</p> <p>wells (7) 19:25;20:8,14,15, 16,25;40:25</p> <p>Westbound (2) 46:21;50:5</p> <p>wetland-adjacent (1) 30:23</p> <p>Wetlands (4) 30:21;31:8,12,16</p> <p>what's (3) 21:8;31:24;42:6</p> <p>whatsoever (2) 46:5;50:13</p> <p>Whereupon (2) 5:5;11:23</p> <p>wherever (1)</p>	<p>Y</p> <p>year (1) 39:21</p> <p>year-round (1) 18:10</p> <p>years (6) 22:6,10,10,11; 39:17;42:20</p> <p>York (4) 3:7;12:3;18:15; 46:20</p> <p>Yup (1) 31:18</p>	
		<p>V</p> <p>Valley (1) 3:5</p> <p>variable (6) 26:3;36:14,17,20; 37:25;38:2</p> <p>various (1)</p>		<p>1</p> <p>1 (6) 35:13,17,24;36:2, 7;44:8</p> <p>1,000 (1) 37:5</p> <p>10 (3) 7:14;9:7;37:7</p> <p>100 (3) 3:6;24:21;42:10</p> <p>11 (5) 9:10;26:25;27:18; 36:3;43:7</p> <p>11-1-45 (1) 12:3</p>

<p>123 (2) 38:14,17 125 (1) 50:6 12553 (1) 3:7 128 (1) 38:16 13 (2) 42:2,11 136 (1) 53:3 14 (3) 24:10;29:16;42:19 15 (1) 46:21 1500 (1) 37:23 15-1-59 (1) 12:5 15th (1) 8:14 16 (1) 44:12 17 (8) 29:20,25;35:23; 45:18;46:19,21,24; 47:7 17M (1) 7:2 18 (6) 43:18;44:3,5,9; 47:3,6 1st (1) 6:12</p>	<p>48:21;49:21 325 (1) 10:19 325,000 (1) 10:19 3-3 (1) 49:4 375 (1) 10:20 375,000 (2) 10:22,23</p>	<p>8 (2) 7:7;8:21 845.561.0550 (1) 3:9</p>		
	4	9		
	4 (4) 10:18;46:15,24; 47:4 46 (1) 12:3 47 (1) 12:4 49 (2) 38:19;40:24 49.2 (1) 12:4	9 (1) 7:12 9:42 (1) 55:12		
	5			
	5 (3) 6:16;52:12;53:2 50B (1) 44:9 523 (1) 12:7 555 (1) 3:5 58 (1) 12:4			
2	6			
2 (4) 10:7,13;11:4;39:20 2016 (4) 6:12;8:14;10:5; 11:10 25 (1) 43:19 28 (1) 11:10 28th (1) 10:5	6 (2) 6:25;8:17 62 (1) 12:4 69 (1) 12:4			
	7			
3	7 (1) 7:4 75 (1) 48:20 77 (1) 49:5 78 (1) 49:16 79 (2) 31:7;50:4			
3 (1) 9:3 30 (2) 39:17;43:19 3100-plus-page (1) 27:21 3100-some-odd (1) 43:3 3-11 (2) 50:14,20 3-2 (2)	8			