



M E M O R A N D U M

TO: Douglas Bloomfield, Supervisor & Town Board
FROM: Sean T. Hoffman, PE, Planning Board Consultant
SUBJECT: Merlin Entertainments Group US Holdings, Inc./LEGOLAND New York
File # 11-1-45 - 47, 49.2, 58, 60, 62 - 69 & 15-1-59
Conveyance of Real Property
DATE: September 7, 2017
CC: Broderick Knoell, Highway Superintendent, Neal Halloran, Building Inspector and
Richard Golden, Esq., Town Attorney

In accordance with your request, the following are our comments regarding the request by Merlin Entertainments Group US Holdings, Inc. ("Merlin Entertainments") to purchased all or portions of nine (9) Town-owned parcels in connection with the above-captioned application.

Background – On June 3, 2016, Merlin Entertainments submitted an application for subdivision, special permit and site plan approval for a commercial recreational theme park and resort on approximately 150 acres of a 521.95-acre site located along Harriman Drive within the Town of Goshen. The site consists of fifteen (15) tax parcels including all or portions of nine (9) Town-owned parcels. The Town of Goshen Planning Board, as SEQRA Lead Agency, evaluated the environmental impacts associated with the application, including the sale of these Town-owned parcels, in the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS). The Planning Board’s review culminated in the adoption of the SEQRA Findings Statement on August 17, 2017. Now that the SEQRA review has been completed, the Town Board, who has the authority to sell Town-owned land, is evaluating this request.

Identification of Property – The Project Site totals 521.95 acres and is generally located south of NYS Route 17 (future Interstate 86), west of Arcadia Road and east of Reservoir Road with frontage along Harriman Drive, Arcadia Road and Conklingtown Road. Merlin Entertainments has requested to purchase portions of nine (9) Town-owned parcels, identified on the Tax Maps of the Town of Goshen as Section 11, Block 1, Lots 60, 62, 63, 64, 65, 66, 67, 68 and 69 as outlined in red on Figures 1A and 1B. These parcels are generally located southwest of the Arcadia Hills subdivision and along the existing Orange & Rockland Utilities electrical transmission line. These Town-owned parcels total approximately 18.981-acres; Merlin Entertainments is proposing to subdivide and purchase portions of some of these parcels, and all of other parcels, totaling 15.670-acres as indicated in the following table:

Table 1: Identification of Town-Owned Parcels & Lot Areas¹

| Tax Parcel (S-B-L) | Exist. Lot Area (Acres) | Lot Area Retained by Town (Acres) | Lot Area to be Conveyed to Merlin (Acres) |
|-----------------------|-------------------------------|---|---|
| 11-1-60 | 2.689 | 1.021 | 1.668 |
| 11-1-62 | 7.662 | 1.647 | 6.015 |
| 11-1-63 | 0.805 | 0 | 0.805 |
| 11-1-64 | 1.342 | 0.001 | 1.341 |
| 11-1-65 | 0.501 | 0.254 | 0.247 |
| 11-1-66 | 2.132 | 0.197 | 1.935 |
| 11-1-67 | 0.191 | 0.191 | 0 |
| 11-1-68 | 2.094 | 0 | 2.094 |
| 11-1-69 | 1.565 | 0 | 1.565 |
| Totals | 18.981 | 3.311 | 15.670 |

¹ Parcel sizes/acreage listed from survey prepared by Lanc & Tully Engineering and Surveying, P.C., dated August 2016 entitled "Survey Prepared for Legoland New York".

Acquisition & Conveyance of Real Property – Pursuant to Town Law, a Town Board may acquire by lease, purchase or eminent domain, land required for any municipal purpose [Town Law §64(2)]. When real property owned by the Town is no longer needed for a town purpose, a Town Board may, upon adoption of a resolution, convey the real property. A valid reason that the property is no longer needed by the Town is if the Town “taxpayers would suffer no meaningful discontinuance of the availability of [the] real property for a particular use.”² Of the nine (9) parcels being considered, only three (3) parcels (SBL 11-1-60, 65 and 67) have wells or appurtenances on them that are needed by the Town. One additional parcel (SBL 11-1-62) has two undeveloped wells and appurtenances. The proposed conveyances would subdivide the active well areas on the related lots so as not to convey portions of the lots that are needed. Of the lots, or portions of lots, proposed to be purchased by Merlin Entertainments, there has been no municipal use put to these areas.

Generally, when selling Town land that is no longer needed, the Town Board has an obligation to secure the best price obtainable, or the most beneficial terms, in the public interest³. However, no competitive bidding is required, and Counsel has advised that the Town Board may consider other appropriate factors to determine the best price and beneficial terms. In this matter, the Town and Merlin Entertainments have entered into a Host Community Benefit Agreement in which, among other things, Merlin Entertainments has agreed that if the Town were to sell the subject parcels to Merlin Entertainments, Merlin Entertainments will donate to the Town two (2) wells on Merlin Entertainments’ property, together with sufficient areas to meet current New York State Department of Health (“NYSDOH”) requirements for wellhead protection, and permanent easements for future access. In addition, Merlin Entertainments will reimburse the Town for up to \$30,000 per well for the Town’s actual costs for the regulatory permitting and development of these two (2) wells. Finally, an additional and significant benefit to the Town if it conveys the properties to Merlin Entertainments, is that Merlin Entertainments will donate land and provide easements surrounding the Town’s present active wells – used to supply water to Arcadia Hill subdivision – and the undeveloped wells on any lands to be conveyed, sufficient to meet NYSDOH wellhead protection requirements, as shown on the accompanying map.

We recommend you review the specific requirements and procedures for the conveyance of real property with Counsel and provide the following comments to guide your discussion.

Municipal Purpose – The portions of certain Town-owned parcels, and the entirety of others, contemplated for conveyance to Merlin Entertainments and totaling 15.670-acres, appear to have no current municipal purpose. We have been advised that, other than using the active wells on portions of three (3) of the parcels (SBL 11-1-60, 65 and 67), the Town has not used the parcels for any Town purpose since their acquisition (except for parcel SBL 11-1-62 to the extent that it contains wells that are drilled but undeveloped). Further, the irregular-shape of the parcels only had relevance to the prior proposed (now abandoned) subdivision of which they were a part. The existing Town-owned parcels were created for the planned, but abandoned phases of the Arcadia Hills subdivision (*i.e.*, Arcadia Hills Sections C and D) and acquired by the Town of Goshen on July 25, 1984, after foreclosure on the parcels by Orange County for the nonpayment of taxes. As such, the parcels are generally irregularly shaped, randomly configured and, surrounded by significantly larger privately held parcels (*i.e.*, the Town-owned parcels are land-locked⁴) which restricts the ability of the parcels to be accessed and limits potential future use for municipal purposes as indicated on the accompanying maps. In addition, all the Town-owned parcels contemplated for conveyance to Merlin Entertainments have existing encumbrances including restrictive easements held by others (*i.e.*, Orange and Rockland Utility Easement), regulatory restrictions (*i.e.*, USACE/NYSDEC wetlands) or physical constraints (*i.e.*, topographic slopes in excess of 25%) as summarized in the following table:

² 1988 Opinion of the Office of the State Comptroller No. 88-1.

³ 1996 Opinion of the Office of the State Comptroller No. 96-11.

⁴ Excepting parcel 11-1-60 with frontage along Cherrywood Drive.



Table 2: Existing and Conveyed Encumbrances¹

| Tax Parcel (S-B-L) | Exist. Lot Area (Acres) | Existing Encumbrances | | | Encumbrances to be Conveyed to Merlin | | |
|-----------------------|-------------------------------|-------------------------------------|---------------------|----------------------------|--|---------------------|----------------------------|
| | | Restrictive Easements (Acres) | Wetlands (Acres) | Steep Slopes (Acres) | Restrictive Easements (Acres) | Wetlands (Acres) | Steep Slopes (Acres) |
| 11-1-60 | 2.689 | 0 | 1.115 | 0.362 | 0 | 0.876 | 0.159 |
| 11-1-62 | 7.662 | 1.638 | 0.969 | 0.502 | 0 | 0.524 | 0.430 |
| 11-1-63 | 0.805 | 0.805 | 0 | 0.134 | 0.805 | 0 | 0.134 |
| 11-1-64 | 1.342 | 1.342 | 0.037 | 0.115 | 1.341 | 0.037 | 0.115 |
| 11-1-65 | 0.501 | 0.412 | 0.004 | 0.018 | 0.248 | 0 | 0.014 |
| 11-1-66 | 2.132 | 0 | 1.135 | 0.238 | 0 | 1.071 | 0.202 |
| 11-1-67 | 0.191 | 0 | 0 | 0.010 | 0 | 0 | 0 |
| 11-1-68 | 2.094 | 0 | 0 | 1.041 | 0 | 0 | 1.041 |
| 11-1-69 | 1.565 | 0.227 | 0 | 0.206 | 0 | 0 | 0.206 |
| Totals | 18.981 | 4.424 | 3.260 | 2.626 | 2.394 | 2.508 | 2.301 |

In accordance with the SEQRA review, four (4) parcels (i.e., 11-1-60, 62, 65 and 67) contemplated for conveyance to Merlin Entertainments include public water supply wells or appurtenances owned by the Town of Goshen Arcadia Hills Water District as described below:

- Lot 11-1-60 – Located along the southerly side of Cherrywood Drive approximately 400 linear feet west of Arcadia Road, this lot is approximately 2.689-acres and includes Arcadia Hills Water District Well No. 8 which currently produces between 14 and 16 gallons per minute (GPM) and a pump house which includes chemical treatment, electrical switchgear and controls;
- Lot 11-1-62 – Located within and south of the Orange & Rockland Utilities electrical transmission line easement, this lot is approximately 7.662-acres and includes two (2) undeveloped wells, Well Nos. 9 and 10, associated with the never completed Arcadia Hills Sections C and D;
- Lot 11-1-65 – Located within and north of the Orange & Rockland Utilities electrical transmission line easement, this lot is approximately 0.501-acres and includes Arcadia Hills Water District Well No. 53⁵ and a pump house which includes chemical treatment, electrical switchgear and controls for Arcadia Hills Water District Well Nos. 51, 52 and 53; and
- Lot 11-1-67 – Located west of the terminus of Wedgewood Drive, this lot is approximately 0.191-acres and includes Arcadia Hills Water District Well No. 52 which currently produces between 35 and 42 gallons per minute (GPM) and a local disconnect switch.

In all of the above instances, Merlin Entertainments is not requesting to purchase any portion of any Town-owned parcels containing water supply improvements. Rather, Merlin Entertainments proposes to subdivide these parcels so the Town will retain ownership of the water supply improvements. Further, and as noted above, since the existing public water supply wells do not meet the currently New York State Department of Health (NYSDOH) well location and protection requirements (i.e., wellhead protection requirements)⁶, Merlin Entertainments is offering to dedicate to the Town, land and easements surrounding each water supply well to comply with current NYSDOH requirements to the greatest extent possible. In addition, since the Town's existing subsurface water lines, overhead electrical supply lines and access roads extend through privately held parcels, Merlin Entertainments has offered to provide the Town with access and utility easements. The following table summarizes the land and easements to be dedicated to the Town for wellhead protection purposes:

⁵ The adjacent Arcadia Hills Water District Well No. 51, is located on Lot 11-1-49.2, a privately held parcel.

⁶ NYSDOH Part 5, Subpart 5-1, Public Water Systems – Appendix 5D.2 requires wells servicing public water systems to be located such that the water system owner possess legal title to lands within 100-feet of the well and control by either ownership, lease, easement or other legally enforceable arrangement of land use activities within 200-feet of the well (paraphrased from Appendix 5D).

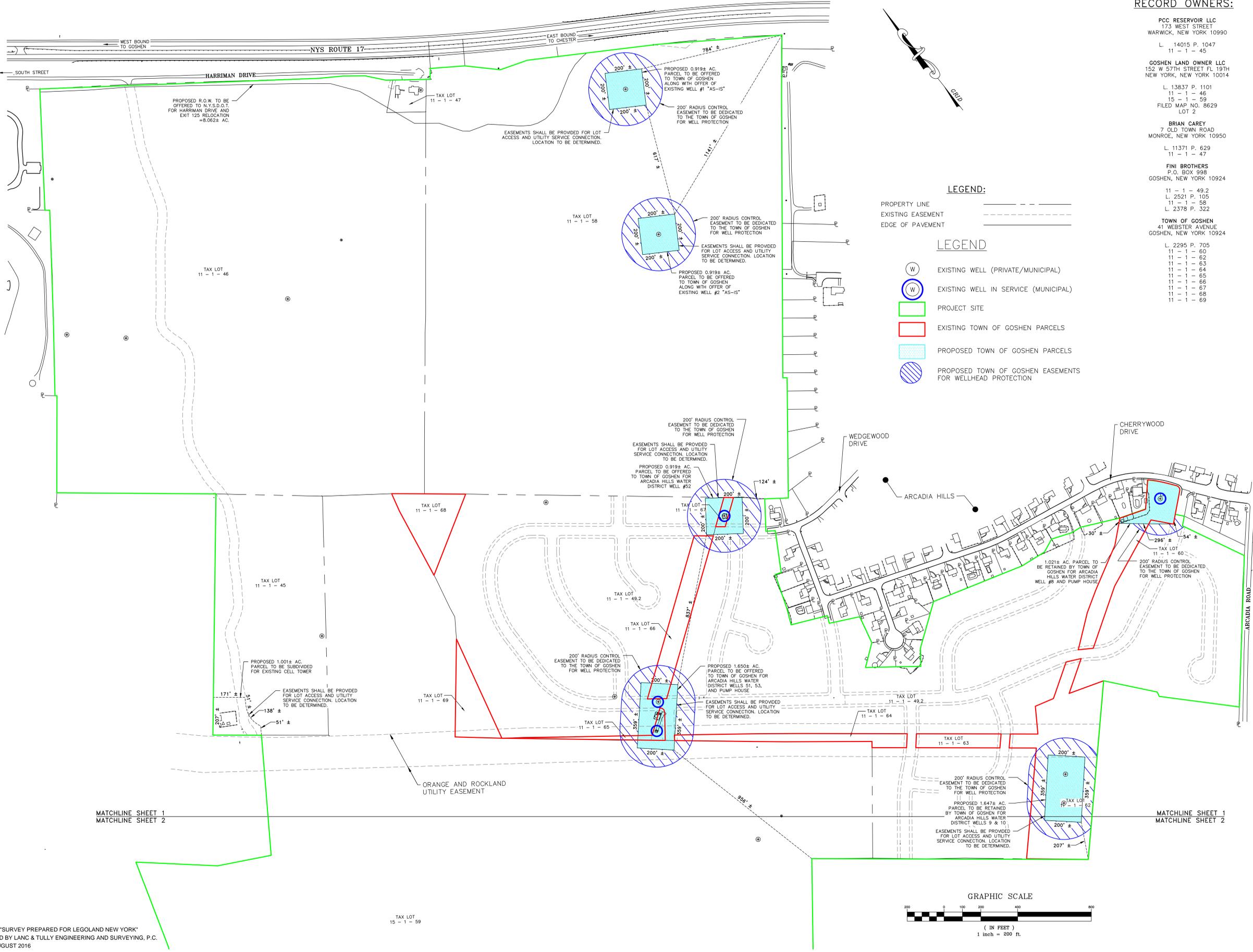
Table 3: Land to be Dedicated to the Town for Wellhead Protection¹

| Town Well (No.) | Tax Parcel (S-B-L) | Exist. Lot Area (Acres) | Lot Area Retained by Town (Acres) | Area to be Dedicated to the Town (Acres) | Resultant Town-Owned Lot Area (Acres) | Easements in Favor of the Town (Acres) |
|-----------------|--------------------|-------------------------|-----------------------------------|--|---------------------------------------|--|
| Well 8 | 11-1-60 | 2.689 | 1.021 | 0.033 | 1.054 | 0.337 |
| Wells 9 & 10 | 11-1-62 | 7.662 | 1.647 | 0 | 1.647 | 2.406 |
| | 11-1-63 | 0.805 | 0 | 0 | 0 | 0 |
| | 11-1-64 | 1.342 | 0.001 | 0 | | |
| Wells 51 & 53 | 11-1-65 | 0.501 | 0.254 | 1.198 | 1.650 | 2.698 |
| | 11-1-66 | 2.132 | 0.197 | 0 | | |
| Well 52 | 11-1-67 | 0.191 | 0.191 | 0.728 | 0.919 | 1.967 |
| | 11-1-68 | 2.094 | 0 | 0 | 0 | 0 |
| | 11-1-69 | 1.565 | 0 | 0 | 0 | 0 |
| Totals | | 18.981 | 3.311 | 1.959 | 5.270 | 7.408 |

Best Price/Most Beneficial Terms – Merlin Entertainments provided an appraisal of the nine (9) Town-owned as part of the FEIS. We understand the Town has commissioned an independent appraisal to establish fair market value and the results of that effort are forthcoming. As noted above, and in addition to the appraised value of the parcels contemplated for conveyance, we understand Merlin Entertainments has offered to dedicate two (2) existing wells located on the project site. As indicated in the Host Community Benefit Agreement, should the Town agree to convey the Town-owned parcels, Merlin Entertainments will donate two (2) existing wells (i.e., Donation Wells) with sufficient areas to meet current NYSDOH wellhead protection requirements. These wells were developed in connection with the previously proposed Lone Oak residential subdivision and consist of the following⁷:

- Donation Well No. 1 – Located near the northerly limit of Lot 11-1-58 as shown on Figure 1A, testing conducted in December 1997 indicated a maximum individual capacity of 15 gallons per minute (15 GPM).
- Donation Well No. 2 – Located toward the center of Lot 11-1-58 as shown on Figure 1A, testing conducted in December 1997 indicated a maximum individual capacity of 65 gallons per minute (65 GPM). This well was retested in August 1999 simultaneously with Lone Oak Well No. 3 (not proposed for dedication) during drought conditions resulting in a yield of 46 gallons per minute (46 GPM).

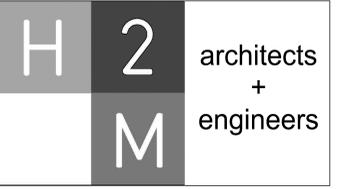
⁷ Correspondence prepared by Leggette, Brashears & Graham, Inc., Professional Ground-Water and Environmental Engineering Services, dated October 6, 1999 regarding Lone Oak Estates.



RECORD OWNERS:

- PCC RESERVOIR LLC
173 WEST STREET
WARWICK, NEW YORK 10990
L. 14015 P. 1047
11 - 1 - 45
- GOSHEN LAND OWNER LLC
152 W 57TH STREET FL 19TH
NEW YORK, NEW YORK 10014
L. 13837 P. 1101
11 - 1 - 46
15 - 1 - 59
FILED MAP NO. 8629
LOT 2
- BRIAN CAREY
7 OLD TOWN ROAD
MONROE, NEW YORK 10950
L. 11371 P. 629
11 - 1 - 47
- FINI BROTHERS
P.O. BOX 998
GOSHEN, NEW YORK 10924
11 - 1 - 49.2
L. 2521 P. 105
11 - 1 - 58
L. 2378 P. 322
- TOWN OF GOSHEN
41 WEBSTER AVENUE
GOSHEN, NEW YORK 10924
L. 2295 P. 705
11 - 1 - 60
11 - 1 - 62
11 - 1 - 63
11 - 1 - 64
11 - 1 - 65
11 - 1 - 66
11 - 1 - 67
11 - 1 - 68
11 - 1 - 69

- LEGEND:**
- PROPERTY LINE
 - EXISTING EASEMENT
 - EDGE OF PAVEMENT
- LEGEND**
- (W) EXISTING WELL (PRIVATE/MUNICIPAL)
 - (W) EXISTING WELL IN SERVICE (MUNICIPAL)
 - [Green Outline] PROJECT SITE
 - [Red Outline] EXISTING TOWN OF GOSHEN PARCELS
 - [Blue Hatched] PROPOSED TOWN OF GOSHEN PARCELS
 - [Blue Circle with Dashed] PROPOSED TOWN OF GOSHEN EASEMENTS FOR WELLHEAD PROTECTION



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Albany, NY 12186
New York, NY 10001
White Plains, NY 10604
Suffern, NY 10901
Parsippany, NJ 07054
Howell, NJ 07731

CONSULTANTS:

| REV | DATE | DESCRIPTION |
|-----|------------|---------------------|
| 1 | 09/07/2017 | INITIAL PREPARATION |

| | | |
|--------------|--------------|---|
| PROJECT #: | GOSH 1513 | SEAL |
| DATE: | 09/07/2017 | |
| DESIGNED BY: | STH | |
| DRAWN BY: | TM | |
| CHECKED BY: | REVIEWED BY: | SEAN T. HOFFMAN N.Y. P.E. LIC. NO. 081483 |

TOWN OF GOSHEN

ORANGE COUNTY, NY

CONVEYANCE OF REAL PROPERTY

STATUS

SHEET TITLE

SHEET #

FIGURE 1A

SOURCE: "SURVEY PREPARED FOR LEGOLAND NEW YORK"
PREPARED BY LANC & TULLY ENGINEERING AND SURVEYING, P.C.
DATED AUGUST 2016

T:\data\Goshen\CAD\LIN\Proposed Lot Sale.dwg Last Modified: Sep 06, 2017 - 11:32am Plotted on: Sep 07, 2017 - 2:28pm By: matias

CONSULTANTS:

| REV | DATE | DESCRIPTION |
|-----|------------|---------------------|
| 1 | 09/07/2017 | INITIAL PREPARATION |

| | | |
|--------------|--------------|---|
| PROJECT #: | GOSH 1513 | SEAL: |
| DATE: | 09/07/2017 | |
| DESIGNED BY: | STH | |
| DRAWN BY: | TM | |
| CHECKED BY: | REVIEWED BY: | SEAN T. HOFFMAN N.Y. P.E. LIC. NO. 081483 |

CLIENT

TOWN OF GOSHEN

ORANGE COUNTY, NY

CONTRACT

CONVEYANCE OF REAL PROPERTY

STATUS

SHEET TITLE

SHEET #

FIGURE 1B

