

**TOWN OF GOSHEN
ENVIRONMENTAL REVIEW BOARD
December 14, 2016**

The regular meeting of the Environmental Review Board of the Town of Goshen was called to order at 6:30 p.m. on Wednesday, December 14, 2016 at Town Hall.

Present: Neal Halloran, Building Inspector
 Marty Holmes
 Carol Laskos
 Cynthia Hand
 Tom Burnham

Merlin Entertainments Group/LEGOLAND New York – 11-1-45, 46, 47, 49.2, 58, 62 - 69 & 15-1-59: Application for site plan, special permit and subdivision for a commercial recreational facility on 523 +/- acres (total holdings) along Harriman Drive, Arcadia Road and Conklingtown Road in the RU and HR Districts with AQ-3, Scenic Road, Floodplain & Ponding and Stream Corridor & Reservoir Overlay Districts.

Representing the Applicant: Dominic Cordisco, Esq.
 Phil Royle
 John O'Rourke, PE
 Kristen O'Donnell
 Richard D'Andrea, PE

The meeting was opened to discuss comments prior to the public hearing scheduled for the following evening. Mr. Cordisco gave an update as to the court appearance that happened earlier in the day in which a group sued and tried to stop the public hearing from taking place. The judge ruled in favor of the public hearing going on as scheduled.

Mr. O'Rourke gave a brief overview of the Legoland project. He stated they are looking at different options for storm water management based on comments from the site walkthrough. They will be looking into porous pavement, gravel or pavers in the overflow parking lot or the employee parking area.

Harriman Drive will be widened into four lanes, two in each direction. Parking payment kiosks will stack cars on leaving the park. A description of the road layout and buildings were presented. There will be a lot of grade modifications that will have to be completed. Water is coming from the Village of Goshen.

Mr. Burnham asked about the sand filtration system. It was stated that every year the vaults need to be inspected. The key is maintenance. There is no chemical treatment. Bio retention areas were explained.

Richard D'Andrea, the traffic engineer explained how the proposed traffic plan would work. It is anticipated the 60% of the visitors to the park will be arriving via Rt. 17 from the east, through

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exit 124. Exit 125 is expected to be closed. The ERB brought up that it was very difficult for the plans to be clear, since it cannot be assumed that 125 would actually be closed. It is very hard to analyze such an open-ended plan. The scope was required to be analyzed both ways, with exit 125 open and closed.

Building inspector Halloran stated a problem that has come up is those visitor and residents south of the bridge onto Reservoir Road. Much of the traffic pattern is dedicated to cars coming from the other direction.

It was stated that the State DOT knows that Sundays in Orange County are a legacy problem with regard to heavy traffic. It is a huge problem before Legoland even adds traffic to the roads. Phil Royle thinks the staggering of leaving patrons will help to lessen the impact. He states that it's not like a sporting event that ends and everyone leaves at the same time.

It was asked if the South Street bridge is going to be able to handle an extra lane of traffic. It was mentioned that the sidewalks will have to be reduced to make room. There will be a light installed on South Street and Harriman Drive and will be cycled so as to clear cars from sitting on the bridge as quickly as possible.

Mr. Holmes asked about OUBOCES at Arden Hill and whether discussions and data collected with regard to employees, the bus schedules and school hours. It is thought that the peak times of Legoland and OUBOCES will not match, but a worst-case scenario should be addressed to make sure it is feasible.

Mr. Burnham states that documents refer to the average annual daily traffic. He believes it is challenging because people are concerned about the peak times, the Sunday peak. That is not referenced in the document. He thinks people need to hear a discussion about it. He feels the average data is diluted data. Mr. Burnham stated that he thinks the staggering that Mr. Royle addressed should be put into the document to alleviate the fear.

Mr. Burnham also stated that it is not until page 93 of the document that it comes to light that the applicant is asking the State and the DOT to pay for all traffic improvements. He said it is not clear to anyone and thinks the applicant needs to be upfront about this issue and make more of an attempt for transparency here.

In regards to the created jobs, Mr. Halloran stated the perception is that most of the jobs will be minimum wage. The applicant addressed the fact that that is not true and many of the jobs are quite specialized. There are marketing teams, financial people, maintenance and safety employees, aquarium personnel. Mr. Halloran stated the applicant needed to get that information out to the public.

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It was brought up that pesticide and herbicide protocols should be addressed. The visual impacts need to be further addressed, especially in light of comments that the site is going to be regraded from its original plan. This will change the visual impact.

Archeology was discussed and how the applicant planned to secure the sensitivity of the site.

Attached below are written comment submissions by some ERB members:

Submitted by Marty Holmes:

- 1) When and where will delivery trucks and all non-customer traffic arrive/depart? When will the garbage trucks be entering and leaving? Will the facility recycle bottles and cans?
- 2) Will all lighting be downward facing to lessen light pollution?
- 3) Summary of existing conditions states O&R will supply gas, this is wrong, does NYSE&G have capacity to serve or will infrastructure upgrades be necessary?
- 4) Can the archeological sites eligible for listing on the national register within the Area of Potential Effect (APE) be isolated and left undisturbed?
- 5) The hotel and back of house building will not be LEED certified, why not?
- 6) Question Q on page 12 of the EAF states there is no hunting taking place on adjoining properties, has this or its impact been investigated?

Submitted by Tom Burnham:

LEGOLAND DEIS Review

Tom Burnham

Town of Goshen Environmental Review Board

Pg 4.

Project Purpose, Public Need and Benefit

Generally the document lacked completeness. It did not describe the educational purposes, the need nor the benefits. A more complete review including **ALL Public Funds, Requested, Anticipated or Committed** is needed to complete an economic review of the benefits of this project given that the benefits are mostly described as economic. Also sections of the document including traffic discuss the benefits to local business which have not been quantified or projected.

Are the 500 full time employees described on page 5 year round? It seems questionable that they would employ such high staffing levels when closed for the season. A description and levels of pay for those jobs are needed to analyze this aspect of the purported benefits to the community.

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Pg 25

Public Improvements

The Documents states “Many of these improvements are subject to approval by the NYSDOT or other agencies.”

These agencies should be listed along with each proposed improvement including a status of the review or approval.

These proposed public improvements are mainly roadways. What are the costs of these improvements and who will bear the burden of these improvements? See Comment regarding Pg 93

Pg 26

Signalize entrance to Glen Arden. Has Glen Arden approved this and who will bear the cost?

Improvements to the Heritage Trail intersections are described as “recommended” or “Should”. ***If these improvements are identified as impacted by the project LEGOLAND should undertake the improvements and underwrite their costs.*** Who will undertake these “recommended” improvements and bear the cost?

Was the new Church on Duck Farm taken into consideration?

Pg 27

No discussion of BOCES Busses

Pg 29

Tax positive commercial developments – no ability to evaluate give the lack of info on public fund contributions

PILOT Fees and Taxes

Pg 31

The numbers in terms of tax receivables are not clear and do not add-up in an understandable manner.

Pg 32

List of necessary approvals seems lacking

Surface Water Resources

Pg 42

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Use of pesticides and herbicides must demonstrate that it CANNOT contaminate surface or ground water resources – Arcadia Wells, Village of Goshen Reservoirs etc. A listing of chemicals projected to be used, the manner of application and timing are necessary to know.

Vegetation and Wildlife

Pg 45

The conclusion that Bog Turtles are not present was not supported by the report: "... was not determined to be a potential habitat since NYSDEC wetland maps do not identify the wetland as potential habitat".

Pg 47

How was road runoff contamination of surface water determined? Water Quality Testing should have been done to determine if contamination made the water uninhabitable for wildlife. None was reported.

Pg 53

Upgrade and widen intersection of Route 6/17 and Route 17M

Study should indicate whether or not tree removal is proposed. "IF" statements at this junction do not inform the discussion. Proposed Actions need to be stated so conclusions can be drawn.

Storm Water Management

Pg 63

Use of a stormwater Pond and existing ponds to provide quantity control for discharge may control flow but may contribute to increased temperatures for water released into the Otterkill and Moodna Creek. These are both threatened streams which the Town of Goshen has worked to assist in this regard in the past. What steps will be taken to prevent rising water temps?

Pg 69

What does "water quality volume" mean? This document was to be written in plain understandable language.

Traffic

Pg 73

The document only refers to Average Annual Daily Traffic – This distorts the data and does not provide any relevant information to evaluate the impacts of traffic. Seasonal and weekly impact MUST be discussed and mitigated. Summer vs Winter. Sunday Aft vs Tuesday Midday? A reasonable person

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cannot draw valid conclusions from this report summary. This failing of the report is consistent throughout the document.

Pg 84

A discussion of Regional Train Service is not relevant to this document unless the project proposes a way to connect or use the resource.

Pg 90

Alternatives.

Further discussion of the “Flyover” as mitigation needs to be included. This is likely to be an expensive option but its merits should be discussed as it may very well be what is necessary.

Pg 93

Off Site Mitigation for traffic

The Project Sponsor – LEGOLAND has requested that NYS and Orange County fund the traffic improvements. What are the costs associated with these projects? This appears to be all of the traffic improvements. An argument for why the public should pay for these costs should be presented.

VISUAL IMPACTS

There were not enough depictions of what future development would look like. More should be included so an accurate assessment can be made. Nitescapes should be included also.

Use of “Dark Sky Friendly” Lighting is welcomed and encouraged.

Further comments by Mr. Burnham:

Attached are my amended comments following last night’s ERB meeting.

I thought the meeting was informative and productive. However after reflecting on several key items I feel like the DEIS is incomplete at this time. The Project Sponsors have too many unresolved design/funding issues with the DOT regarding traffic and by their own admission there are many “moving parts” related to the design. They are also in the process of redesigning the grading and site plan which could potentially alter the project in a dramatic way. I am also concerned that they do not have approvals for funding requests for traffic improvements - the totality of which, are sought from NYS and Orange County.

I also feel that much of the information could/should be presented in better ways particularly with regard to the Project Purpose, Public Need and Benefit and related funding.

Again, I felt it was a productive meeting and they did resolve a number of concerns that I did have but at this juncture I believe there are too many unresolved design issues.

Regards,
Tom Burnham

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December 15, 2016

Tom Burnham
Town of Goshen Environmental Review Board

It is my recommendation that this DEIS be determined to be incomplete. The Project Sponsors have too many unresolved design/funding issues with the DOT regarding traffic and by their own admission there are many "moving parts". They are also in the process of redesigning the grading and site plan which could potentially alter the project in a dramatic way.

I also feel that much of the information could/should be presented in better ways particularly with regard to the Project Purpose, Public Need and Benefit and related funding.

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Project Purpose, Public Need and Benefit

Generally the document lacked completeness. It did not describe the educational purposes, the need nor the benefits.

A more complete review including **ALL Public Funds, Requested, Anticipated or Committed** is needed to complete an economic review of the benefits of this project given that the benefits are mostly described as economic. Also sections of the document including traffic discuss the benefits to local business which have not been quantified or projected.

Pg 25

Public Improvements

Neither Conceptual nor Engineered Plans have been approved by NYSDOT. **Also the applicant has requested that these improvements (made only for the benefit of the applicant) be paid for by either NYS or Orange County. This request has not been approved and funding may not be available.** This information is only included on page 93 and should be made more clearly in the traffic section and the public benefit section.

Without even preliminary plans cost estimates are unavailable for these aspect of the project.

There are too many potential designs to make an assessment.

The Documents states "Many of these improvements are subject to approval by the NYSDOT or other agencies." - These agencies should be listed along with each proposed improvement including a status of the review or approval.

See Comment regarding Pg 93 below.

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Improvements to the Heritage Trail intersections are described as “recommended” or “Should”. ***If these improvements are identified as impacted by the project, LEGOLAND should undertake the improvements and underwrite their costs.*** Who will undertake these “recommended” improvements and bear the cost?

Was the new Church on Duck Farm taken into consideration?

Pg 27

Discussion of BOCES Busses and traffic should be shared in appropriate parts of the document not just in the volumes of the traffic study.

Pg 29

No evidence of “Tax positive commercial developments” – no ability to evaluate give the lack of info on public fund contributions, NYSDOT contributions vs PILOT Fees and Taxes and other revenues

Pg 31

The numbers in terms of tax receivables are not clear and do not add-up in an understandable manner.

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Pg 84

A discussion of Regional Train Service is not relevant to this document unless the project proposes a way to connect or use the resource. Shuttle service from train stations and other locations should be detailed.

Pg 90

Alternatives.

Other traffic options are not presented in a manner that allows readers to draw conclusions.

Further discussion of the "Flyover" as mitigation needs to be included. This is likely to be an expensive option but its merits should be discussed as it may very well be what is necessary given that the other options have not been approved by NYSDOT.

Pg 93

Off Site Mitigation for Traffic

The Project Sponsor – LEGOLAND has requested that NYS and Orange County fund the traffic improvements. What are the costs associated with these projects? Third party estimates may be necessary. This appears to be all of the traffic improvements. An argument for why the public should pay for these costs should be presented.

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VISUAL IMPACTS

There were not enough depictions of what future development would look like. More should be included so an accurate assessment can be made. Nitescapes should be included also. Again site plans are changing which may dramatically alter the visuals of the project. The Town should wait until the designs have progressed further.

Use of "Dark Sky Friendly" Lighting is welcomed and encouraged.

SUBMITTED BY BUILDING INSPECTOR NEAL HALLORAN:

Memorandum

To: Town of Goshen Planning Board
CC: Kelly Naughton, attorney
From: Neal Halloran, Building and Zoning
Date: 01/16/2008
Re: LEGOLAND DEIS review

Page 5-6 Although I believe I have seen it elsewhere, there is no mention of paying any taxes to the Goshen Fire district.

Page 8 Water supply mitigation states that all infrastructure will be constructed to Village of Goshen specifications. Does this mean interior to the park or just the service connections? What is the responsibility of the Town of Goshen in respect to construction of water and waste water infrastructure within the park and within the town ROW? Who will be responsible for inspections for compliance?

There seems to be an onsite use of approximately 125,000 gallons of water that does not get returned to the wastewater system, Where does it go?

Page 10 To say that natural variations in topography will work to visually buffer the site seems to deliberately ignore the intent to regrade most of the disturbed area of the park. (140 acres)

Page 11 Fiscal: same comment as for page 5-6. No indication of paying taxes to fire department. Will the library receive any payments?

Page 12 Environmental contamination: I am uncertain as to the meaning of the mitigation, stating "the majority of the areas which had the potential for contamination are to be removed

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from the site during construction,” Does that mean that you are proposing to remove potentially contaminated soils from the site.? If so we may want to know how and where they are being taken. There is a distinction of contaminated but can be left on site but not removed.

Page 13 Agricultural: I believe the statement that it has not been farmed for many decades contradicts the tax records for agricultural exemption.

Air quality: There should at least be some recognition for the “fact” that Goshen (orange County) is considered a non attainment area. Explain what that means and any impact to the project as the result. Canyon impact, (Environmental Defense scorecard)

<http://www.dec.ny.gov/chemical/8923.html>

Addressing the phasing suggested, it seems to indicate a greater degree of subphasing than is possible. With the large scope of the project it is likely that greater than 5 acres will be disturbed at a time and some earth movement will be from the parking lots to the main park area. This goes more to credibility than issues. But for the public it might be good to explain the inspections that are required. Make it easy for the public to know the correct answers.

Page 15 Residential buildout: In this scenario it was anticipated that there would be some recreational space added within the site, and there would be a through road connection from Harriman Drive to Arcadia road with several connections to Arcadia subdivision, though not necessarily all of the connections. (based on prior plans submitted to the planning board by others)

Incorporation of additional Green/Sustainable alternative should be encouraged and incorporated in the site plan or at least anticipated and permitted if approval is granted.

Page 16 This discussion of the town owned lots does not make it obvious as to whether the applicant is proposing to acquire all of the town owned parcels or just some. Is it the intention to acquire the well parcels and then just give an easement to the town or are you proposing to adjust the lot lines around these parcels to make them compliant with NYSDOH requirements.

Page 20 Lot 11-1-45 will the proposed lot be of sufficient size to comply with the setbacks generally required for cell towers? If not will the existing variances be sufficient to allow the proposed lot line without additional variances.

Page 21 Are the two proposed Lone Oak wells to be given to the Town of Goshen or the Arcadia water district. This is significant in that it can limit who in the town can benefit from such a gift.

This paragraph seems to contradict the second paragraph on page 20. Page 20 seems to consider that lots 11-1-60, 65, and 67 will also exist at the end of the project, as well as one lot for the cell tower and the large lot to be the remainder of the land. Please explain.

Page 23 Figure II-2 This does not make it clear the limits of lot 11-1-60. Is it to remain in its current odd state? Why rectangular lots when rod lots would be appropriate.

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Figure 11-3 Perhaps this should continue showing proposed out parcels to make it more understandable.

Page 24 paragraph 3 Emergency road is proposed gravel. Will this be able to be maintained during the winter and will gravel stand up to the runoff from the slope of the road?

Hours of operation. It appears that the hours of operation will include hours after dark in the off peak season. Food service will not be open outside of park hours (except in the hotel???) Employees will be on site 24 hours a day. What they are doing will vary according to their job. Hotel and security will be 24 hours a day???. Will the park be open to hotel guests and annual pass holders prior to the opening for the general public?

Operations: please explain two theaters Are they competition for other theaters? Will the hotel area be open to outside visitors? Will people be able or even want to come in to eat and/or drink there.

Page 31 Public need and benefit: the number of 800 construction jobs is mentioned in many places in the report. What does that mean in terms of man days of labor, or actual projected wages. Since you have committed local labor (union) you should have some idea of the amount of labor you will be paying. This does not mean 800 days, does it mean 800 years of labor?

I have seen elsewhere, where the number of full time employees is broken down to 60 making x, and 240 making y. What are those numbers?

PILOT, Fees and taxes: Where you state that the money paid will jump to \$1,500,000. In year five at the completion of SeaLife aquarium. Does this mean for all three entities or just the school district. What if the completion is faster or slower?

Host community fee: Is the applicant stating that they will pay a minimum of \$1,300,000 or is it as reported in the last sentence of that paragraph, \$520,000.

Last paragraph: How will the taxes increase because of the loss of agricultural exemptions and that some tax exempt parcels will now be within the project.

Page 32 Where you discuss the Hotel Occupancy Tax and the Sales tax, you indicate where some of the money will go, where does the rest go?

I believe you may also need a floodplain development permit for work on the emergency access road over the Otterkill.

Page 37 Blasting. What should the neighbors expect in terms of vibration, noise, flying debris, and disturbance to wells. Will neighbors be able to be prenotified of blasts? Will blasting be restricted to certain days or hours. How close to the nearest dwelling, building, or other significant infrastructure might blasting be required? Hydraulic jack hammering was done in Hambletonian Park and took almost an entire summer of noise for significantly less area. See Schorr Depalma study regarding bedrock out crops in the ridges around Arcadia Hills.

<http://www.townofgoshen.org/hydrology/Hydrologystudy.pdf>

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Under proposed Mitigation it is indicated that certain measure will be implemented. How will that be evaluated, approved, and monitored.

Page 38 Blasting Who will be responsible for the evaluation of the proposed blasting protocols, approve, and then monitor. Perhaps an engineer or other qualified personnel hired and paid for by the town form the building permit and fees for third party inspectors.

Figure III-6 Some areas of the site you propose to cut 50 into the existing topography which may be greater than 20 feet into existing bedrock. In other areas of the site you propose adding 30-90 feet of fill. How do you propose to stabilize that much fill.

Page 39 In the discussion about steep slopes you discuss the need for a SWPPP. In a recent interpretation from Region 3 of the DEC it was stated that the cutting of trees does not require a SWPPP but the dragging, piling, moving of the trees would require the practices to be in place.

Page 40 B wetland delineator not identified

Page 41 last paragraph No encroachment is proposed in the floodplain, yet you propose an emergency access road through the floodplain. How?

Page 54 proposed mitigation might include the maintenance of 11.4 acres of successional farm fields for field breeding species. This is one of the most rapidly diminishing habitats in the state.

Page 69 Porous paver: it seem incorrect that they are the equivalent to fields. Shouldn't it be a percentage of impervious. Schoor Depalma suggested that it is the equivalent to impervious.

Submitted by Diana Lupinski:

Pg 42 Pesticides - will be used as required. I'm assuming it will be posted that the area was sprayed?

Traffic - what time will the park open? Boces was letting school out at 10:30. How will this conflict be resolved?

Diana

Adjournment

The meeting was adjourned at 9:45 p.m.

Respectfully submitted by Tanya McPhee