

GREENPLAN

August 4, 2017

Lee Bergus, Chairman
Town of Goshen Planning Board
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Goshen, NY 10924

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Re.: *Legoland New York Final Environmental Impact Statement*
Comments Submitted for "Public Consideration" of the Document

Dear Mr. Bergus and Members of the Planning Board:

GREENPLAN, Inc. has been retained by Concerned Citizens for the Hudson Valley (CC4HV) to review and comment on the Final Environmental Impact Statement (FEIS) for the Legoland New York project. I am familiar with the Town of Goshen through my personal visits to the Town over the past 26 years and through a review of the Town Comprehensive Plan (both the 2004 and 2009 versions), Zoning Law, and the State Environmental Quality Review Act (SEQR) compliance documents on them. I am familiar with the proposed Legoland project through my review of "Introductory Local Laws No. 5 and 6 of 2016," as well as the preliminary Final Environmental Impact Statement (FEIS) posted to the Town of Goshen website on May 21, 2017 and the actual adopted version of the FEIS, dated as filed on July 25, 2017.

The comments provided herein are made on the FEIS dated July 25, 2017. Under the SEQR Regulations, "Prior to the lead agency's decision on an action that has been the subject of a final EIS, it shall afford agencies and the public a reasonable time period (not less than 10 calendar days) in which to consider the final EIS before issuing its written findings statement." [6 NYCRR 617.11(a)]. It is surprising that the Lead Agency will provide only 10 days for Involved and Interested agencies and the public to "consider" the FEIS since the SEQR Regulations specify that "a reasonable time period" should be provided. In my 40 years of SEQR reviews, this is the first time I have seen such a short review period on an FEIS for such a large project.

Ten days is the minimum that must be provided but, in my opinion, it is unreasonable to expect meaningful consideration of a 843+ page highly technical document (including thousands of pages of new or revised appendices) to be reviewed and checked against both the changes made to the project and the responses to comments made on the Draft Environmental Impact Statement. Ten days does not allow those affected to undertake a careful and deliberate review of the full effects of the proposal on the Town, its citizens, or of other agency decision-making. The "directory" timeframes of SEQR are designed to prevent unnecessary delays in the review of projects. For a project that will affect Goshen for 100 years or more, 30 days would have been more "reasonable." Nevertheless, the comments that follow in this letter and the attached Report are submitted to the Planning Board, as Lead Agency, as part of that 10 day public consideration period.

By education and experience, I am familiar with the State Environmental Quality Review Act, the Planning and Zoning enabling acts of New York State Town Law, Municipal Home Rule Law, and many others. I have reviewed other pertinent documents that relate to the proposed planning and zoning actions as the basis for permitting Legoland to be approved, and cite such documents in the attached Report.

My qualifications for providing comments on the FEIS are numerous. I am a certified professional planner who has worked at the Federal, State and local levels on community and environmental planning projects,

including comprehensive plans and zoning laws, for four decades. I have also worked on SEQR projects for as long, including training municipal legislative, planning and zoning boards on SEQR, and have personally prepared or reviewed thousands of SEQR environmental impact assessment documents. This has included the SEQR review of massive projects like the Sterling Forest Development, where I was a SEQR consultant to the New York State Department of Environmental Conservation (DEC),¹ Federal NEPA² reviews like the Millennium Pipeline, and SEQR reviews of scores of municipal planning and zoning actions.

The comments that follow identify many planning, zoning, and environmental issues that do not, in my professional opinion, document the required “hard-look” at the environmental impacts of the proposed themed amusement park project and thus, are not in agreement with the responses provided in the FEIS document prepared by the applicant for the Planning Board. They reveal numerous instances where the SEQR process, to date, has inadequately analyzed relevant areas of environmental concern for a project of this scale and magnitude, given its environmentally sensitive setting and the Town’s Comprehensive Plan, which represents Goshen’s “*total planning strategy*” as discussed further below.

The FEIS contains numerous examples where misleading statements are made and I have identified some but likely not all due to the short 10 day period provided for the FEIS consideration. This is information upon which multiple decision-makers must decide whether to approve or deny the many permits, funding, and other authorizations required for the project to proceed. Such omissions provide an incomplete record for creating the findings necessary for agency actions. In referring to the FEIS herein, any and all Draft Environmental Impact Statement (DEIS) assertions on the topics studied are included, since the DEIS document by Law must be incorporated directly into the FEIS or incorporated by reference into the FEIS document as per the SEQR regulations at 6 NYCRR 617.9(b)(8). However, I could find no statement in the FEIS that the document complies with this basic procedural requirement of the SEQR Regulations.

Comprehensive Planning

For a comprehensive plan to be effective in meeting community needs, it must belong to the community. Planning can never serve one special interest. This is because **comprehensive planning is designed to serve the public interest**. As a professional planner, certified by the American Institute of Certified Planners, our Code of Ethics and Professional Conduct has as its first principal the following statement: “*Our primary obligation is to serve the public interest...*” We do so by seeking to involve citizens in comprehensive planning as our first priority. A comprehensive plan will only work when it is conceived with the majority of a town’s residents as both its authors and its audience. This is because a comprehensive plan is a document that expresses the will of residents of a community about the way they want to live – now, and in the future. Residents take ownership of a plan by expressing their preferences, hopes and dreams in a public engagement process. They will reject a plan that does not. In regards to a singular economic interest that would be authorized by the proposed amendments, which is what is proposed in this case, the Planning Board and Town Board should note that of the 40 topics New York State Town Law lists as appropriate for the content of a plan, only one reference is made to economics. [see 272-a.3(l)].

This letter will point out how there are numerous other relevant topics that must be explored within the current planning process in order to assert that the proposal to amend the Zoning is “*in accordance with*” the Town Comprehensive Plan, a basic mandate of New York State’s Town Law. To do otherwise invites a type

1. The project included 13,170 dwelling units and 8 million square feet of commercial and other development on 18,500 acres.

2. The National Environmental Policy Act.

of ad hoc planning that my profession, New York State Town Law, and the courts, strongly advise against. Based upon my reading of the 2004 Comprehensive Plan and the 2009 Updated Comprehensive Plan for the Town of Goshen, I do not believe that the narrow amendments proposed to the Plan substantially advance a legitimate public objective in this case. The allowance for an entirely new type of land use within the community, which is currently prohibited (i.e. a themed amusement park), is contrary with relevant evidence presented in the Plan that Goshen has been and wishes to continue to be a rural and agricultural community. A high-volume, high-impact mass-market tourism facility like Legoland, that will attract 20,000 visitors at a time and which at capacity would contain about two and on-half times (2 ½) the 2010 population of the Town of Goshen,³ was never contemplated by the Town's Comprehensive Plan before Legoland requested preferential treatment.

I have no objections to Lego or Legoland, but my role is to point out where the review process conflicts with solid evidence that is not favorable towards adopting Comprehensive Plan and Zoning Law amendments to accommodate Legoland. **My focus in this review is on the potential outcomes for the community and not the motives of any of the individuals involved.**

In my opinion, the planning, zoning and environmental review process that has occurred to date is not adequate to support a finding that the Planning Board as Lead Agency has taken a "hard look" at the proposal's impact on the Town Comprehensive Plan, Zoning Law and other topics, as discussed more fully below. I will point out areas of the FEIS that are deficient as they relate to the proposed Legoland project if the Comprehensive Plan and Zoning Law decisions are adopted. The three are intertwined since the FEIS will be used to prepare the Legoland New York Findings Statement and comply with SEQR for the Comprehensive Plan and Zoning Law amendments as well as Legoland's site-specific impacts. Therefore, this letter and attached Report will include comments on the proposed use, as they have been detailed in the FEIS.

I will present a summary of my comments on the proposal first and then, at the end of this letter, provide the Board with a more complete summary of my qualifications to undertake an analysis of the planning issues, zoning issues and Legoland's assessment of site-specific impacts. A full description of my comments is presented in Report format and is attached to this letter.

Final EIS Errors and Omissions

The FEIS contains numerous omissions, misstatements, inadequate responses, and failures to supply information that was requested to demonstrate a "hard look," each of which I've identified within the attached Report. In my professional opinion, based upon my thorough investigation of this matter from community planning, zoning and environmental impact perspectives, and consistent with proper municipal planning and zoning practices, the FEIS is significantly flawed as a result. Based upon the above cited information, I have made the following conclusion with a reasonable degree of certainty. There is no basis for the Town of Goshen Planning Board to issue SEQR Findings to Approve the proposed Legoland Site Plan, Special Use Permit, Subdivision applications and other authorizations nor for the Town Board of the Town of Goshen to issue SEQR Findings to Approve Introductory Local Laws No. 5 and 6 of 2016.

The full basis for my professional opinion is summarized in six issues I've identified, summarized below, and detailed in an expanded analysis in the attached Report. These issues warrant the preparation of a Supplemental Environmental Impact Statement (SEIS). Under the SEQR Regulations at 6 NYCRR 617.9(a)

³ The US Census of population for the Town of Goshen is 8,233 persons.

(7)(i), an SEIS is warranted when “(‘b’) newly discovered information;” is uncovered that is disclosed and “(ii) based upon the following criteria: (‘a’) the importance and relevance of the information; and (‘b’) the present state of the information in the EIS.” is such that there are “specific significant adverse environmental impacts not addressed or inadequately addressed in the EIS...” The following six issues were not addressed or were inadequately addressed in the FEIS and these six issues are the basis for the SEIS:

1. **Proposed Zoning Amendments Will Not Be Consistent with the Comprehensive Plan.** The Town of Goshen Zoning Law is unequivocal when it states: “*This chapter is enacted pursuant to the authority and power granted by the [State Enabling Laws], in conformance with the Town of Goshen Comprehensive Plan, to advance the goals of the Comprehensive Plan, to protect and promote public health, safety, comfort, convenience, economy, natural, agricultural, and cultural resources, aesthetics and the general welfare...*” [emphasis added]. The entire SEQR review process is predicated upon purported consistency of the proposed Zoning Amendments with one specific policy of the 2009 Updated Comprehensive Plan for the Town of Goshen (henceforward the Plan or Comprehensive Plan) that is also proposed for Amendment. Although three separate sections of the Comprehensive Plan would be amended as proposed, the effect to Goal #4 (and as it has been proposed for amendment) considers only one narrow economic policy of the proposal, ignoring all of the other community established policies and recommendations of the Comprehensive Plan. This approach, in my opinion, is violative of a basic rule of planning, spelled out in Goshen’s Zoning Law which is “to advance the goals of the Comprehensive Plan.” [emphasis added], and not just one narrow economic policy.

Planning outcomes will be around for 100 years or more so when planning is done right, it will be enjoyed again and again by all those who follow in its wake. But if planning is done poorly, it becomes a 100 year error, annoying those that must endure the decisions made. For this reason, New York State Town Law requires that all land use regulations must be “in accordance with” a comprehensive plan.⁴ The concept of the “in accordance with” rule of Town Law for zoning regulations dates back to the 1920’s when the US Department of Commerce prepared a model law designed to be adopted by states entitled the “Standard State Zoning Enabling Act.” The “in accordance with” rule was a part of this model and it prioritized long-term community planning above all else when it comes to control of land use through techniques like zoning.

New York’s Town Law is also clear that comprehensive planning is “Among the most important powers and duties granted by the legislature to a town government.”⁵ If a community did not have a written comprehensive plan (and many in New York do not), the framers of any zoning regulation would need to make numerous assumptions about the future of that municipality with respect to all land use matters, but without the benefit of detailed information and study to support a new zoning regulation. This is why there is such a close relationship between the two municipal planning documents.

As explained further below, zoning is but one element of a comprehensive plan, not the other way around. Zoning can neither be completely comprehensive nor permanently effective unless undertaken as part of a comprehensive plan. This concept was endorsed in two of the most

4. NY State Town Law § 272-a.11(a), which states: “All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”

5. Ibid § 272-a.1(b)

important court decisions on land use control, *Ramapo* and *Euclid*.⁶ The New York State Court of Appeals summed it up well in another leading decision: “*The comprehensive plan is the essence of zoning. Without it, there can be no rational allocation of land. It is the insurance that the public welfare is being served and that zoning does not become nothing more than just a Gallup poll...There must be some showing that the change does not conflict with the community’s basic scheme for land use...One of the key factors used by our courts in determining whether the statutory requirement has been met is whether forethought has been given to the community’s land use problems...Where a community, after a careful and deliberate review of “the present and reasonably foreseeable needs of the community”, adopts a general developmental policy for the community as a whole and amends its zoning law in accordance with that plan, courts can have some confidence that the public interest is being served...Where, however, local officials adopt a zoning amendment to deal with various problems that have arisen, but give no consideration to alternatives which might minimize the adverse effects of a change on particular landowners, and then call in the experts to justify the steps already taken in contemplation of anticipated litigation, closer judicial scrutiny is required to determine whether the amendment conforms to the comprehensive plan.*”⁷

Many practitioners, dealing with municipal land use matters, cling to an outdated notion about comprehensive plans. This notion is that a plan is merely a blueprint and has no force of law. While a plan is a policy document and a zoning regulation is just that, for all of the reasons discussed herein, a plan cannot just be amended on a whim when the next best thing comes along. Planning will always be a dynamic process but a plan is no more fluid a document than a regulation or law and it must comport with specific State-mandated amendment procedures that mirror and, in some cases, are more stringent than the procedures accompanying amendment of a zoning regulation.

While some minor amendments to a comprehensive plan with relatively benign ramifications can be made without a full scale new comprehensive planning review process, such as described herein, the bar is far higher when an amendment to a comprehensive plan is proposed that will so fundamentally alter a plan’s overall vision as to render it ineffective at meeting a community’s well established and preceding land use policies. This is because in New York State, zoning is grounded in the quantitative and qualitative analyses of community growth and current and future land use relationships. Zoning frames the impact of proposals for future public improvements and as such, a comprehensive plan’s entire scheme for a town’s “*immediate and long-range protection, enhancement, growth and development*”⁸ cannot be ignored.

In this case, the entire Goshen Comprehensive Plan must be examined in context because the narrow Amendments to it that have been proposed have a high degree of likelihood to irreversibly alter the Town’s “*long-range protection, enhancement, growth and development.*” I discuss further in the attached Report why I think the “*total planning strategy*” of the Comprehensive Plan does not support the applicant’s proposal. To assert that it does because one discrete policy statement can be slightly amended to support “*commercial tourism/recreation business opportunities*” subverts the entire 2009 Updated Comprehensive Plan, which was crafted through a seven year planning process involving numerous Town officials, Town residents, and consultants.

6. *Golden v. Ramapo* (considered a “classic” zoning case) and *Euclid v. Ambler* (considered “the seminal zoning case”).

7 *Udell v. Haas*

8. *Ibid* § 272-a.2(a).

Fundamentally, municipal land use planning addresses two community needs - addressing a problem or an opportunity and devising the best approach to deal with it. Legoland may present both. But, municipal comprehensive planning should never be used in a way where one side wins and the other loses. Comprehensive planning is a process where we reach “*well-considered*” decisions and create consensus in the community about what residents want to see achieved for their future health, safety and welfare. In other words, what direction do residents want to see Goshen go in the future; maintain the Town’s rural and agricultural character by maintaining low densities of development as spelled out in the Plan or let land use be driven by outside forces that may take the Town to a place where it never anticipated it would go? From my review of the proposal, it appears as if the proposal violates this basic premise of planning, established decades ago and tested again and again in the courts. The only way to avoid having the proposal determined to be “spot zoning,” as alleged by others, is for Goshen to undertake a comprehensive update to its Plan, as recommended every three years in the 2009 Plan.

2. **An Up-to-date Comprehensive Plan is Years Past Due.** Section 4.3 of the 2009 Comprehensive Plan states: “*A re-examination of the Plan should continue to be undertaken at least once every three (3) years.*” It has been eight years since the last update, so the Plan needs to be re-examined to remain in compliance with its own dictates as well as Town Law’s mandate for “*providing...the maximum intervals at which the adopted plan shall be reviewed.*” [see Town Law § 272-a.10]. The update is now well overdue and a “*re-examination,*” based upon the proposed Amendments, is not a substitute for a new comprehensive review of the document. The situation has likely contributed to the significant public controversy that has erupted as a result of the narrow proposal to amend one economic policy in the Plan that would accommodate a themed amusement park, potentially to the detriment of the community and its established character. Such controversy demonstrates that the proposal will not be enacted to benefit the community as a whole.

Moreover, the types of impacts triggered by secondary or induced growth from a massive development like a themed amusement park are best addressed only through a community-based planning process and not at the behest of an applicant that has an obvious vested interest in the outcome of the process. Only the residents of Goshen can create the future they want for their community.

But what do residents want? A SEQR review process for a “silver bullet” like a themed amusement park is no substitute for a planning process that reflects the legislative mandates in § 272-a of the York State Town Law. As stated in Anderson’s New York Zoning Law and Practice: Zoning regulations, unlike police restrictions of narrower scope, are not designed to remedy a single evil, but are calculated to achieve a broader purpose. They are, or can be, tailored to fit a comprehensive plan which in turn is designed to serve the health, safety, morals, and welfare of a whole community.” As one New York State court stated in regards to the issue,⁹ a determining factor in deciding whether a zoning change is spot zoning or is part of a comprehensive plan “*is whether forethought has been given to the community’s land use problems.*” Narrowly amending the Plan in a way that favors approval of a special purpose land use, a themed amusement park, while ignoring the impacts on the Plan’s overall planning strategy to maintain rural and agricultural character as the defining principal of the Town, reveals a significant disconnect with the current proposal. Indeed, the current prohibition on amusement parks found in § 97-10.C.(1)(b) of the Zoning Law reveals the significant departure from the Town’s

⁹ Kravetz v. Plenge

precedent-setting and long-standing concerns about permitting this type of land use and its accompanying problems.

The Final Generic Environmental Impact Statement (FGEIS) prepared for the 2009 Comprehensive Plan Update was clear in describing the overall policy strategy the Town was proposing, at that time, with regard to the economics of permitting retail/commercial development in the area of the current Legoland proposal. As stated on page 74 of the FGEIS: *“Goal #4: The Town Board believes that Goal #4 is better met by increasing the commercial coverage ratios in the existing I, HC, and CO zones rather than rezoning land immediately adjacent to the Village of Goshen for additional retail/commercial development. The increase in the commercial coverage ratios has the potential to result in up to \$39 million in additional property taxes.”*

While the Town can certainly change its overall planning strategy based upon new opportunities, to do so without the benefit of a comprehensive planning process is a disservice to the Town and especially to those who devoted their time and energies to the prior planning process. Only a new and comprehensive planning process and a new or updated SEQR review dedicated to that process will reveal *“whether forethought has been given to the community’s land use problems”* that may arise as a result of new and significant stresses on community resources, such as traffic, ecology, ground and surface water, land use, community character, agriculture, quality of life, and so on that were not addressed by a narrowly focused site-specific EIS for a singular project that requires a whole new planning and zoning approach in the community. In my opinion, there is sufficient evidence presented in the FEIS that, despite the economic benefits offered by the proposal, it is being moved towards approval without regard to the community and its treasured rural and agricultural character, as expressed throughout the 2004 and 2009 Comprehensive Plans. The only way to remedy this is with an updated planning process as recommended by Town Law, State and local agencies, planning professionals, and the Town’s own planning and zoning documents.

3. **Goshen will lose Rural Status.** The proposal to allow a large-scale themed amusement park in Goshen will unalterably transform Goshen from a rural and agricultural Town to something else. Residents clearly expressed their desire to remain a rural community throughout the 2009 Comprehensive Plan, and this basic concept carries over into the Zoning Law. The SEQR review process to date has focused on purported consistency of the project with the Comprehensive Plan’s Goal # 4 (including the proposed Amendments to it) to develop a strong and balanced economic base and to attract tax positive commercial development. Based upon my review of the Comprehensive Plan and the FEIS, the assessment of impacts on the Comprehensive Plan fails to disclose the inconsistencies of the proposed themed amusement park project with the rural and agricultural character of the community, as expressed in the Town’s established goals to remain a rural and agricultural community and to allow development that is consistent with those goals. Indeed, the 2009 Comprehensive Plan was enacted following the 2004 Plan adoption because of concerns *“In relation to the density and siting of the development allowed in the Hamlet Residential (HR) and Hamlet Mixed-Use (HM) districts...”* [see page 10 of Comprehensive Plan].

The applicant maintains that the proposed project will benefit the community economically by providing jobs and other benefits. The economy is only one facet of how the community and its Comprehensive Plan will be affected. It ignores the quality of life changes that will occur once the Town loses its rural and agricultural character. It also ignores the overwhelming evidence presented

in the FEIS that the Town will no longer be “*presently and appropriately a primarily rural community.*” [see page 1 of Comprehensive Plan]. Indeed, the evidence presented by the applicant to date demonstrates that the rezoning, if approved, will be done without regard to Goshen’s vision of remaining a rural and agricultural community. Thus, the rezoning would fail to meet the State’s Comprehensive Plan consistency requirement unless the Plan is subjected to a new comprehensive planning review process including a Supplemental Environmental Impact Statement or its own stand-alone EIS. The FEIS response to comments on the DEIS, pointing out this precise issue of the Comprehensive Plan and Zoning inconsistency, simply states: “*This is incorrect*” [for example see Response B.172.8].

There is a directive in the Zoning Law that is clear about furthering Goshen’s vision for its future, as articulated in the Comprehensive Plan. Article 97-2.B directs applicants “*to consult the Town’s Comprehensive Plan to understand how to make a proposed development fit within the Town’s vision of its future.*” If the applicant had followed this advice, perhaps it would have reconsidered locating its themed amusement park in Goshen, based upon the Plan’s solid emphasis on maintaining rural and agricultural character.

4. **The FEIS “Cherry-picks” Planning Recommendations.** Statements are quoted in the FEIS from a number of plans and planning studies, that purport to show support for the project, even when the overall tone of such plans and planning studies does not appear to support a project with the scale and magnitude of a themed amusement park. When just one policy seems to align with the proposed themed amusement park, the project is pronounced as “*consistent with*” the plan or planning study. The FEIS fails to assess the larger impacts of the project against the overall intent of such plans and planning studies by avoiding discussions of inconsistencies or incompatibilities that run counter to the proposed themed amusement park project. The most egregious of these is cited above in my first major concern related to the Comprehensive Plan review, but it includes other plans and planning studies noted in the FEIS or omitted altogether, perhaps because they are not at all supportive of a large-scale project like Legoland.

By omission, the FEIS fails to include an analysis or even a brief discussion of other relevant plans and planning studies that are contrary with the proposed project, such as the “Orange County Agricultural and Farmland Protection Plan” which designates the site for “*Farmland: Priorities for Protection,*”¹⁰ or the Mid-Hudson Regional Sustainability Plan, which recommends: “*Make all growth smart growth*” and “*Benefit from and preserve the region’s unique assets through tourism...The Mid-Hudson Region has many assets that already work together to create a destination attractive for its historic, cultural, and natural character...tourism assets range from small farms and immense forests to historic buildings and battlegrounds; opportunities include ecotourism, agro-tourism, historic sites and buildings ready for adaptive reuse, transit accessible attractions and a whole host of sporting, viewing, touring, tasting, and experiential activities.*” [emphasis added, see pages 9-5 and 9-6 of the Mid-Hudson Plan].

Since both the Village and Town of Goshen are Hudson River Valley Greenway Communities, a discussion of the project’s consistency with Greenway Criteria would normally be mandatory in any comprehensive plan and/or zoning amendment review process. There is not a mention of the Greenway in the FEIS. Goshen’s previous planning efforts were even recognized with an award by

¹⁰ See “Orange County Agricultural and Farmland Protection Plan,” adopted by the Orange County Legislature and approved by the New York State Department of Agriculture and Markets in 2015, page 24, Map 5.

the Greenway. Former Assemblyperson at the time, Anne Rabbitt presented the Town Board with a resolution regarding the “Hudson River Greenway Visions in Planning” award to the Town. Assemblyperson Rabbitt told the Town Board that the Town was recognized for its achievement for the Town’s exemplary work in developing a Comprehensive Plan and Zoning Code.

The significance of this relates to the Comprehensive Plan and Zoning Law amendments and their consistency with the Orange County Greenway Compact, which was approved by the Hudson River Valley Greenway Communities Council on June 12, 2013. While to my knowledge, Goshen has not yet joined in this additional level of Greenway participation, the County Compact document provides evidence of the inconsistencies of the proposal with Greenway Principles. Of even greater significance, the County Compact document provided more updated and detailed information on the “Priority Growth Areas” further refining and showing parcel by parcel, properties that are recommended for either priority growth or rural protection. For the proposal, this is a mixed bag. While a small portion of the site is in fact designated for priority growth, a significant portion of the 522 acres is recommended for rural preservation. Thus, the FEIS’s claim of consistency with County planning documents is without foundation. This subject is discussed in detail in the attached Report.

5. **FEIS Confuses a Generic and Site-specific EIS.** The FEIS focuses on the site-specific impacts of 150 acres of development for the initial themed amusement park project. However, the remainder of the 522 acre site, proposed for a Zoning Map amendment, needs to be subjected to a generic impact assessment because the proposed rezoning will lead to changes made over time, even though they are not now a part of the proposed action.

The applicant cannot be compelled to produce plans that may or may not exist for future expansion or other development of the remaining acreages. However, SEQR requires that an assessment of the effect of the Zoning and Comprehensive Plan amendments to the entire affected area, namely the proposed Zoning Map Amendment that would create the 522 acre “Commercial Recreation Overlay District,” must also be subjected to a future conceptual build-out **that will be allowed under the new Zoning regulations.** SEQR has a long history of environmental impact assessments of zoning decisions, when there are no concrete proposals available.

Indeed, all zoning decisions, whether they involve a site-specific project or not, are subject to an environmental review of any changes in use or intensity of use that would be authorized. In these cases, the full build-out that could in concept be developed once the zoning changes are in place, becomes the subject of a generic environmental impact assessment [see 6 NYCRR 617.10]. If the Town were to propose a change to the Zoning Law that would allow amusement parks within an area zoned for low density residential use, but no applications had been filed for any approvals, then the Town Board would be compelled to undertake a generic environmental impact analysis of the changes that could be foreseeably predicted by such changes.

This is the way the SEQR Regulations and all guidance for its administration by local agencies has been defined to date. The only way to cure this deficiency is through the preparation of a Supplemental Environmental Impact Statement (SEIS) that carefully assesses the generic environmental impacts of the Comprehensive Plan and Zoning changes on the Town as a whole.

6. **FEIS Fails to Respond to Questions and “Glosses Over” Legitimate Environmental Concerns.** The FEIS fails to properly address and take a “hard look” at numerous significant environmental impact issues raised by many commenters on the DEIS. It does so by simply citing that such comments are either “incorrect,” were not required by the Final Scoping Document, or simply by silence, where the question or comment on the DEIS remains unanswered in the response to comments provided in the FEIS. The FEIS also contains numerous internal inconsistencies and conflicts in its statements about potentially significant environmental impacts that create confusion about important environmental issues and how such impacts will be minimized or avoided. The mistakes and omissions inhibit the ability of agencies to draw conclusions from the assertions made in the FEIS, in which clarity is essential for preparation of their own Findings. In some cases, obvious assessments of impacts that were mandated in the Final Scoping Document, have been omitted entirely. I have detailed as many of these omissions as the short 10 day time period permitted, in the attached report.

Town-Owned Parcels

I would like to raise one final issue that does not appear to have been addressed to date in the review process. It involves six of the nine parcels that are owned by the Town of Goshen and that have been proposed for sale to Merlin. When I investigated the Orange County Tax records for the parcels that have been proposed for the Zoning Map Amendment, I found notes within the “Legal Property Description” area of the parcel information that raises a potentially important issue. Attachment B to the attached Report show screen captures of the relevant documents from Image Mate Online, Orange County Department of Real Property Tax Service Agency’s online access to parcel information. As shown on Attachment B, on each of the six referenced parcel documents, there is a notation to the effect of either: “Arcadia Green Area” or “Green Area Public Use.” Since this note is on the line described as the “Legal Property Description,” my question is as follows: Has Merlin or the Town of Goshen investigated whether sale of these properties constitutes “Parkland Alienation”?

The New York State Office of Parks Recreation and Historic Preservation’s publication entitled “[Handbook on the Alienation and Conversion of Municipal Parkland in New York](#)” describes parkland alienation and it states that not all lands must be designated specifically as “parkland” for them to be eligible for an assessment of whether their sale constitutes “alienation.” According to this publication, implied dedication is included in the State requirements for municipal parkland dedication. As stated: “*In order for the principles of alienation to apply to municipal land, it need not have been formally dedicated, or even developed with amenities such as lawns, playing fields, or picnic tables...The following have been determined by the courts to be alienations...The conveyance, sale, or lease of municipal parkland or recreational facilities to another public or private entity, such as an adjoining property owner, a developer, or a school district, which results in the facility no longer being used for public park and recreation purposes.*” Since public use of a dedicated “green area” may imply a dedication of open space, it would seem to be prudent to investigate this issue before concluding the SEQR review process and selling the parcels.

Qualifications

Finally, I would like to provide the Planning Board with a short description of my qualifications to undertake this work. I am a professional planner and have maintained certification by the American Institute of Certified Planners for the past 30 years. I am the principal of GREENPLAN, Inc., a planning

consulting firm located in Rhinebeck, New York that I established in 1991. GREENPLAN represents municipal and private clients, as well as non-profit agencies throughout New York State. I have four decades of professional planning experience working in the public, private and non-profit sectors. My firm has represented urban to rural communities, providing planning services to 54 government entities including 31 towns, 12 villages, two cities, five county agencies, two school districts, and two State of New York agencies. I have been a Professor of Land Use Planning at Bard College's Graduate School of Environmental Studies and am currently an Adjunct Professor with Marist College's School of Science. I train and assist municipal planning boards in their environmental and land use reviews of development projects under the State Environmental Quality Review Act ("SEQR"), New York State Town, Village and General City Law, and other applicable Federal, State and Local rules and regulations. Most of this work has been in the Hudson Valley and has been for rural and agricultural communities just like Goshen. So, I am intimately familiar with the on-going efforts to balance economic development with the character of many other similar communities.

I began work under SEQR in 1975 for the Erie County Department of Environmental Quality. Even though SEQR had not yet become effective, at that time I was responsible for creating an environmental review procedure for the County's capital construction projects in anticipation of SEQR becoming effective on a phased-in basis between 1976 and 1978. Since 1975, I have personally reviewed or prepared well in excess of 1,000 environmental impact assessment documents. I conduct SEQR training sessions for planning and zoning boards in accordance with New York State's Training requirements. I continue to work for numerous planning boards throughout the Hudson Valley. My work on SEQR reviews and local planning boards has included a few notable large projects over the years including:

- For the New York State Department of Environmental Conservation (DEC), review of the Draft and Final Generic/Site Specific Environmental Impact Statements (DGEIS and FGEIS) for the Sterling Forest project including community character, land use and zoning, traffic, visual and scenic resources, community facilities, fiscal and economic effects, jobs/housing balance, growth inducements, and performance based criteria for future approvals by the three affected Towns. The project included 13,170 dwelling units and 8 million square feet of commercial development in 5 proposed new hamlets, 3 golf courses, a ski center, 6 community parks, and infrastructure development to support the project on an 18,500 acre area in Orange County. In this unique SEQR review process, I "wore two hats" as the Town Planner for the Town of Warwick, also representing the Town's interests within the State-led (i.e. DEC as Lead Agency) SEQR review process.
- World Headquarters for Jehovah's Witnesses. This project provides housing for 1,500 residents in four five-story residence buildings, religious use of an administrative offices building and place of worship, a services building, a vehicle maintenance building, a powerhouse/maintenance building, a recreational building and courts, and parking areas on a 261 acre site in Orange County.
- Review of the Carvel project (also known as The Hudson Valley Club). This 975 unit residential development was proposed on more than 2,000 acres of land in Dutchess County.
- Responsible for the SEQR, Site Plan and Special Permit review of 24 major developments in one town including two multi-story hotels, a Home Depot, Splash Down Water Park, senior housing developments, a medical center, Merritt Park Condominiums, as well as other large-scale projects like the Westage, Fishkill Landing and Waterfront at Fishkill development projects in Dutchess County.

- Reviewed the Federal Energy Regulatory Commission's (FERC) environmental impact statement documents for the Millennium Gas Pipeline and several Columbia Gas Pipeline modifications.
- Reviewed the Silo Ridge resort development Draft EIS, a project once consisting of 690 dwelling units including a hotel, single family and multi-family dwellings, commercial uses and an 18 hole golf course.
- Prepared a Draft EIS and related SEQR documents for the proposed Magic Canyon Theme Park in Ulster County, a tourism-oriented themed amusement park with the quality and theming associated with parks such as the Magic Kingdom in Florida. My work on this project was for a private applicant proposing the project.

Concluding Remarks

I trust that the Goshen Planning Board and Town Board will engage in a rigorous discussion of the issues raised in this letter and attached Report. I also hope that the Planning Board and Town Board have the foresight to provide the residents of Goshen with an open and transparent opportunity to take a meaningful role in comprehensive planning for the community before saying yes or no to a project as significant as Legoland. The project would transform Goshen for decades to come. Only then can comprehensive planning truly rise to its role as one of the "most important powers and duties" of local government envisioned by the State Legislature and where: "*The participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum town comprehensive plan.*" [Town Law § 272-a.1.(e)]. I thank you for your kind consideration of my recommendations.

Very Truly Yours,



J.Theodore Fink, AICP
President

Cc: Concerned Citizens for the Hudson Valley
Michael Sussman, Esq.

Attachment: SEQR Analysis and Report: Legoland New York Final EIS Review

SEQR ANALYSIS AND REPORT
LEGOLAND NEW YORK
COMMERCIAL RECREATION FACILITY FINAL EIS



Arcadia Farm June 2017
Arcadia Road Goshen, NY

PREPARED BY GREENPLAN INC.

August 4, 2017

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Attachments:

- A. Excerpt: Orange County Economic Development Strategy (adopted 2015)
- B. Orange County Image Mate Online - Town Parcel Information
- C. NY State DEC Otter Kill “Threatened Waters” Designation
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Legoland New York FEIS Review Report:

Introduction

The following Report examines the Final Environmental Impact Statement for the Legoland Commercial Recreation Facility, proposed in the Town of Goshen, New York. The Report analyzes the action's compliance with New York State Town Law, the New York State Environmental Quality Review Act and related New York State planning and zoning enabling acts. The Report provides details on the errors and omissions that have been identified in the Lead Agency's SEQR review process, as represented in the Final Environmental Impact Statement (FEIS) prepared by the applicant, Merlin Entertainments Group US Holdings, Inc. Rather than a simple critique of the review process completed to date, the Report also presents a roadmap that can be used to correct the identified errors and omissions.

The opinions expressed herein are solely those of the author, J. Theodore Fink, AICP, of GREENPLAN Inc. They have been prepared for Concerned Citizens of the Hudson Valley (CC4HV) as one facet of the public interest that appears to have been underrepresented in the rush to approve a project "*Affecting the immediate and long-range protection, enhancement, growth and development of the state...*", the Town of Goshen, and surrounding communities. [see New York State Town Law § 272-a.1.(a)].

This Report is broken down into six significant issues that will require additional analysis in order to substantiate the need for a "hard look" at the environmental impacts studied for the proposed action; the action being defined as the amendments proposed to the Town of Goshen Comprehensive Plan and Zoning Law by the applicant as well as the proposed applications for Site Plan, Special Use Permit, and Subdivision approvals, among a number of other authorizations requested by the applicant or required for the project to proceed. This is because under New York State law:¹ "*No agency involved in an action, may undertake, fund or approve the action until it has complied with the provisions of SEQR.*" This Report provides details on how the SEQR review process to date has inadequately complied with the provisions of SEQR.

The first and perhaps most significant issue to be addressed in this report is the FEIS's lack of understanding of the relationship between a comprehensive plan and zoning regulations. There is a very outdated impression that many land use practitioners have about a comprehensive plan, which is that a plan is simply a blueprint that can easily be changed and that it is only the zoning regulations that count in consideration of a development project approval. There is also a mistaken impression in the FEIS that because of the size of the area included in the proposed Zoning Amendments, it does not somehow qualify for "spot zoning," which has been found by the New

¹ See 6 NYCRR 617.3(a).

York State Court of Appeals to be illegal. This is reflected in the arguments presented in the FEIS: if only a small change were to be made to the Town Comprehensive Plan to favor an entirely new use, then the Zoning will automatically be consistent with the Town's Comprehensive Plan. Nothing could be further from the truth as explained in detail below. Zoning, in fact, is just one component of a comprehensive plan, not the other way around. If the Town of Goshen continues to move in the direction it is presently going, then the process used to approve Legoland will be flawed.

1. Zoning Consistency and the Comprehensive Plan

Proposed Zoning Amendments Will Not Be Consistent with the Comprehensive Plan. Consistency of a proposed themed amusement park use, to be permitted by the proposed enactment of the Plan and Zoning amendments (or prohibited if they are not), must be weighed against the overall established character of the community, as expressed throughout the Comprehensive Plan. Relying solely on a themed amusement park's economic benefits to the community rather than a "*reasoned consideration*" of the community benefits of maintaining rural and agricultural character in the Town and other desired land uses, which are the clear preferences expressed in the 2009 Plan, diminishes the effectiveness of the entire Comprehensive Plan. The SEQR process has ignored these mandates and is flawed as a result. As stated by New York's courts,² to sustain a rezoning without a supportive planning rationale "*would invite the kind of ad hoc and arbitrary application of zoning power that the comprehensive planning requirement was designed to avoid.*" The narrow amendments proposed to the Comprehensive Plan and Zoning are an invitation to ad hoc and arbitrary community planning, because they ignore the overall vision articulated for the Town throughout the existing Comprehensive Plan and Zoning Law (i.e. "*To advance the goals of the comprehensive plan.*"). **The SEQR process conducted to date has inadequately addressed the profound departure from Goshen's precedent, set in the 2004 and 2009 Comprehensive Plans, to maintain rural and agricultural character as the defining vision of the Town, especially since the underlying facts have not substantially changed, except for a request to accommodate Legoland.**

The consistency provision of Town Law, namely the "*in accordance with*" rule, must first be rigorously reviewed by the Planning Board, as the SEQR Lead Agency setting the tone of the environmental review of the Comprehensive Plan and Zoning Law Amendments. To better understand the "*in accordance with*" rule, one should begin with an understanding of how the terms "consistent" or "consistency" are defined. The Oxford English Dictionary defines "consistent" as "*Compatible or in agreement with something.*" The FEIS purports consistency of the Zoning Amendments with the Comprehensive Plan throughout the FEIS, based solely upon the narrow amendments to the Comprehensive Plan. As discussed more fully below, the overall Comprehensive Plan, when viewed as a whole, and not just for the proposed Amendments to Goal # 4, reveals numerous incompatibilities between the 2009 Comprehensive Plan and the Zoning Law's proposed Amendments.

Furthermore, in the analysis conducted of the existing Goshen Comprehensive Plan, that led to the above conclusion, GREENPLAN Inc. was guided by 40 years of professional experience in breaking down the relationships between comprehensive plans and zoning regulations. For this, a search for actual conflicts that exist between a plan and zoning regulation is regularly conducted by the firm. Plan documents are also

² Osiecki v. Town of Huntington, 170 A.D.2d 490, 565 N.Y.S.2d 564 (2d Dep't 1991).

reviewed against zoning regulations to see whether the regulations advance or assist in moving forward the goals, objectives, policies, densities, land uses, and intensities found in the plan document with what can be expected to be accomplished if and when development applications are submitted under zoning regulations.

In reaching a consistency determination between a Comprehensive Plan and a Zoning regulation, all relevant policies and passages from the Comprehensive Plan need to be reviewed so that several important questions can be answered: a) Does the Plan Amendment materially alter use of property (in this case the full 522 acre site) in a way that was never intended in the Plan? b) Does the Plan Amendment materially alter the density of properties that would be affected? c) Is the intensity of use of property materially altered? d) Does the Plan Amendment have townwide implications? e) Does the Plan Amendment have implications for unintended consequences, such as secondary growth induced by the amendments? and f) If so, does the Plan Amendment include any consideration of how the town will plan for such secondary impacts? In answer to these questions, the proposed Amendments to the Comprehensive Plan do, as they have been proposed, do appear to materially alter the original intent of the Comprehensive Plan and have a high degree of likelihood that they will result in unintended consequences that have not been subjected to a comprehensive planning process.

The question of consistency then, hinges on not only whether the proposal is consistent with the Comprehensive Plan but how is it inconsistent. The questions that require answers can be readily obtained through analysis of the entire Plan document within the FEIS³ so that each of the seven Town goals and each of the accompanying objectives for the seven Town goals has been subject to a thorough examination.

An explanation for how the proposal is consistent with or is inconsistent with each of the policy statements has been entirely omitted from the FEIS. Only after this exercise is completed can the proposal and the land uses that will be permitted by the Zoning Amendments be determined to be either in agreement with or not in agreement with the “Land Use Districts” shown on Figure 2.5? Then an explanation and rationale needs to be provided for each policy. If they are not in agreement, why not? Is the proposal and the land uses that will be permitted by the Zoning Amendments in agreement with the “Land Use Districts” on Figure 5.2, the Proposed Zoning Map? How do the proposed amendments alter economic development in the Town that specifically includes the uses that are specifically encouraged in the Plan, like agriculture?

If a purpose of the Town Zoning is: *“To improve transportation and to maintain a network of smaller country roads in areas designated for low- density development and the protection of open space, agriculture, steep slopes, and rural character...[and] reduces the need for driving, provides alternative routes between destinations, and encourages walking,*

³ As required by the Final Scoping Document (page 20) as follows: *“Consistency with adopted policies and/or plans as set forth within local and regional community land use, planning and development documents, including the Town and County Comprehensive Plans, Town Open Space and Farmland Protection Plan, Southern Walkill Biodiversity Study, Orange County Moodna Creek and Walkill River Watershed Management Plan, DEC Action Plan Project - Hudson River Estuary, Orange County Open Space Plan and Orange County Water Master Plan will be addressed”*

bicycling and public transportation” how then is an automobile dependent large-scale use like Legoland, with a projected 10,000 to 11,000 trips per day (see FEIS Response B.172.12) going to further these goals? The traffic generation predictions could in fact prove to be an understatement if Legoland becomes more popular than expected. As a noted Nobel Physicist once said: “*Prediction is very difficult, especially if it is about the future.*” If Legoland is anything like the Walkway Over the Hudson State Historic Park, attendance could far exceed expectations, thereby surpassing traffic projections and other relevant measures.⁴

A themed amusement park seems to be the kind of project that the Comprehensive Plan was designed to avoid. The Comprehensive Plan speaks volumes about encouraging “*small-scale neighborhood commercial use*” and “*Encourage a diverse economic base that provides tax ratables as well as necessary local services*” [page 50], “*concentrating large-scale growth in urban centers*” [page 55], and finally, the repeated references to preserving or protecting rural character and agriculture. The Zoning Law speaks clearly about the Town’s vision of future development. Article 97-18.A states: “*Purposes. Under this chapter, most of the developable land in the Town of Goshen is located in the RU District. The Town therefore has a vital interest in seeing that this land is either protected from development or developed in a manner that is consistent with the goals of the Comprehensive Plan.*” Amending one Comprehensive Plan goal statement and then claiming that the Zoning Amendments are consistent with the overall Comprehensive Plan does not follow logical principles. If it did, then the applicant should easily be able to show, goal by goal, how the proposal is consistent with each of the other six goals found on pages 50 and 51 of the Comprehensive Plan.

If not a themed amusement park, what then would prevent any other large-scale land use with promises of jobs and economic benefits (but not necessarily consistency with the Town’s vision) from seeking a Comprehensive Plan and Zoning change, thereby setting the stage for transformation of the Town’s rural and agricultural character? This is the key concept behind why New York’s courts have deemed spot zoning a form of ad hoc planning to be avoided.

While the site-specific environmental impacts of a themed amusement park have been studied in the DEIS and FEIS documents what is lacking in this process to also amend the 2009 Comprehensive Plan, is the kind of rigorous citizen participation that is built into a comprehensive plan process, like the one that occurred from 2002 to 2009. Citizen participation on comprehensive plans is required by Town Law and must include the use of proven engagement techniques such as public opinion surveys, visioning sessions, public meetings, town hall meetings, online surveys and town halls, and citizen-based “special boards”⁵ among other effective techniques. But most important, a bona fide comprehensive plan process results in broad discussions amongst residents over time of what they want for the future of the Town. This ensures

⁴ The “Walkway over the Hudson Final Design Report and Environmental Assessment” (February 2008) estimated that there would be 267,700 annual visitors if the rusty old railroad bridge was converted to a walking trail. The actual attendance reached 710,000 in 2013 and most recently was 547,722 in 2016.

⁵ Ibid § 272-a.2(c).

that the planning process actively involves all segments of the community in analyzing issues, generating visions, developing plans, and monitoring outcomes for the future of their community. The process ten years ago clearly found that residents want economic growth but they also want it balanced with protection of the Town's rural, environmental, and agricultural character. This is the community character that is most endangered by a proposal for a high-volume, high-impact mass-market tourism facility that will generate 2.5 million visitors a year within a rural Town of 8,233 residents, along with the secondary impacts from induced growth if Legoland does come to Town.

The American Planning Association outlines the proper role of citizen participation in a planning process as follows: *"Public participation in planning is a mainstay of democratic governance and decision making. By actively involving the whole community in making and implementing plans, the government fulfills its responsibilities to keep all citizens informed and to offer them the opportunity to influence those actions that affect them."*⁶ **The question for the Town Board (and Planning Board as Lead Agency) becomes whether approval of the proposed amendments will progress Goshen towards the Plan's long-range goals and shared vision for a sustainable rural and agricultural community or reflects special interests associated with high-volume, high-impact mass-market tourism.** Will the rapid growth that will come to Goshen be good or bad for the Town? That is something only the Town's residents can decide through a comprehensive planning process.

A perhaps even more significant question is whether the Town is prepared for the secondary growth that will be induced by a themed amusement park promising a \$500 million investment in the community, whether Goshen's Comprehensive Plan and Zoning Law can accommodate the growth and if that is the type of growth the Town's residents want to encourage. Surely, the Comprehensive Plan in its present form neither contemplated nor was prepared to accommodate the secondary growth that will occur, including its accompanying environmental impacts. These impacts include, but are not limited to, potentially rapid changes in land use which in turn leads to increased traffic, degradation of air and water quality, loss of biological resources and habitats, increased demand for and costs of public services, and changes in visual and aesthetic qualities, all of which effect the Town's quality of life. **The applicant prepared FEIS completely ignores these secondary impacts. Further, the FEIS fails to even acknowledge these secondary impacts when it states:** *"No growth is anticipated to result from the adoption of Introductory Local Law Nos. 5 and 6...No residential growth is expected because the available housing stock in the Goshen and Orange County area can easily absorb the incremental increase in employees who may want to relocate to the area..."* [see Response B.2.119 and Chapter VIII of DEIS]. The FEIS presents no evidence to support such a statement. In fact, **planners and others have studied induced growth for decades and these statements are absurd for the FEIS to claim because it is contrary not only to common sense but to long established planning principles backed with years of solid research findings.**

6. David R. Godschalk, FAICP, and David C. Rouse, AICP, *Planning Advisory Service Report 578: Sustaining Places: Best Practices for Comprehensive Plans*, (Chicago: American Planning Association Research Department, 2015), page 19.

Moreover, the SEQR review process and its one consolidated public hearing cannot substitute for the kind of citizen involvement that a comprehensive plan update process must include. The New York State Department of State's Office of General Counsel has prepared a Legal Memorandum (LU09) that states: "*Defining a town, village or city's sense of place and its vision through a plan requires extensive community input.*" [emphasis added]. When planning addresses the needs of the community through a "*total planning process*" involving citizen input and through consensus building, it will be more effective in creating a plan for the "*long-range protection, enhancement, growth and development*" of the community. [Town Law § 272-a.1(a)]. Ignoring the secondary impacts of the proposed Comprehensive Plan and Zoning Law changes do not follow the procedures outlined in SEQR, Town Law, the Town's own procedures and policies, and sound community planning. These could be cured through a thorough new comprehensive planning process and preparation of a Supplemental DEIS or through a new stand-alone Environmental Impact Statement.

Do Financial Benefits to Some Outweigh Loss of Community Character. There are always two sides of a story. Legoland has proposed their project with an intense level of planning, design, and advocacy. The applicant appears to be confident that the project, as proposed, will be of financial benefit to Merlin Entertainment Group US Holdings, Inc. as well as to some businesses and residents in the Town of Goshen. As a project that has been projected to reach a "\$500 million investment" [DEIS page 5], clearly some will benefit from an infusion of revenues from out of town. But, a "rising tide will not lift all boats" in this case. Despite the massive potential infusion of money, what is lacking in the environmental documents produced to date are what the costs will be of the town potentially losing its existing rural and agricultural community character, its negative effects on the quality of life currently enjoyed by Goshen's residents, and its potential to cause blight if the Town's agricultural economy suffers as a result of the traffic congestion and other negative effects on farmers and farms.

What compounds the potential loss of the Town's rural and agricultural character is the source of the loss - through a single company touting financial benefits to the Town if only a small set of Amendments to the Plan and Zoning were to be approved. This single action may be at the expense of the Town's quality of life as well as its rural and agricultural character as expressed in its Comprehensive Plan. **Outlined below will be not only how there will be a potential loss of rural and agricultural character if the proposed themed amusement park project is approved but how this decision will be inconsistent with the Town's "total planning process" and in clear conflict with the Town's Comprehensive Plan if the Amendments that are proposed to the Plan are approved by Local Law No. 5 of 2016.**

The New York State Legislature created the enabling laws that permit the Town of Goshen to prepare a comprehensive plan and to then control land use within its borders in accordance with that plan. As

outlined by the Legislature when it created those enabling laws: “Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens.” and “The participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum town comprehensive plan.” [New York State Town Law §§ 272-a.1(b) and (e)]. The single consolidated public hearing held on December 15 and December 19, 2016 cannot substitute for an “open, responsible and flexible planning process” involving all citizens of the community, as occurred for preparation of the 2009 and previous Town plans.

SEQR Process Flawed. The SEQR review process conducted to date for the proposed themed amusement park project contains a significant flaw. It has ignored environmental impacts on the rural community character of Goshen, expressed throughout the Comprehensive Plan. Consistency with the Comprehensive Plan was clearly included in the Final Scoping Document; the applicant did discuss consistency with Goal #4 in the FEIS and as it has been proposed for Amendment. However, the **FEIS does not include any mention of the inconsistencies of the project with all of the other relevant parts of the Comprehensive Plan.** It therefore fails to meet the New York Court of Appeals pronouncement that: “There must be some showing that the change does not conflict with the community’s basic scheme for land use.”⁷

Zoning amendments enjoy a “strong presumption of validity” and will not be “disturbed” unless they are in clear conflict with a municipal comprehensive plan. However, the Zoning Amendments proposed in Local Law No. 6 of 2016 are in clear conflict with the Town Comprehensive Plan (including the proposed Amendments to it by Local Law No. 5 of 2016). The SEQR process included a very limited assessment of the impacts on the Comprehensive Plan and Zoning Law but that assessment is flawed. The statement made on page 6 of the FEIS reveals the problem: “The proposed project is consistent with the 2009 Town of Goshen Comprehensive Plan goal #4 to develop a strong and balanced economic base and to attract tax positive commercial developments...” A proposed project is not simply “consistent with” a comprehensive plan just because it aligns with one economic policy statement in the plan. But consistency is the message that is conveyed in the FEIS.

The “in accordance with” requirement hinges on a finding that the Plan, including the proposed Plan Amendment, is consistent with the overall Plan. Relying on possible consistency⁸ with one narrow economic goal, at the expense of “the community’s basic scheme for land use” around preserving rural,

7. Udell v. Haas.

8. It has been argued by others that a community cannot “develop a strong and balanced economic base” by relying on only one company) see for example Comments A.24.6, A.51.1, A.68.3, A.104.2, B-14.4, B.26.5, B.64.1, B.172.34, B.201.15, and C.47.3.

environmental, and agricultural character, is insufficient and contrary with conducting comprehensive planning in accord with the State Legislature's mandate and with comprehensive planning in general as discussed elsewhere in this Report.

Further, even the objectives found under Goal #4: "*Encourage a diverse economic base that provides tax ratables as well as necessary local services.*" may not be consistent with the proposal. One could argue an inconsistency of the proposal with the above objective under Goal #4 since one large scale employer does not constitute "diversity." A diverse economic base is also a long standing Town strategy of Goshen's since this objective appeared in the 2004 Comprehensive Plan as well. There is little diversity to be found if Goshen secures one large themed amusement park. In fact, many economic and urban development studies suggest that "putting all your eggs in one basket" and pursuing a singular "silver bullet" like Legoland is a risky strategy. This is discussed further below in this Report's comment on Response B.73.1.

Economic shocks can and do happen when a large employer goes out of business in a small community that depends upon it for its economic livelihood. For instance, if Legoland is not successful as anticipated, with new businesses and 1300 employees attracted to the Town in search of jobs, what will happen to those employees? What sources of tax revenue will there be to offset the promised revenues to the community? How will the new businesses that are attracted to Goshen as a result of Legoland fare? How will social services cope with new demands for their services? What happens to all those diverse local services if they get replaced with new ones that cater to the new auto-dependent themed amusement park economy?

These are just a few of the questions that could be answered through a comprehensive planning process to update the Town's 2009 Plan. Indeed, the Final Generic Environmental Impact Statement prepared by the Town of Goshen Town Board for the "Town of Goshen Comprehensive Plan Update and Associated Zoning and Code Amendments" offered a viable alternative. As stated on page 74 of the FGEIS: "*Goal #4: The Town Board believes that Goal #4 is better met by increasing the commercial coverage ratios in the existing I, HC, and CO zones rather than rezoning land immediately adjacent to the Village of Goshen for additional retail/commercial development. The increase in the commercial coverage ratios has the potential to result in up to \$39 million in additional property taxes.*" Perhaps there are other viable alternatives that will help balance the Town's revenues better than a "one size fits all" form of economic development. In the absence of a new updated planning process, the Town will never get to the bottom of the "silver bullet" issue.

Community Character Omitted. The topic of community character was excluded from the Final Scoping Document adopted by the Planning Board. However, the elements of what constitutes community character were included in the Final Scoping Document (even if they were not explicitly described as such) and were the subject of public and agency comment on the DEIS. Thus, impacts on the community character of Goshen, as expressed in the FEIS sections on noise, aesthetics, cultural resources, health and safety, existing

land use, socio-economics, and agriculture are issues relevant to the environmental review of a proposed themed amusement park. Given the impact of the project on the Town Comprehensive Plan due to the proposed Amendments to it (i.e. Local Law No. 5 of 2016), impacts on community character may be one of the most significant environmental impact issues associated with the project. This is because all elements of the Town's Comprehensive Plan encompass the community character of Goshen and there are other numerous overriding goals of the Plan that have equal if not greater weight than the goal of encouraging a singular economic development embodied in a themed amusement park within the community.

In other words, economic development that has the potential to destroy the rural, environmental, and agricultural resources of the community would be in direct conflict with the overall Town vision to remain a rural and agricultural community, as stated at least 20 times throughout the adopted Plan. Pages one and four of the Comprehensive Plan are clear: *"The Town recognizes that it is presently and appropriately a primarily rural community...The foundation of this Comprehensive Plan is the recognition that the Town must both preserve its fragile and beautiful rural environment and provide for the needs of its people."* Later on page 50, the Plan's Goal #1 is to: *"Protect and enhance the agricultural activities and rural character of the Town."* As stated by the New York Court of Appeals: *"There must be some showing that the change does not conflict with the community's basic scheme for land use."*

The SEQR process conducted to date hinges on changes to three paragraphs in the Comprehensive Plan, which have been proposed for amendment by adding new clauses that would permit *"tourism/recreation"* related businesses, business opportunities and uses in the Town. In the existing Comprehensive Plan, tourism is not addressed and all references to recreation are to public recreation facilities in the context of open space and passive and active recreational facilities, not private for-profit recreation. The turnaround from the precedents set in the 2004 and 2009 Plans by the proposed amendments radically changes the *"total planning"* intent of the Comprehensive Plan and Zoning Law and is a powerful justification for conducting an updated comprehensive planning process.

2. Goshen Requires a Comprehensive Plan Review Every Three Years

An Up-to-Date Comprehensive Plan is Years Past Due. The FEIS states “*No additional growth outside of the project site would be expected to result from the adoption of Local Laws 5 and 6.*” This statement couldn’t be clearer, but it is contradictory with what planners know will happen when a massive project like Legoland moves into town, creates 1300 new (full, part-time and temporary) jobs, and spreads \$500 million around over a period of five years.

The FEIS falls short and fails to correct a false and misleading statement in the DEIS Chapter VII [see page 170]. Comment B.90.5 on the DEIS clearly asks for a thorough evaluation of induced growth that “*may be the prime source or cause of secondary environmental impacts.*” But there is no response in the FEIS to this legitimate comment other than that the EIS documents were “*prepared and processed consistent with SEQR laws, requirements and its intent.*” This is unacceptable and is another demonstration of the lack of a “hard look” at what is a legitimate SEQR issue embodied in the **SEQR Statute** [§§ 8-0105.6, 8-0109.2(g)], **SEQR Regulations** [6 NYCRR 617.2.1, 617.7(c)(1)(ix), and 617.9(b)(5)(iii)(‘d’)], and in **State Guidance** on what constitutes a “hard look” [SEQR Handbook page 80-item 13, page 84-item 23, page 86-items 30, 31, 32, 33, page 116-item 4, page 127-item 43, and page 147-last paragraph].

Growth inducement is a well founded environmental issue that is always included in an EIS for a project like Legoland. Indeed, it was clearly included in the Final Scoping Document [see page 26]. To date, growth inducing impacts has not been addressed properly in either the DEIS or FEIS and is therefore, a significant flaw in the Legoland SEQR process. The SEQR Handbook describes what a “growth inducement” is very simply as follows: “*Some activities will encourage or lead to further increases in population or business activity. This type of secondary impact is called growth inducement. When conducting an environmental assessment, it is important to recognize activities which may induce growth because a consideration of the whole action must examine likely impacts of such growth, such as the need for additional sewer, water and other services; increased traffic congestion; or accelerated loss of open space...The following are examples of how actions may induce growth-related impacts...The construction of a new prison in a rural community may result in the construction of single family homes and support industries or businesses to serve the prison staff.*” The secondary impacts from the induced growth created by adding 1300 jobs is absent from the FEIS. **This is a second trigger that requires the preparation of a SEIS.** An SEIS is especially important from a comprehensive planning standpoint and further corroborates the need for a SEIS or a stand-alone EIS on an updated Comprehensive Plan as discussed above.

The Town must carefully plan how it will accommodate the new population drawn to the anticipated 500 full time jobs, 300 part time jobs and 500 seasonal jobs described in the FEIS. Most of the jobs at Legoland, like other themed amusement parks, will be low paying jobs. Will the Town have in place or be able to

permit sufficient multi-family dwellings to accommodate this new population drawn to the new jobs? If the Town is not equipped to absorb these new demands, where will the new employees live? Will demands for affordable housing outside of the Town place new demands on other surrounding communities? How will these regional shifts be handled by the other communities? Can they be accommodated without causing a regional ripple effect in housing availability and affordability? Where is the analysis to support the statement made in the FEIS in response to Comment B.2.119 that “*No residential growth is expected because the available housing stock in the Goshen and Orange County area can easily absorb the incremental increase in employees who may want to relocate to the area...*”?

Since the Town is predominately zoned for the Rural Zoning (RU) District where small scale, open space or conservation density subdivisions are required, will the new job seekers be able to find sufficient affordable housing without looking outside Goshen? Will Goshen be able to meet its regional share of providing for affordable housing once the Hamlet Residential Zoning District disappears (and where the Town has designated this location for more compact development densities than are permitted in the RU District) as Legoland is developed? Will schools be able to accommodate the influx of new workers with children? Will public services like police and fire be sufficient to accommodate the influx in population? What about other support industries drawn to the Town to provide products and services to Legoland? Where will their new residents live? Will they compete with existing farmers and create demands for conversion of agricultural lands for new residential subdivisions? Are Town roads sufficient to accommodate not only the 2.5 million projected annual visitors (many who will not arrive via Route 17) but the day to day needs of the new residents? Will there be community water and sewer services available to support these new residents? If not, can the available groundwater and soils support hundreds to potentially thousands of new wells and septic systems respectively?

All of these questions relate directly to § 263 of New York State Town Law. This section of the Town Law zoning enabling acts describes the purposes of zoning: “*Such regulations shall be made in accordance with a comprehensive plan and designed to...facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.*” The FEIS and its lack of a proper assessment of secondary impacts (growth inducements) in this instance simply cannot substitute for the “*in accordance with*” rule of law. Only a new comprehensive plan and SEQR review process of such plan will be able to cure this deficiency and address fundamental community development and environmental issues like these.

3. Goshen May No Longer be Considered Rural

Goshen May Lose Its Rural Status. Goshen is a rural community and its vision is to remain a rural community. An understanding of what is meant to be a “rural” community is essential to an understanding of how Legoland has the potential to transform the Town. The terms urban, suburban and rural are often tossed around casually. While there is no universal agreement on what these terms mean, attempts have been made to define each term succinctly. Most dictionaries define rural with a statement similar to this: *“of or characteristic of the country, country life, or country people.”* While this definition may describe the meaning of rural in a traditional sense, since World War II cars, telecommuting, and subdivisions outside of urbanized areas have made it outmoded. Easy access, made possible by these developments, has brought traditional rural land uses, like farming and logging, into close proximity with suburban-style land uses like large-lot residential subdivisions, strip malls, and industry. Many believe that these types of developments have changed the true meaning of how one defines rural today.

The most common approach to defining rural, other than the pure dictionary definition, is negative; that which is not urban. Because rural is viewed by many as a residual category of land not classified as urban, the definition encompasses a vast array of geographical, environmental, economic, and social diversity issues. The US Census Bureau defines urban on the basis of the number of persons per square mile (i.e. at least 500 people per square mile) measured in either an “Urbanized Area” (UA) that consists of contiguous densely settled areas with a population of more than 50,000 or an “Urban Cluster” (UC) that has a population of at least 2,500 people but less than 50,000 people. Rural is defined by the Census Bureau as all population and territory that is not a UA or UC.

The U.S. Department of Transportation (DOT) defines rural in two ways. For highway functional classification and outdoor advertising regulations, rural is considered anything outside of an area with a population of 5,000. For planning purposes, rural is considered to be areas outside of metropolitan areas of 50,000 or greater in population by the U.S. DOT.

The Federal Highway Administration (FHA) considers rural to be any non-metropolitan areas outside the limits of any incorporated or unincorporated city, town, or village. The FHA further divides “rural” into three different forms as described below:

Basic Rural - dispersed counties or regions with few or no major population centers of 5,000 or more. Mainly characterized by agricultural and natural resource based economies, stable or declining populations, and "farm-to-market" localized transportation patterns.

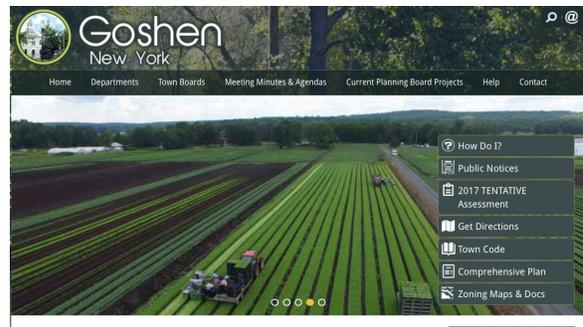
Developed Rural - fundamentally dispersed counties or regions with one or more population center(s) of 5,000 or more. Economies in these areas tend to be mixed industrial and service based

in the cities and agricultural and natural resource based in the rural areas. Populations tend to be stable or growing, and transportation more diverse (commuting intercity travel/freight, and other purposes).

Urban Boundary Rural - counties or regions that border metropolitan areas and are highly developed. Economic growth, population growth, and transportation are tied to the urban center. Many of these areas have experienced high levels of growth in recent years.

Under these definitions, rural comprises 83 percent of the nation's land area and 21 percent of America's population (50 million people as of the 2010 Census). Basic rural is what most people traditionally think of as truly rural. But, while Goshen may have historically been categorized as "Basic Rural," due to its rapid growth between the 1960s and 2000 (when its population doubled) would fall today into the "Developed Rural" classification.

Is Goshen a Rural Community. That Goshen is not and does not desire to become a suburban community is reflected throughout the Comprehensive Plan and is prominently displayed on the Town website's landing page as shown to the right. Page 25 of the Comprehensive Plan states it clearly: *"The largest single industry in Goshen is agriculture, consisting of 3,500+ acres of upland dairy farms and cropland, with the 10,000 plus*

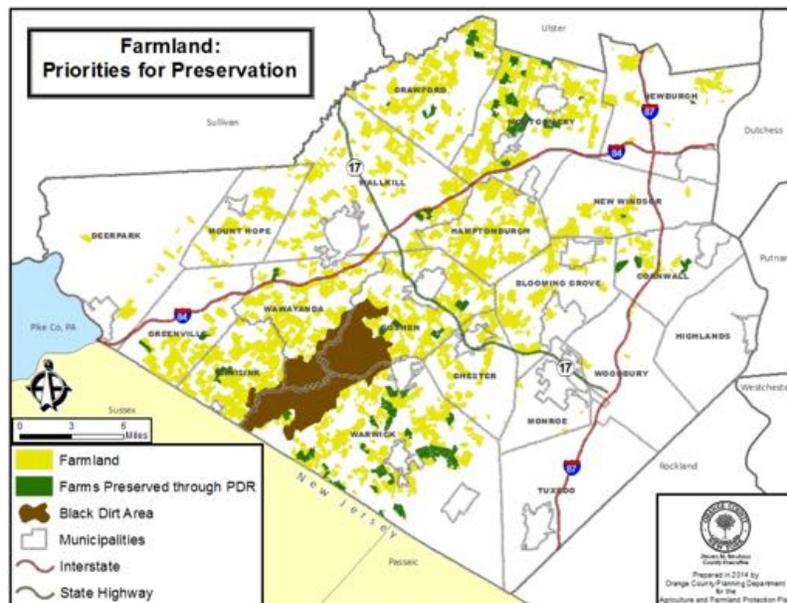


acres of black dirt comprising the southwest section of the Town...Farming is considered to be a critical element of the culture and history that defines the Town and contributes significantly to its rural character. Accordingly, the Comprehensive Plan proposes to preserve as many of these areas as possible for agriculture and its ancillary uses."

The Town's desire to remain a rural and agricultural community is reflected in the Orange County Agricultural and Farmland Protection Plan, adopted by the County Legislature in February 2015 and then approved by the New York State Department of Agriculture and Markets. Map 5 in the County Farmland Protection Plan clearly identifies the Legoland parcels proposed for rezoning as *"Farmland: Priorities for Preservation"* as shown below. Goshen, according to the County Plan, in 2004 contained a total of 12,844 acres of agricultural lands, the second highest amount in Orange County after Warwick. As a percent of the Town's land area however, Goshen contains more lands devoted to agriculture than Warwick does due to Warwick's larger size. Farmland represents 45.6 percent of Goshen's land area while in Warwick, farmland represents only 22 percent of its land area. This makes Goshen **the number one farming town** in Orange

County with more of its land area devoted to agriculture than any other town. Unquestionably, Goshen retains an agricultural base that helps define its rural community character.

Contrary to popular myths, farming is growing in Orange County and this was partly acknowledged in the FEIS. According to the 2015 Orange County Agricultural and Farmland Protection Plan, “The number of farms in the County is increasing. The number of acres being farmed is also on the increase (9% more than in 2007). There are about 88,000 acres farmed - about 17% of the total land base in the County.” This means that Goshen accounts for 14.5 percent of the County’s land area devoted to farming. This contrasts with Goshen having only five percent (5%) of the County’s land area and its population represents just three and six-tenths percent (3.6%) of the total County population.



Although strictly numerical definitions can help to conceptualize what rural may mean, it reduces rural and rural character to a one-dimensional standard. The concepts associated with rural are much more complex than the above examples. For instance, an isolated farmer in the Adirondacks or on Long Island may see rural very differently from the way residents see rural in Goshen. Academics and bureaucrats will have different reference systems upon which to base their views of what rural means.

However, by all of the standards outlined above, Goshen is a rural community and the Town Comprehensive Plan is designed to maintain its rural character. As evidence that Goshen and its citizens wish to retain Goshen’s rural, agricultural and environmental character, the Town is zoned overwhelmingly for agricultural and low density rural uses (except appropriately for those areas close to the villages of Chester, Florida and Goshen). The Town enacted a “Stream Corridor and Reservoir Watershed Overlay District,” a “Scenic Road Corridor Overlay District,” and an “Aquifer Overlay District” among others as

evidence of the Town's intent to protect rural, environmental, and agricultural character. For instance, Article 97-29.A of the Zoning Law states: *"Special protection of scenic road corridors is necessary to preserve the attractive rural quality of the Town. The purpose of this section is to regulate land uses within designated scenic road corridors to protect the Town's scenic beauty and rural character. This section is intended to apply to those sections of road corridors that substantially retain their scenic character and have not been subject to significant commercial or intensive residential development. The protections in § 97-14D are intended to cover areas that are or will be subject to commercial development."*

Protecting scenic roads does not just apply to the road and its immediate right-of-way but to the lands that front on the scenic road corridor and the land uses adjoining the scenic road that influence traveler's perceptions of the *"attractive rural quality...scenic beauty and rural character."* of the roadway. Since the Scenic Road Corridor Overlay (SR) District applies to a portion of the site along Arcadia Road, it may no longer qualify for such designation following construction of Legoland. Within the SR District, the existing views of fields and forests from Arcadia Road that are the basis for the SR designation, will be replaced by views of amusement rides and large commercial structures constructed for Legoland. It is reasonable to conclude that the SR, SC and FP districts were in part designed for the Town to avoid large scale commercial uses like Legoland. A significance determination is based upon an assessment of whether the new use may diminish public enjoyment or appreciation of an inventoried resource like the SR District, or may impair the character or quality of a scenic place.

Furthermore, the purposes and intent of the Comprehensive Plan are reflected in the purposes and intent of the Zoning Law. Section 97-3.A through E of the Zoning Law is filled with statements of purpose and intent supporting the Town's overall rural, environmental, and agricultural planning strategy as follows:

- A. *To conserve the natural resources and rural character of the Town by encouraging development in appropriate locations and by limiting building in areas where it would conflict with the Town's predominantly rural pattern and scale of settlement;*
- B. *To protect the Town's fragile and threatened groundwater resources;*
- C. *To encourage the continuation of profitable agriculture, to protect farmland from incompatible development, and to avoid regulating agricultural uses in a manner that unreasonably restricts or regulates farm structures or farming practices;*
- D. *To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as along the Wallkill River and its tributaries, in aquifer and aquifer recharge areas, and on steep slopes, erodible soils, wetlands and their buffers, floodplains, active farmlands, and other designated open space resources;*

- E. *In recognition of Goshen's natural beauty and environmental amenities, to protect the integrity of scenic views, ridgelines, natural terrain, existing and potential recreation areas, waterways, ground and surface water supplies, ecological systems, wetlands, wildlife habitat, and natural vegetation, and to maintain environmentally significant open space in its predominantly undeveloped state, in order to preserve the open and rural character of the Town, which enhance the Town's quality of life and the economic value of its property;*

Goshen speaks assuredly in its Plan about how residents want to protect and preserve environmental resources that constitute the Town's rural and agricultural character. To depart in such a significant way from precedent and to seemingly embrace such a turnaround for Legoland, that has the potential to reverse the quality of life defined by Goshen's rural character, changes everything. It is precisely this type of ad hoc approach to planning that the Legislature was seeking to avoid by including the "in accordance with" rule in the enabling acts. Do promises of wealth outweigh the types of changes to the Town's community character and quality of life that will occur if the Plan and Zoning amendments are approved? As the Court of Appeals so clearly stated in a zoning and comprehensive plan case: "*There must be some showing that the change does not conflict with the community's basic scheme for land use.*"

4. FEIS Ignores Official Planning Policies and Documents

The FEIS “Cherry-picks” Plans and Planning Recommendations. The DEIS and FEIS both discuss the Orange County Comprehensive Plan and its recommendation for a “Priority Growth Area” in and around villages and along transportation corridors. The applicant’s intent here is to portray how the proposed themed amusement park fits within the County Comprehensive Plan, to give priority to commercial development in the designated Areas, and “is consistent with that recommendation.” [FEIS page II-28]. However, what has been excluded from the FEIS, because it does not support the proposal, is what has been stated on page 32 of the County Comprehensive Plan:

“It is important to note that the Growth Areas were created at a broad-scale and represent generalized areas of the County where growth should reasonably be focused; therefore, not all land within the proposed Areas are developable or necessarily appropriate for development. Any development project should seek to preserve important natural and cultural resources, regardless of location...Priority should be given to the Growth Areas, and specifically the Villages and Cities within them, for County support, incentives, and investment in water and sewer infrastructure improvements/extensions, sidewalk construction, transportation infrastructure, opportunities for transit-oriented development, housing, and commercial development.” [emphasis added].

This explanation of Orange County’s Priority Growth Areas policy reinforces the Town’s vision to “Protect and enhance the agricultural activities and rural character of the Town” [and] “Encourage appropriately sited development & protect environmental assets.” It does not mean that the proposed themed amusement park “is consistent with” the County Plan and Town Plan. Indeed, the themed amusement park as proposed does not appear to be consistent with the Town’s three overlay districts⁹ which were created to protect rural, environmental, and agricultural character in the areas where they have been mapped. All three of these Overlay districts are present on the site of the proposed Zoning Map amendment and their delineation on the site is an indication that Town residents wished to maintain the rural, environmental and agricultural character that is present on the site. As a result of the review of the FEIS document discussed in this Report, a themed amusement park and any future development of the area proposed for rezoning would invalidate the purposes of three Overlay districts.

The Route 17 Corridor in the Orange County Comprehensive Plan is designated as a Mixed Use Corridor that is: “Currently identified by a mix and range of land uses, these corridors have the potential for an additional mix of development as well as in-fill development. While additional development is anticipated, quality of design is important in addressing road access, corridor transportation capacity, and roadside appearance as well as in avoiding conflict with

9. I.e. the Stream Corridor and Reservoir Watershed Overlay District, Scenic Road Corridor Overlay District, and Aquifer Overlay District.

current land uses. [emphasis added]. Avoiding conflict with current land uses is the phrase that says much about the incompatibility of Legoland with existing land uses found in the surrounding residential neighborhoods of both the Town and Village of Goshen as well as other affected land uses like agriculture.

The Zoning Law clearly specifies how this is to occur in Article 97-10.A: *“The land use district regulations in this article are intended to allow flexibility of land use to encourage business and residential development that is consistent with the character and scale of Goshen's countryside and neighborhoods. In reviewing applications for special permits and site plan approval, the Planning Board may impose any conditions it deems necessary to ensure that a proposed use will be consistent with the goals of the Comprehensive Plan and compatible with its surroundings...”*

The question of compatibility also applies to the Village of Goshen. Adjoining the site, as outlined in the FEIS is the Village of Goshen’s Office-Business-Hospital (OBH) Zoning District. In the Village OBH, Hospitals and comprehensive health centers, nursing homes and sanitariums are uses permitted by right. Hospitals, which are considered a sensitive land use for noise impacts may be inhibited from developing facilities that are considered essential services in a community as a result of the presence of Legoland. In view of the potential for secondary impacts from induced growth occurring, the need for additional community health services may be warranted and yet the FEIS is silent on this and related issues.

Further, the Village of Goshen Zoning Law, like the Town of Goshen, also prohibits amusement parks. Section 3.4.4 of the Zoning states: *Section 3.4 - Prohibited Uses. The uses which are listed in this section are prohibited in the village. 3.4.1. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid, solid or hazardous wastes in any form in a manner or amount as to cause permanent damage to the soil and streams or to adversely affect the surrounding areas, or by reason of the creation of noise, vibration, electromagnetic or other disturbance, or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates, or which involves any dangerous fire, explosive, radioactive or other hazard, or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants, and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare...4.3. Amusement parks and circuses and related activities...”* [emphasis added]. The FEIS does not attempt to analyze or discuss the impact of the project on the Village’s Zoning regulations and is therefore an omission of the FEIS.

Both the Village and Town of Goshen have joined as members of the Hudson River Valley Greenway. In Greenway communities, a discussion of the project’s consistency with the Greenway Principles and Greenway goals for new development would normally be undertaken in any comprehensive plan and/or zoning amendment review process. There is no mention of Greenway consistency or any attempt to analyze the proposal with the Greenway Principles in the FEIS. Goshen’s previous planning efforts were even

recognized with an award by the Greenway. Former Assemblyperson at the time, Anne Rabbitt presented the Town Board with a resolution regarding the “Hudson River Greenway Visions in Planning” award to the Town. Assemblyperson Rabbitt told the Town Board that the Town was recognized for its achievement for the Town’s exemplary work in developing a Comprehensive Plan and Zoning Code.

The significance of this relates to both the Comprehensive Plan and Zoning Law amendments and their consistency with the Orange County Greenway Compact, which was approved by the Hudson River Valley Greenway Communities Council on June 12, 2013. Goshen does not appear to have joined in this additional level of Greenway participation, but the County Compact document provides evidence of the inconsistencies of the proposal with both Orange County planning policies and Greenway Principles, contrary with what is stated in the FEIS. Further, the County Compact document provides more updated and more detailed information on the “Priority Growth Areas” concept, further refining and showing parcel by parcel, properties that are recommended for either “priority growth” or “rural protection.” For the proposal, this appears to be a mixed bag. While a small portion of the site is in fact designated for priority growth (largely the already developed Arcadia Hills subdivision development), a significant portion of the 522 acres is recommended for rural preservation as shown on the areas recommended for economic development on the map excerpt from the Orange County Greenway Compact document below. Thus, the FEIS’s claim of consistency with County planning documents is without foundation.

So what are the Greenway Principles? The County Greenway Compact describes them as follows: *“The Hudson River Valley Greenway Act describes the ‘Greenway Criteria’ as ‘the basis for attaining the goal of a Hudson River Valley Greenway’... The Criteria...provide the overall vision for voluntary local Greenway programs and projects. The general nature of the Greenway criteria allows communities to develop locally-based projects which address community concerns while contributing to the overall framework of the Hudson River Valley Greenway.”* There are five principles and each has been described below:

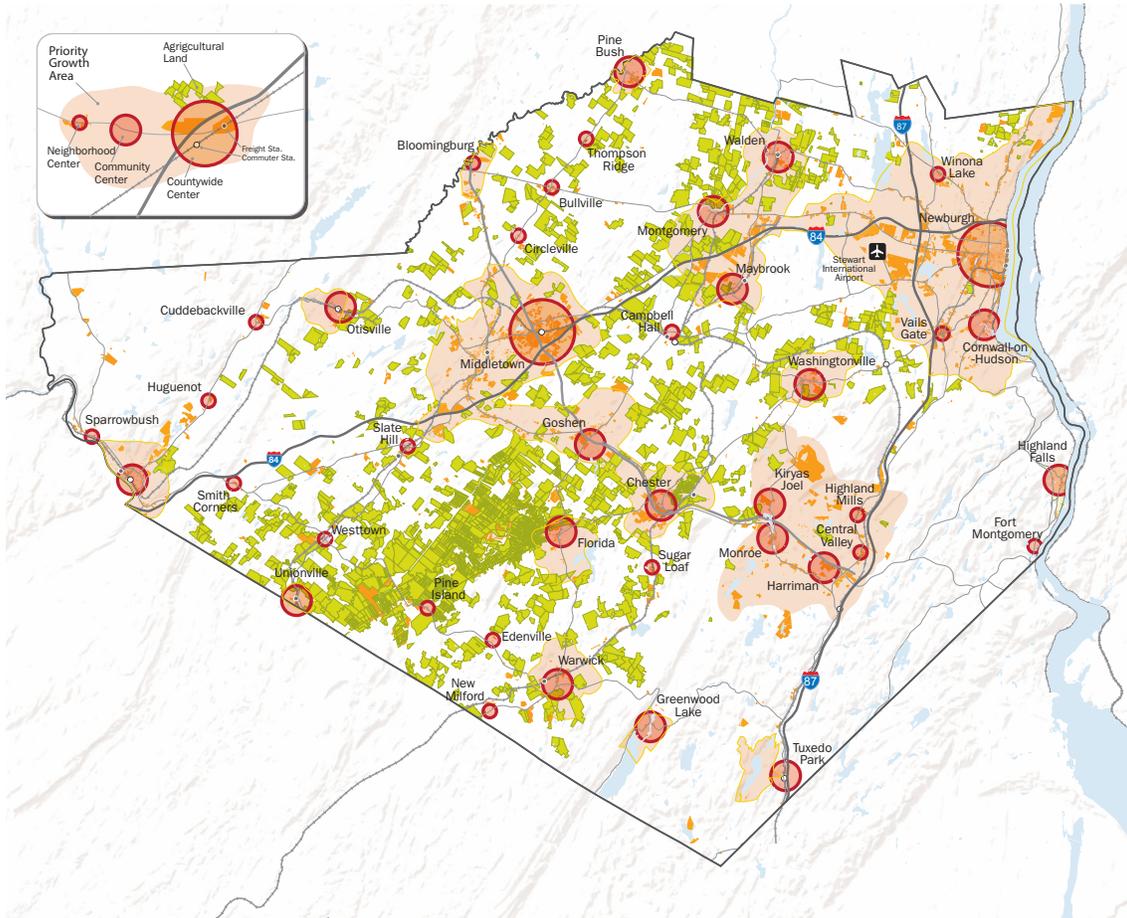
1. Natural and Cultural Resource Protection: Protect, preserve and enhance natural resources including natural communities, open spaces and scenic areas as well as cultural resources including historic places and scenic roads.
2. Economic Development: Encourage economic development that is compatible with the preservation and enhancement of natural and cultural resources including agriculture, tourism and the revitalization of established community centers and waterfronts.
3. Public Access: Promote increased public access to the Hudson River through the creation of riverside parks and the development of the Hudson River Valley Greenway Trail System.

4. Regional Planning: Communities can work together to develop mutually beneficial regional strategies for natural and cultural resource protection, economic development (including necessary public facilities and infrastructure), public access and heritage and environmental education.
5. Heritage and Environment Education: Promote awareness among residents and visitors about the Valley's natural, cultural, scenic and historic resources.

While Principles 3 through 5 have limited applicability to the proposal, Principles 1 and 2 are particularly relevant to the proposal. On the issue of resource protection, the Compact had this to say: *"The Orange County Comprehensive Plan is organized around the concept of "Priority Growth Areas". These are places where the historic settlement patterns and infrastructure can support future development such as local village centers, 'crossroads' and commercial corridors. By directing growth to these areas, it is possible to protect natural and cultural resources elsewhere, as well as farmlands and habitat areas. The County's plans also call for protecting the historic and cultural resources, the special landscape features, the scenic byways and the beautiful river corridors that ensure the County's unique sense of place and quality of life."* On agriculture as an economic development goal, the Compact had this to say: *"Economic development is not just about new buildings: agriculture is the foundation of a vital and diverse economy and so the Comprehensive Plan calls for linking environmental and agricultural heritage to sustainable agricultural practices."* On tourism, the County Compact document had this to say: *"Tourism is an area where emphasizing Orange County's many assets not only creates amenity, but has direct economic benefits by bringing people from across the region to the front doors of Orange County businesses."* These are important goals to consider because portions of the site have been designated for protection as agricultural lands and open space, contrary with what the FEIS has stated.

The map showing the parcels on the site, from the Orange County Greenway Compact that have been identified for agricultural protection are shown on the following page. The map is significant because it postdates the 2010 County Plan and provides evidence that some plans were selectively omitted from consideration in the FEIS because they did not line up with the proposal. A question to be asked of both the Town Board and Planning Board, based upon the Town's status as a Greenway Community member and Orange County's efforts to establish a Greenway Compact with its communities: How will Legoland comply with the County's "Strategy for Quality Communities" policy applying to corridors: *"Secure the rural ambience and community aesthetic of the County through control of land use along its multipurpose corridors."*

Orange County Economic Development



Goshen's Planning Strategy. During the 1990's the New York State Legislative Commission on Rural Resources created and the Legislature adopted a number of wide ranging updates to the State's planning and zoning enabling acts. This created a wave of new and innovative techniques, developed by municipalities, throughout New York State. Other trends, such as high gasoline prices, demand for locally produced food, the housing crash of 2008, and changing demographics have favored a sharp drop in the demand for housing in rural areas. Towns such as Goshen, took stock of what really matters to residents and adopted comprehensive plans that reflect a consensus opinion on future growth and development. The focus in Goshen has clearly been on maintaining and enhancing agriculture and other rural uses as the key to maintaining rural character, community identity, and natural resource protection.

Preserving rural character means conserving defined rural resources such as farms, open space and historic places, protecting environmental resources like wetlands, streams, agricultural soils, steep slopes, biodiversity and habitats, scenic viewsheds and aesthetic resources like forests and fields, and promoting small-town development with close-knit hamlets surrounded by rural countryside in keeping with the traditional rural land use patterns of the Hudson Valley. This suggests taking a strong role in stabilizing and fostering active, productive family farms. This is the reason why Orange County prepared and adopted in 2015 its Agricultural and Farmland Protection Plan. It is why Orange County is actively pursuing widespread adoption of the Hudson River Valley Greenway's Compact Program. It is also why Goshen prepared and adopted a Comprehensive Plan in 2009 that relied heavily on maintenance of the Town's agriculture and rural character. The Town never anticipated that a "silver bullet" like Legoland would come along with promises of raising the Town out of its housing market doldrums following the real estate crash of 2008.¹⁰

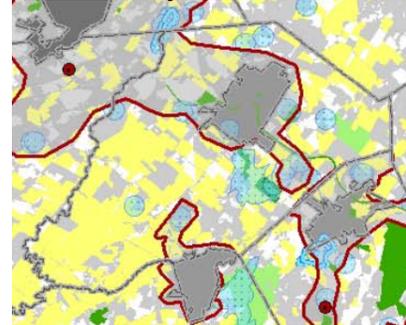
While the promise of a \$500 million project like Legoland may be tantalizing, before simply saying yes to the applicant, the Planning Board and Town Board should ensure that a development that has the ability to transform the Town essentially forever, be subjected to a new update to the Town Comprehensive Plan. Finding and then citing one singular goal statement as the basis for such a large-scale change demands that the issue be studied through a new comprehensive planning process, unswayed by the forces commanded by Merlin Entertainment and the thousands of pages devoted to an environmental review and which paints a misleading picture of the proposal's long-term effects.

A Comprehensive Plan should never become a static document but it has been eight years since the Town Plan was last reviewed. **Does the Town want to retain its rural and agricultural character or be subsumed by suburban growth induced by a project that is auto-based with patrons arriving in cars and busses from hundreds of miles away and demanding new auto-oriented services?** A careful review of the entire Plan document, including its bedrock foundation of protecting and enhancing agricultural activities, the rural

¹⁰ While Goshen's population grew at double digit rates (i.e. ranging from 9.9% to 24.7%) between US Census' of Population from 1970 to 2000, that rate of growth slowed between 2000 and 2010 (to 6%) and even more considerably with a rate of 0.3% between 2010 and 2014 (estimated).

character of the Town, and reinforcing the Village of Goshen as the center of the Town must be undertaken if the Town is to avoid having its Zoning actions found to be in clear conflict with the 2009 Comprehensive Plan.

In addition to the Orange County Comprehensive Plan and the Orange County Greenway Compact, the Orange County Open Space Plan includes several specific recommendations for the site of the proposed Zoning Amendments and the proposed themed amusement park. This includes designation of only a small portion of the site as a “priority growth area” as shown on the excerpt of Map 1 from the County Plan following page 1/11-7. The “Priority Growth Area” is shown in the graphic to the right as the area within the red outline,



which includes the Village of Goshen to the west and the northernmost portion of the site adjoining the Village. This area seems to correlate to the original Orange County 1987 Urban-Rural Concept shown in the 2010 Plan as dated September 2002. The applicant has characterized the Orange County Comprehensive Plan as including the entire site in the Priority Growth Area, which is incorrect according to the County mapping. In the FEIS on page II-20, it states *“The County of Orange also has a Comprehensive Plan, which designates the proposed area of the Project as a Priority Growth Area...”*

As discussed above under the Orange County Greenway Compact, only a small portion of the site has been identified for development as opposed to open space protection in the form of preserving the agricultural resources on the site. It is important to note that it is not just the identification of development that is important but the type of development envisioned by the County’s planning documents. The County Open Space Plan also shows the Priority Growth Areas recommended in the County at a level of detail higher than that which is shown on the official Priority Growth Map, following page 34 in the 2010 Orange County Comprehensive Plan Update as an amorphous “blob” in red with no real boundaries provided.

Most of the site proposed for the Zoning Amendments then, appears to be outside of the area defined by Orange County as a Priority Growth Area, which is contrary with the way it was stated in the FEIS. Further, as pointed out elsewhere in this Report, the County Plan states clearly *“It is important to note that the Growth Areas were created at a broad-scale and represent generalized areas of the County where growth should reasonably be focused; therefore, not all land within the proposed Areas are developable or necessarily appropriate for development. Any development project should seek to preserve important natural and cultural resources, regardless of location.”* So for the applicant to claim in the FEIS that the proposed themed amusement park project together with the proposed Comprehensive Plan and Zoning Law amendments complies with the Orange County Plan is false. What is important for the proposed action is the County’s recommendations for those areas designated as “rural” outside of the Priority Growth Areas. In these areas, the County Plan states: *“The*

County's highest priority for rural areas is the protection of open space, which includes both working landscapes and natural resources. The many values of open space are outlined in the County's 2004 Open Space Plan, which identifies five major resource areas: Water Resources, Agriculture, Recreation, Landforms and Landmarks, and Biological Diversity. Protection of these resources, while a priority in all regions of the County, is especially crucial in rural areas in order to avoid fragmentation of the natural landscape."

Changes in Rural Character. Approving Legoland will be contrary to the Town Comprehensive Plan because it will be the first step in transforming the rural community character of Goshen and may pave the way for the demise of agriculture, at least outside of the black dirt area. To date, the Town's SEQR process has relied for its rationale, that the project is consistent with the Town Comprehensive Plan, based solely upon Goal #4. However, the entire Town Comprehensive Plan provides the guide to future community preservation and development, and other relevant policies that may conflict with Goal #4 must be reviewed as well to ensure they are also in compliance with the overall Town policies. Goshen has clearly framed its Comprehensive Plan around protecting and enhancing rural character. When a community like Goshen has done so, residents are using their plan to hold on to traditional rural and small-town values. Rural values have traditionally included family, community, independence, responsibility, self-government, conservation, entrepreneurship, and a strong work ethic.

The SEQR Handbook¹¹ discusses how environmental impacts on community character can be assessed. The Handbook states: "*Community character relates not only to the built and natural environments of a community, but also to how people function within, and perceive, that community. Evaluation of potential impacts upon community or neighborhood character is often difficult to define by quantitative measures. Courts have supported reliance upon a municipality's comprehensive plan and zoning as expressions of the community's desired future state or character. (See Village of Chestnut Ridge v. Town of Ramapo, 2007.)*" [emphasis added].

It has been well documented by the American Farmland Trust and in the Orange County Agricultural and Farmland Protection Plan that non-farm development in farming communities can negatively impact farm operations by raising agricultural land values, which can prevent farm operations from expanding or limit opportunities for young farmers to purchase farms and land. Large scale development as well as secondary growth induced by new large-scale development may fragment blocks of land into pieces that are too small for commercial farm equipment, may discourage farm investment or may set the stage for costly conflicts about farming practices, so-called nuisance lawsuits that many farmers simply cannot fight because of the expense involved. In addition, farming results in slow moving farm vehicles on local roads, and creates odors and dust that will not be compatible with attracting visitors to Legoland. Incremental increases in

¹¹ The SEQR Handbook, page 85, FAQ 29.

traffic related impacts, such as emergency vehicle access, farmer access to agricultural lands, traffic stoppage, air pollution and how these affect rural community character are all issues of relevance to the FEIS and yet, they were omitted.

The project has selected Goshen because of its proximity to the megalopolis along the Northeast coast. Urban dwellers coming from these areas, however, will not be accustomed to the smells of a dairy farm, for instance, and may be dissuaded from returning. Or worse, Legoland or others could start a process of challenging right-to-farm policies that provide farmers with some protection from nuisance lawsuits. A large scale development like Legoland will also result in increases in property values, will cause new demands for farmland conversions and demands for other commercial development leading to an eventual loss of a critical mass of farms. Traffic congestion will also impede farmers from delivering their products fresh to markets. These are a few of the many examples of indirect growth impacts induced by the proposal, which were ignored in the FEIS.

New York State Agriculture and Markets (AML) Law at § 305-a(1), imposes an affirmative obligation upon local governments to enact and administer local laws and ordinances to effect the policy of AML Article 25-AA, which is to protect and enhance New York's farmland. Since the FEIS states that *"the site is located in an Agricultural District,"* the assessment under SEQR to date falls short of what is needed to ensure consistency with the agriculture-related Town policies contained in the Plan. Indeed, the purpose of the Rural District (RU), where the majority of the Legoland development will take place, is expressed in the Comprehensive Plan: *"To promote agriculture and compatible open space and rural uses and to guide residential development so that it protects large blocks of the Town's open space."* Even in the Hamlet Residential (HR) district (the other District proposed for Legoland development), the Comprehensive Plan states: *"Allow the creation of mixed-use hamlet centers and adjoining residential neighborhoods at the traditional scale and density typically found in rural hamlets and villages, provided that water and sewer service is available. In the absence of water and sewer infrastructure, the HM and HR Districts are subject to the regulations of the RU District."* With the exception of commercial zoning on the north side of Route 17, the site is surrounded by the rural zoning district and agricultural and residential uses. Most of the Town's zoning for commercial and industrial uses occurs west of the Village of Goshen along the US Route 6 and Route 17 corridors, not east of the Village.

The key to the Town's vision of its future is captured on page 4 of the Plan in its description of the goals and objectives as follows:

"The foundation of this Comprehensive Plan is the recognition that the Town must both preserve its fragile and beautiful rural environment and provide for the needs of its people. To ignore either of these goals, or to pursue one at the expense of the other, is to fundamentally misunderstand what this Plan is all about. The goals of open space and environmental preservation must be pursued at the

same time as the goals of providing appropriate rural development involving diverse housing opportunities, supporting local businesses, especially in the Village of Goshen center, and addressing adequate Town infrastructure and facilities.”

The Plan’s vision of providing for resident’s needs by allowing appropriate rural development, supporting local businesses especially in the Village and ensuring open space and environmental preservation speaks volumes about what residents desire. The choice before the Town is stark: You can plan for livability, as the Town Plan describes above, or you can accommodate the fleeting promises of “big-ticket” revenue from projects like Legoland that in the end will simply frustrate the intent of the Plan. Goshen’s Plan has clearly been designed to facilitate small local businesses and rural community development. The choice now before the Town is to create a short-lived “wow-factor” by opening the floodgates to developers and business interests who will take more money out of the community than that which stays in the community. Of course, there is likely to be more money around simply as a result of the 2.5 million visitors a year. But, you can empower and invest in your residents, as recommended in the Comprehensive Plan, or you can ignore them and build themed amusement parks and other mega-complexes that cater to outsiders and ultimately line the pockets of people beyond the boundaries of the community.

Shaping the Destiny of the Town. Community character was not a topic that was included in the Final Scoping Document, but the topics that comprise community character were included as noted herein. Community character is perhaps the most misunderstood of all of SEQR’s environmental factors, as pointed out in The SEQR Handbook quote above. As a result, it is often overlooked by agencies, few standard tools have been developed for how to assess its significance, and diverse caselaw has led to disparate views about when and how to proceed with an analysis of community character.

When analyzing impacts on community character in a SEQR review process, related topics serve to address the issue by discussing the distinctive features of a place and what makes it unique in several topical areas. This includes noise, aesthetics, cultural resources, health and safety, existing land use, socio-economics, and agriculture, all addressed in the Legoland FEIS. Even negative economic effects of the proposed action on existing businesses, in the context of the action’s potential to impact community character, is a valid concern when it could result in adverse impacts on the existing tourism industry, such as business closures that result in vacant and blighted buildings, farmers that decide to stop farming leading to fallow farms, and other potential blight within the Town and Region. Legoland will bring an entirely different type of tourism than what was contemplated in the Town Comprehensive Plan, Orange County plans and Regional economic development strategies.

Edward T. McMahon, a senior resident fellow at the Urban Land Institute and a nationwide expert on the secrets of successful communities, explains the dilemma associated with large-scale tourism development like Legoland:

“Tourism is big business. Americans spend more than \$800 billion a year on travel and recreational pursuits away from home. Tourism is one of the three largest industries in every American state and a critical factor in the U.S. and world economies.

However, tourism is also a double-edged sword. On one hand, it provides communities with many benefits: new jobs, an expanded tax base, enhanced infrastructure, improved facilities, and an expanded market for local products, art, and handicrafts. In short, it can be an important tool for community revitalization. On the other hand, it can create problems and burdens for local communities such as crowding, traffic congestion, noise, increased crime, haphazard development, cost-of-living increases for residents, and degraded resources.

‘The impacts of tourism on a community can be beneficial if planned and managed, or extremely damaging if left without controls,’ says Michael Kelly, former chairman of the American Planning Association’s tourism planning division...How does a community maximize the benefits of tourism while minimizing the problems? First, communities need to recognize the differences between mass-market tourism and sustainable tourism. Mass-market tourism is all about “heads in beds.” It is a high-volume, high-impact but low-yield approach...Yet, tourism involves a lot more than marketing. It also involves making destinations more appealing. This means identifying, preserving, enhancing, and/or restoring a community’s natural and cultural assets—in other words, protecting its heritage and environment. It is, after all, the unique architecture, culture, wildlife, or natural beauty of a community or region that attracts tourists in the first place.

In today’s global marketplace, competition for tourist dollars is fierce. If the destination is too crowded, too commercial, or too much like every other place, then why go? The best marketing a community can have is by word of mouth. This occurs when the reality of the place meets or exceeds the mental image that visitors have been sold through marketing and promotion. Creation of a false image can spoil a vacation. What’s more, it can reduce repeat visitation. Tourists may come once, but they will not come back.

The truth is, the more a community comes to look and feel just like everyplace else, the less reason there is to visit. At the same time, the more a community does to enhance its uniqueness, the more people will want to visit. This is the reason why local land use planning, historic restoration, and urban design standards are so important.

To attract and retain tourists, local officials need to become much more aware of the overall character of their community. This is because studies reveal significant differences between resident and tourist perceptions of a community. Tourists are open and receptive to everything they see, while longtime residents tend to tune out the familiar environments along the roads they travel day in and day out.

The first step in planning for what has been described above is through a new update to the Comprehensive Plan. Assessing community character has already been accomplished in the 2004 to 2009 planning process so an update would examine the potential benefits and impacts of not only a Legoland scale development and whether it is the desired future that Town wants but what would happen to the Town's unique community character, as defined in the existing Plan, if Legoland and the secondary growth it spawns will be contrary to what residents want to see happen in the Town over the next 100 years. **Only the citizens of Goshen can create the future they want for the Town. But what do citizens want? Only a new comprehensive plan process can answer that question; a SEQR environmental impact statement and one consolidated public hearing cannot substitute for a comprehensive planning process that reflects the State Legislature's mandate in § 272-a of New York State Town Law.** One consolidated public hearing is not, as the American Planning Association (APA) has advised, an authentic planning process.¹² According to APA, *"Planning should actively involve all segments of the community in analyzing issues, generating visions, developing plans, and monitoring outcomes. An example of a best practice for meeting the Authentic Participation Process is to seek diverse participation in plan making...Public participation in planning is a mainstay of democratic governance and decision making. By actively involving the whole community in making and implementing plans, the government fulfills its responsibilities to keep all citizens informed and to offer them the opportunity to influence those actions that affect them."*

Public participation can range from preparation of simple vision or purpose statements in a singular municipal comprehensive plan and/or land use control document to a more complex definition in the context of a regional community of similar uses, such as those related to a tourism destination like the Trotter Museum, agri-tourism and all of the facilities that support local farms. Then, one can begin the process of identifying how community character will be impacted, by a proposed project, through a comparison of the project's design and impacts with community goals.

The Final Scoping Document clearly required that the EIS assess impacts on the Comprehensive Plan. However, the FEIS failed to assess such impacts on the Plan by avoiding an assessment on any other goal statement or policy statement than Goal #4. **None of the applicable FEIS responses are supported where they conclusively, without evidence, imply that the project "is consistent with" the Town Comprehensive Plan (at least 46 mentions of this) or a host of other planning documents as detailed herein.** Just one

¹² David R. Godschalk, FAICP, and David C. Rouse, AICP, *Planning Advisory Service Report 578: Sustaining Places: Best Practices for Comprehensive Plans*, (Chicago: American Planning Association Research Department, 2015), pages 15, 19, 22, 37, 48, 54 and 56.

example of the numerous inconsistencies that have been left unaddressed in the FEIS can be found on page 55 of the Comprehensive Plan, where it states: *“Most of the Town of Goshen should develop consistent with the rural nature of the Town and to preserve open space, with the exception of the Hamlet Residential districts. This development pattern is consistent with the Town’s priority of preserving its rural character, balanced with the need to provide a fair return to landowners, as well as meeting its reasonable share of local and regional needs for housing, jobs and community services.”* A majority of the 521.95 acre site is zoned within the Rural District classification with a slightly smaller area within the Hamlet Residential District. Loss of the HR District will mean a loss of one of the only locations in the Town where affordable housing can be built, thereby satisfying Goshen’s obligation to address regional housing needs.

To better understand what is most important to the community, professional planners listen to residents of a community. What they hear from residents is translated into a comprehensive plan as a vision statement for the community’s future; it is a statement of how residents chronicle their town and an expression of what the Town should continue to be. Since the vast majority of the Town is zoned residential in the Rural Zoning District, eliminating only one of the two locations where the HR District is found may have a negative impact on the availability of affordable housing, as specified above. Will the Town be able to meet its obligations to provide for regional housing needs by narrowing down the availability of areas where multi-family housing or small lot housing can be supported to only one location adjacent to the eastern end of the Village of Goshen south of County Route 66? Only by initiating a comprehensive planning process will answers like these become clearer. In the absence of a new planning process to examine the impacts on the entire Comprehensive Plan, it is doubtful the SEQR review process can be characterized as providing *“sufficient forethought”* to the Amendments by ignoring the Plan’s other recommendations except for Goal #4.

Community character is integral to SEQR since it has been included within the definition of “environment” in the SEQR statute and repeated in the SEQR regulations. The SEQR regulations state that *“creation of a material conflict with a community’s current plans and goals as officially approved or adopted”* or *“the impairment...of community character”* are significant adverse effects in the context of a significance determination. [ECL 8-0105(6); 6 NYCRR 617.2(1); and 617.7(c)(1)(iv), (v)].

The Town of Goshen Comprehensive Plan expresses well what residents want for their community. Thus, the Town’s character can be said to be defined by its Comprehensive Plan. But, the effects on community character on a project of this scale and magnitude impact a far larger area than just Goshen, especially since virtually all of its patrons will come from outside the Town and Goshen is not equipped to handle the secondary growth. The size and intensity of the project may be inconsistent with a number of other national, state, and regional designations, plans and uses. Goshen and many other Hudson Valley communities have been moving away from large-scale projects for many years now. The demise of the

Sterling Forest development is just one example of how the State and Hudson Valley communities have dealt with mega-projects.

Communities throughout Orange County and the Hudson Valley rely upon the visual appeal of the area, its history and sense of place, the general quality of life available here due to the outstanding natural resources, agriculture and open spaces to attract tourists and take advantage of the dollars spent in the communities. While Legoland may appear to some to be a “silver bullet” for Goshen, it will jeopardize smaller investments by a diverse set of business entrepreneurs in favor of one massive undertaking. One only needs to look in the Town Comprehensive Plan to find a preponderance of evidence of such thinking.

Goshen is known for its clean air, clean water, farms, forests, village, hamlets, people, recreation activities, and aesthetic values. These are the values that give the Town and surrounding area its sense of place and community character. A themed amusement park has the potential to significantly change that sense of place and community character. For example, farming has been integral to Goshen history since the Town was established. After years of decline, agriculture has only begun to be reestablished in the Town, County and Hudson Valley. Orange County’s Agriculture and Farmland Protection Plan and the Orange County Greenway Compact both cite farming as the key to continued prosperity and sustainability.

While some farmland in the Town has been converted to subdivision development, many farms survive in Goshen and have once again begun to prosper. The growth has been incremental based upon the natural resources available and its growth has been more organic and sustainable instead of relying on one or two large employers. A themed amusement park will overwhelm existing land uses in the Town including agriculture and the quiet solitude of the fields and forests and scenic views currently seen as integral to Goshen’s rural and agricultural community character.

A diversified economy, based upon local investments, has been at the forefront of what Valley residents want. The Vision Statement for the Mid-Hudson Region Economic Development Council Strategic Plan states it well:

From our historic urban centers and scenic waterfronts to rich rural farmland, we will preserve an unparalleled quality of life for all Mid-Hudson Valley residents by creating a competitive, pro-business climate that cultivates a highly skilled, diverse workforce; encourages investment; nurtures entrepreneurship; promotes academic excellence and scientific discovery; fosters cluster development; fortifies infrastructure; advocates environmental stewardship; expands existing companies of all sizes, while attracting others from out-of-state – resulting in unprecedented employment and economic opportunities that reach beyond our region to benefit all New Yorkers.

A significant recommendation in the Strategic Plan states:

Leverage The Region's Impressive Natural Resources and High Quality of Life. The Council believes there are major synergies between natural resources, agriculture, and tourism. What the Council calls The Natural Resources sector is the key unique unifying element that gives character to the Mid-Hudson region overall. This sector also is a factor in housing and waterfront development. The region's quality of life depends on plentiful clean water, spectacular natural parks, farms, and waterfront access. Emerging revitalized green cities with protected world-renowned surrounding natural areas drive a significant part of our economy with jobs in parks, outdoor recreation, eco-tourism, and natural resource management. Promising green businesses in areas of alternative energies/conservation create jobs in new green cities. They also cross over into every other economic cluster by helping to form the quality of life critical to our substantial New York City commuter population. Additionally, this region provides critical clean water; local, healthy food; recreation; and vacation and second-home opportunities. By solidifying our local commitment to protecting our natural resources available to Mid-Hudson Valley residents, one of our greatest commodities is protected and green job opportunities are expanded.

5. FEIS Confuses a Generic and Site-Specific EIS

Failure to Address Impacts of Rezoning Entire Area Proposed for a Zoning Map Amendment. The FEIS does not consider full build-out of the 522 acres to be rezoned if the Zoning Amendments are approved. As a result of this, the SEQR process is flawed. The SEQR Handbook states clearly what is appropriate in a SEQR review when a Zoning Amendment is sought by an applicant as follows: *“If the zoning change is proposed by a project sponsor, in conjunction with a proposal, the impacts of both the rezoning and the specific development must be considered in determining environmental impacts.”*¹³ [emphasis added]. Since the FEIS did not include a generic assessment of impacts that could occur as a result of full build-out of the entire 522 acre area to be rezoned, as outlined in response A.118.3, the SEQR review process needs to be subjected to a Supplemental Environmental Impact Statement. The process is further flawed due to the mistaken impression that its preparers have concerning a generic environmental review of the remaining lands not subject to the present site-specific environmental analysis for Site Plan, Special Use Permit and Subdivision approval. Response B.172.12 is wrong where the comment points out this flawed thinking and the response states that the comment is *“incorrect.”* This response indicates a gross misunderstanding of the way SEQR works with planning and zoning actions; it has the potential to be a fatal flaw in the process.

Both the applicant and the Town should be on notice that the approach taken for this proposal ignores State guidance as well as court decisions and can only be remedied through preparation of a SEIS. As stated in The SEQR Handbook: *“Reviewing the “whole action” is an important principal in SEQR; interrelated or phased decisions should not be made without consideration of their consequences for the whole action, even if several agencies are involved in such decisions. Each agency should consider the environmental impacts of the entire action before approving, funding or undertaking any specific element of the action [see subdivision 617.3(g) regarding “Actions”].”*¹⁴ The Zoning Map amendments fundamentally change what will be allowed on the entire 522 acres. The SEQR process conducted by the Town for the Comprehensive Plan and Zoning Amendments in 2009 studied the area of the proposed Zoning Map Amendment. The decisions made at that time were to decrease the intensity of development allowed for the Legoland project area. Therefore, a SEQR review process that lacks an assessment of how full development of this area will increase the intensity of development means that this *“important principal in SEQR”* has been ignored. It can only be cured with a SEIS either in the context of the proposal or as a stand-alone SEQR process conducted by the Town for an Updated Comprehensive Plan as discussed elsewhere.

Furthermore, the applicant claims that they have not included a water park feature even though it was announced by the County Executive and is a part of other Legoland projects. It is disingenuous to claim in

¹³ The SEQR Handbook, NYS DEC, 3rd Edition, 2010, see page 181.

¹⁴ Ibid, page 55.

the FEIS that a future waterpark feature at a themed amusement park, and by implication any other potential future expansion or other development of the area to be rezoned, is not “*economically feasible*.” The full environmental impacts of the entire proposed rezoning need to be subjected to a “generic” SEQR review process to avoid charges of conducting an inadequate SEQR review process and by not taking a “hard look” at the changes that will be possible in the future. To do otherwise invites the type of “*ad hoc*” planning for the 522 area of the Town that New York’s enabling laws, authorizing a new planning process, has been designed to avoid.

6. FEIS Errors and Omissions

FEIS Does Not Respond to Questions and Provides Responses Unsupported by Evidence. The following are examples of where the FEIS improperly labels some comments as “incorrect” when the evidence speaks otherwise, states that a request for a response was not required by the Final Scoping Document when it was in fact cited in such Scoping Document, where the FEIS is silent and fails to respond to legitimate and substantive comments on the DEIS, or provides conflicting statements that leave readers confused and unable to interpret inadequate or incorrect information provided in the FEIS.

The comments presented below will need to be ready in conjunction with the FEIS document’s comment and response format to gain a full understanding of this Report’s findings. In the FEIS review comments provided below, the numbering scheme of the FEIS has been followed to coincide with the document format:

FEIS Section #	GREENPLAN Comments
D.	<p>On page I-8 of the FEIS, it is stated that “As part of a potential separate action, not part of the LEGOLAND project, the Village of Goshen may construct a new well on the existing Village well parcel located off Stony Ford Road in the Town of Wallkill...Any development of this new well has not been studied in the SEQRA review for this LEGOLAND project, as the Village of Goshen presently has sufficient water to satisfy the needs of the project without the addition of this third well. Any SEQRA review necessary as a result of undertaking, funding or approval of this new well will be the responsibility of whatever SEQRA lead agency is tasked for such a project.” It would appear as if this new announcement is a cleverly crafted approach to avoid a project delay at this time so that the SEQR review process can be closed prior to completion of the well study but without the benefit of review under SEQR as part of the proposal.</p> <p>The FEIS is silent on the need for this additional well, the applicant is paying for the study, it is being designed to “supplement the Village’s public water supply system,” is described as “an additional monetary benefit to the Village...” and is recognized in the FEIS as: “a potential separate action.” However, if sufficient water supplies were available to the Village of Goshen for existing users as well as for the proposed project, why then would the applicant be willing to further study the feasibility of creating additional water supplies for the Village?</p>

FEIS Section #	GREENPLAN Comments
	<p>This seems to be a classic case of Segmentation, defined in the SEQR Regulations as follows: “<i>Segmentation means the division of the environmental review of an action such that various activities or stages are addressed under this Part as though they were independent, unrelated activities, needing individual determinations of significance.</i>” Between the May 21, 2017 preliminary FEIS and the filed FEIS dated July 25, 2017, the addition of the words: “<i>appears that the new well will yield a significant amount of water without significantly impacting the amount of water from the existing wells.</i>” is new and suggests that the avoidance of a SEQR review of the new well, as part of the proposal, is a clear indication that segmentation applies in this case.</p>
D.	<p>Page I-11 of the FEIS states that: “<i>The relocation of Exit 125 and the improvements at Exit 131 will likely decrease the traffic impact of visitors traveling to and from the Proposed Project, as well as reduce to some degree legacy traffic congestion on Route 17.</i>” It is hard to judge a vague statement using the terms “likely” and “to some degree.” How does one understand whether this statement has any relevance to the traffic impacts of the project? How are definitive Findings prepared when impact reductions (i.e. mitigation) are described without a basis?</p>
D.	<p>Under the Revised Traffic Mitigation Plan, it is stated that “<i>NYSDOT has indicated that an FHWA Advisory Opinion will be sought prior to issuance of a Highway Work Permit to confirm that the proposed interchange modification and associated improvements meet current FHWA standards and that the proposed improvements will not prohibit any possible future conversion of NYS Route 17 to Interstate-86.</i>” This would appear to raise a second issue of segmentation (see new well comment above). This is because FHWA input had not as yet been sought nor was available at the time the FEIS was filed and therefore, there may be significant design issues that will need to be addressed if the FHWA calls for changes in the design and construction of the interchange improvements.</p>
E.	<p>The list of Interested Agencies on page I-18 includes a non-existent agency. New York State has never created a department level agency for historic preservation and parks. It is correctly titled the New York State Office of Parks, Recreation and Historic Preservation. Also, it is the US Fish and Wildlife Service, not “Services.”</p>

FEIS Section #	GREENPLAN Comments
A.2.1	<p>The response states that “<i>The Project Site is not visible from any National, State, or local historic or aesthetic resources.</i>” This is a false statement since portions of the site are located within the Town of Goshen Scenic Corridor Overlay Zoning District, an area designated by the Town for its aesthetic importance. There are also at least five historic resource sites that have been identified on the site and of the five, two have been determined to be eligible for the National Register of Historic Places and a third recommended for avoidance unless further work is undertaken to assess historic significance. The lack of recognition of such historic and aesthetic resources in this response means that the FEIS has failed to adequately and accurately respond to comments. [see 6 NYCRR 617.9(b)(8)].</p>
<p>A.2.3 B.172.10 B.222.2</p>	<p>Commenters asked about cumulative impacts of traffic, among other concerns, with the response to comment A.2.3 used for all three of these comments. In reviewing the traffic studies conducted for the project, no mention is ever made of two proposed large-scale projects: China City of America and Gan Eden projects in Sullivan County, that will have traffic implications on Route 17/Interstate 86.</p> <p>The China City project involves a 570 acre site in the Town of Thompson. The proposal calls for an inn, conference center, 2,456 dormitory units of student housing, 35 units of college benefactor housing, 96 faculty/student units, four classroom buildings, several student activity centers, 10 recreational facilities, two parks, five playground and child care units, nine community center units, a library/museum and sports center in three phases.</p> <p>The Gan Eden project will also have traffic implications on Route 17/Interstate 86 and it too was excluded from the analysis. Yet, Gan Eden involves 535 housing units on 200 acres of land. Excluding the potential impacts of the China City of America and Gan Eden projects in the Route 17 traffic analysis appears to have resulted in a flawed traffic analysis and conclusions.</p>

FEIS Section #	GREENPLAN Comments
A.10.5	<p>The FEIS response states that: <i>“The Village has adequate water supply to serve the Proposed Project, and build-out of the Village, under drought conditions, without the addition of any new wells.”</i> If sufficient water supply from groundwater wells exists, why then is the applicant funding a separate action of the Village to develop a new well, not as part of the proposal but as stated in the FEIS as a separate action needed its own SEQR Determination of Significance? This was not explained in the FEIS and it raises suspicions that this is an attempt to segment the new well development due to the delay it would cause at this stage of the Legoland approval process. Under 6 NYCRR 617.3(g)(1): <i>“Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible.”</i> The FEIS fails to address this requirement of SEQR.</p>
A.11.4 A.12.2	<p>The comparison of Goshen to Winter Haven, Florida is an apples to oranges comparison. With a capacity of 20,000 visitors at a time (see Response A.84.2), the number of persons attending Legoland will exceed the population of the Town of Goshen by almost 12,000 persons. See the comment below on B.37.6 for further analysis.</p> <p>The FEIS response to a concern about noise impacts states that noise levels of the amusement rides will be at acceptable levels, based upon DEC guidance. However, the FEIS fails to address the impacts of fireworks as discussed in the DEIS, where it estimates noise levels will <i>“range from 100 to 106 dBA at nearest property lines.”</i> This is simply an estimate, not an actual measurement which can only be performed by setting off fireworks at an appropriate location on the site and then measuring the noise levels at the property boundaries where neighboring residences are located.</p> <p>According to the US Department of Health and Human Services, National Institute on Deafness and Other Communication Disorders: <i>“Long or repeated exposure to sounds at or above 85 decibels can cause hearing loss. The louder the sound, the shorter the amount of time it takes for NIHL [Noise Induced Hearing Loss] to happen.”</i> The level of noise on adjoining neighbors disclosed in the DEIS, if repeated frequently, may be sufficient to cause hearing loss to neighbors of the site.</p>

FEIS Section #	GREENPLAN Comments
	<p>The FEIS does not state affirmatively how frequently fireworks displays will occur so readers, including affected neighbors, are left without sufficient information upon which to draw conclusions about how their health, safety and welfare will be affected by the proposal. Tree plantings, which are listed as a mitigation measure for noise, will not mitigate the noise from fireworks.</p>
A.24.2	<p>The FEIS response wrongly states that the comment about including too many different and potentially confusing matters in the same public hearing is inconsistent with the requirements of SEQR. SEQR merely recommends that public hearings “should” be consolidated “<i>whenever practicable.</i>” In this case, the consolidated public hearings were not practicable and created confusion because they have “<i>jumbled together</i>” (see Comment A.24.2) significant changes to the Comprehensive Plan and Zoning Law affecting the entire Town with the minutia of a large-scale precedent setting development on a specific site without the benefit of an analysis of its Townwide impacts (see description above of this omission). Only a comprehensive planning process will reveal the Townwide impacts. It is why a SEIS has been called for elsewhere in this Report.</p>
A.24.3 A.24.8 A.24.9	<p>The response to a comment about designation of the site as an “<i>environmentally sensitive area</i>” as “<i>incorrect</i>” needs to be corrected itself based upon the following evidence. Figure 2.6 in the Comprehensive Plan identifies five Zoning overlay districts that include the site area. As stated in the Plan: “<i>The five (5) overlay districts are created to protect specific types of resources such as floodplains, stream corridors, road corridors and groundwater...to control development within areas subject to periodic inundation and ponding...to protect the scenic character and water resource values...to protect groundwater resources...to protect the scenic character of roads in the Town...</i>” The Plan (and Zoning Law) could not have been clearer.</p> <p>Where environmental resources exist that have been identified are in need of protection, the overlay district delineation of such lands is a proven technique used specifically to protect environmental sensitivity. In this case, the FEIS fails to properly address the compatibility of the proposal with the goals and objectives that the Town has devised to protect environmental values within the areas where they are delineated by the Overlay districts including where they exist on the site. A more in-depth analysis of the Scenic District requirements is provided below in this Report’s comment on item B.172.33.</p>

FEIS Section #	GREENPLAN Comments
A.24.6	<p>The FEIS response to a concern expressed by the commenter about consistency of the proposed Comprehensive Plan and Zoning Law amendments (i.e. whether the proposed action constitutes “spot zoning”) refers the reader to Response A.1.1. Response A.1.1, instead of responding to the charge that the project constitutes “<i>spot zoning</i>,” quotes a very generalized point of information about what a comprehensive plan is from the Town’s 2009 Comprehensive Plan. The FEIS response completely avoids the commenter’s statement in Comment A.24.6 about “<i>spot zoning</i>.”</p> <p>This Report has discussed at length the inconsistencies of the proposed Comprehensive Plan and Zoning Law amendments. This Report has pointed out how the Comprehensive Plan is five years past due for a comprehensive update to the 2009 Comprehensive Plan and the point of information referred to above actually supports the point that the Comprehensive Plan is out of date and needs to be examined comprehensively on a broader basis, rather than simply proposed for a very narrow amendment that could change the entire plan’s recommendations for future growth and development.</p> <p>The FEIS response also goes to great length to attempt to show how the proposed Comprehensive Plan and Zoning amendments are consistent with the needs of the community by referring to the Orange County Economic Development Strategy and the Mid-Hudson Regional Economic Development Strategy as outside sources of support for the proposed action. Here again, the FEIS selectively uses an isolated statement in these two economic development strategies as if they supported the type of tourism that would be permitted by the proposed Comprehensive and Zoning amendments.</p>

FEIS Section #	GREENPLAN Comments
	<p>The FEIS states simply that: <i>“The Proposed Project is in accordance with these [i.e. encouraging tourism] goals.”</i> when referring to the two economic development strategy documents. This statement omits critical other information in these two economic development strategies that reveals a lack of understanding about the types of tourism that the two strategies encourage. First, equating high-volume, high-impact mass-market tourism with sustainable tourism as discussed elsewhere in this Report is not how the two strategies describe the type of tourism that should be encouraged in Orange County and the Mid-Hudson region. If one looks closely at both of these economic development strategies, it is clear that they speak of the kinds of tourism that is based upon authentic and sustainable tourism that relies on protection of the region’s natural and cultural assets.</p> <p>For example, the Orange County Economic Development Strategy’s Goal #3 states: <i>“build on strategic location of County as prime ‘staycation’ locale; develop strategy building on regional strengths, for example: wineries, cideries, distilleries, micro- breweries, and other alcoholic beverage crafters, marketed as ‘Napa East’”</i> and <i>“Agriculture in Orange County takes advantage of the local food movement, bringing locally grown food to farmers’ markets and creating “pick-your-own” and farm share programs such as CSAs (community-supported agriculture), and has the potential to expand into niche markets like organic produce.</i></p> <p><i>The arts continue to grow in Orange County with coordinated efforts to increase visibility in New York City and improve local exposure by creating an ‘arts culture’ in the area. Tourism can reinforce the efforts of all these key industries by attracting new visitors and residents to the County through reinvestment of some of the County’s bed tax in the tourism program.”</i> and <i>“Assist municipalities in attracting visitors to their downtowns by increased tourism marketing, increased public transit options, and designing Complete Streets for a better pedestrian experience.”</i> and <i>“Create a Supportive Culture for Small Businesses...facilitate shared services...among small tourism-related businesses: increase mapping and signage for agribusinesses and other local attractions.”</i></p>

FEIS Section #	GREENPLAN Comments
	<p>The Mid-Hudson Regional Economic Development Strategy [i.e. the Mid-Hudson Regional Economic Development Council’s 2016 Progress Report, “A Renewed Vitality: Mid-Hudson leading the way forward”] similarly echoes the sustainable tourism economic development strategies that are presented in the Orange County document. This is certainly curious because Legoland is the only high-volume, high-impact tourism project that has received funding from the State as an economic development strategy.</p> <p>The remainder all seem to reflect the Mid-Hudson report’s emphasis to “leverage the Region’s outstanding natural resources, including its unique social, cultural and natural history, to sustain the Mid-Hudson’s unparalleled quality of life and support key industries such as agriculture, tourism, arts and culture, and sustainable energy.” [see page 93]. Perhaps it is the number of potential jobs to be created by Legoland or some other reason. However, the Mid-Hudson Strategy also refers to the Mid-Hudson Regional Sustainability Plan to create an economic development strategy in line with sustainable environmental practices, as discussed more below.</p> <p>Objective AO1 from the Mid-Hudson Regional Sustainability Plan recommends to: “Increase Agriculture and Silviculture Activities in the Region...Agriculture and silviculture activities provide multiple economic and environmental benefits, including jobs and access to local food for the Region and nearby NYC. Land that remains in agriculture or managed forest provides scenic, recreational, and/or tourism benefits. Numerous studies, including those by Glynwood and the American Farmland Trust, have documented the importance of agriculture to the Region. Minimize conversion of agricultural land to non-agricultural uses. Bring underutilized land into agricultural production where it can be done without clearing productive forest land. Prevent the loss of prime agricultural soils and soils of statewide importance.” [see page 7-16]. The site is former agricultural land, is within a New York State Agricultural District, and it contains Prime Farmland Soils and Soils of Statewide Significance as shown on DEIS pages 34-35.</p>

FEIS Section #	GREENPLAN Comments
	<p>The Orange County Economic Development Strategy ends with a recommendation to: <i>“Balance economic development and improved quality of life, protecting natural resources and open space while allowing appropriate development in areas where infrastructure exists, and allowing new development without adversely affecting existing development and resources. In order to participate fully as a member of the Mid-Hudson Regional Economic Development Council, and for Orange County to thrive in the new economy, we must also evaluate our existing economic development structure and build on the diverse industries that already exist within the County [including] Create a Supportive Culture for Small Businesses...Small businesses are the backbone of the New York State economy and the economy of Orange County, and much of the creativity and innovation necessary to survive in today’s marketplace is born in small companies.”</i></p> <p>Further, economics is only one facet out of the dozens of relevant comprehensive plan topics that must be addressed to establish the proposal as compliant with the <i>“in accordance with”</i> rule of New York State Town Law and Court of Appeals decisions on <i>“spot zoning.”</i> Of the 40 topics New York State Town Law lists as appropriate for the content of a plan, only one addresses economics.</p> <p>This is additional evidence of the inconsistency between the proposed actions and the Town’s total planning strategy as it was articulated and then implemented in the past. This now requires a broader examination of the entire Comprehensive Plan as discussed above in Section 1 discussing consistency between the Comprehensive Plan and Zoning Law as well as the secondary induced growth that will result from such a large-scale development as Legoland discussed in Section 5 of this Report above.</p>

FEIS Section #	GREENPLAN Comments
A.24.9	<p>The comment made goes to the heart of the issue, which is that the site was a poor choice from among many others better suited for a development such as Legoland, in part because of its environmental sensitivity as designated by the Town of Goshen and Orange County. In addition, the site can be considered a “greenfield” site that provides multiple environmental and ecological services that will be lost as a result of an initial 150 acres of development including 74 acres of impervious surfaces. On the other hand, “brownfield” sites have been previously developed (and previous contamination is how they became “brownfields”), many already contain extensive impervious surfaces, and some are also ready for development purposes. Brownfield sites are abundant in the Hudson Valley and some have even been used for housing developments in the Hudson Valley.</p> <p>The County’s 2010 Comprehensive Plan recommends: <i>“Through the County Planning Department with the assistance of the Industrial Development Agency, encourage and support municipal redevelopment initiatives of obsolete waterfront industrial sites and brownfields.”</i> Empire State Development encourages the use of “brownfield” sites rather than “greenfield” sites like the proposed project’s. According to the New York State website: <i>“Encourage private-sector cleanup and redevelopment of brownfield sites across New York State as a means to revitalize economically and environmentally blighted communities. The BCP [Brownfield Cleanup Program] is an alternative to greenfield development and provides incentives such as liability relief and tax credits.”</i></p> <p>A review of the Zoning regulations of towns in Orange County, where either Route 17 or Interstate 84 cross, reveals that many other communities have zoning regulations already in place (i.e. they encourage uses like Legoland) that would allow a themed amusement park, many without the necessity of obtaining a special use (or conditional use) permit. These include the towns of Wallkill (permitted in 4 zoning districts), Greenville (permitted in 2 zoning districts), Montgomery (permitted in 2 zoning districts), New Windsor (permitted in 7 zoning districts), and Blooming Grove (permitted in 2 zoning districts). Thus, the hurdles of obtaining not only a zoning change but a comprehensive plan amendment in a community, with no prior indication that it wishes to encourage large-scale mass-market tourism facilities, already exists in other Orange County communities.</p>

FEIS Section #	GREENPLAN Comments
A.48.2	<p>The Response states that: <i>“The proposed development area of the site is 149.9 acres. No other development is proposed on the Project Site. SEQR does not require the study of any development that is speculative.”</i> See this Report’s discussion of the need for a generic environmental impact statement in the form of a SEIS as a result of the failure to address the environmental impacts of the entire site subject to the proposed Plan and Zoning amendments above in Section 5.</p>
A.48.6	<p>The comment that the future employees of Legoland will not earn enough income to afford to purchase a home in Goshen is not answered but left silent. Jobs and housing balance in the community is an issue that relates to the Comprehensive Plan’s ability to support the secondary growth that will be generated by the proposal and is a justification for the comprehensive plan update recommended elsewhere in this Report. A SEIS is appropriate, where information on specific significant adverse environmental impacts was not addressed or inadequately addressed in the EIS, such as the issue of jobs/housing balance. [see 6 NYCRR 617.9(a)(7)(i)].</p>
A.68.3	<p>The FEIS response to a comment about forbidding <i>“amusement parks”</i> refers readers to the Zoning Law, which in § 97-10.C(1)(b) prohibits amusement parks in all districts. But, the FEIS also claims that the project is not an amusement park. This illogical statement attempts to twist reality. Legoland is an amusement park with a theme and it includes ancillary facilities like a hotel and aquarium. Merlin Entertainments 2016 Annual Report describes the company as <i>“being an industry leader in terms of amusement park safety...”</i> [see Attachment E text with yellow highlighting].</p> <p>According to § 97-83.A of the Zoning Law: <i>“Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.”</i> Since “amusement park” is not defined anywhere in the Town Code and it has not been proposed for amendment in the proposal (only a “Commercial Recreation Facility” has), the customary meaning is derived from a dictionary.</p> <p>The definition of an “amusement park” in the Oxford English Dictionary, is <i>“A large outdoor area with fairground rides, shows, and other entertainments.”</i> Webster’s New Collegiate Dictionary provides a slightly different definition as follows: <i>“A commercially operated park with various devices for entertainment.”</i> The proposed Legoland project meets both dictionary’s <i>“customary meanings”</i> and therefore the FEIS statement that the project is not an amusement park is contradicted by evidence deriving directly from the Town Zoning Law.</p>

FEIS Section #	GREENPLAN Comments
<p>A.76.1 A.116.3 B.22.3 B.23.1</p>	<p>Several commenters expressed concerns about the impacts of the proposed Legoland project on the Harriman Tolls. The FEIS responds that impacts to the Harriman tolls was not required but was included in the revised Traffic Impact Study. However, there is no discussion in the FEIS of what the findings were and so readers are left with no choice but to wade through thousands of pages of Appendix E, the Traffic Study. This is contrary to SEQRR which requires at 6 NYCRR 617.9(b)(1) that: <i>“Highly technical material should be summarized...”</i></p>
<p>A.84.3</p>	<p>The response that <i>“The access road has been reviewed with emergency service providers and will be improved to their satisfaction, and to the satisfaction of the Building Inspector and Town Engineer.”</i> raises a question. Why has the design and construction impacts of the emergency access road not been addressed in the FEIS, especially as it has will involve physical alteration of surface water areas like wetlands, streams, and associated habitats?</p>
<p>A.103.3</p>	<p>This response states: <i>“It is a radical and alarming position that only those people who reside in Goshen have a claim on defining how Goshen ought to develop...”</i> This ranks among the most arrogant ever encountered by this reviewer. Not only is it an affront to residents of the Town of Goshen, but it does not comport with New York State Town Law nor with the Nation’s land use control system that has evolved over decades. First, §§ 272-a.1.(b) and (c) of New York Town Law clearly empower the residents of a community to define their desired future through a comprehensive plan: <i>“For the purpose of protecting the public health, safety and general welfare of its citizens...is in the best interests of the people of each town...[and] is a means to promote the health, safety and general welfare of the people of the town and to give due consideration to the needs of the people of the region of which the town is a part.”</i></p> <p>Second, all land use regulations must serve a legitimate public purpose. They must meet specific procedural due process requirements. They must not discriminate in any way that violates equal protection guarantees of the State and Federal constitutions as well as meeting other legislative and constitutional freedoms guaranteed by our democratic system.</p>

FEIS Section #	GREENPLAN Comments
	<p>Even SEQR guidance from the DEC spells out the importance of the power vested in the residents of a community to determine the future they want. As stated in The SEQR Handbook: “<i>Courts have supported reliance upon a municipality’s comprehensive plan and zoning as expressions of the <u>community’s desired future state or character.</u></i>” [see The SEQR Handbook, page 85, FAQ 29]. There is no argument that landowners, whether they live in Goshen or not, should have a say in the Comprehensive Plan and it is an axiom of community planning that regional perspectives need to be considered in any planning process. This is especially so for issues like housing needs. Further, all comprehensive plans are subject to referral to the county planning agency and the New York State Department of Agriculture and Markets, as applicable, for review. But, it is only the citizens of Goshen who are held responsible for determining the future they want for their community. Suggesting otherwise, as the FEIS does, is wrong.</p>
A.112.5	<p>This response states: “<i>At its current location the [emergency] access road does run through wetland areas on the site.</i>” A simple review of the evidence presented on the proposed “Wetland Disturbances & Mitigation Map” [Figure 9 in the FEIS] shows that the access road will cross State and Federal wetlands and, as shown on the Map, will cause a “Wetland Disturbance.” There is no way to gain emergency access from Arcadia Road to the area of the proposed themed amusement park than through protected wetlands. Based on FEIS statements that there will be no impacts as a result of the emergency access road, information on potentially significant adverse environmental impacts was not addressed or inadequately addressed in the FEIS. [see 6 NYCRR 617.9(a)(7)(i)]. While the estimated loss of State and Federal wetlands may qualify as minor, to state that “<i>This access road does not pose a significant adverse environmental impact...</i>” in spite of the loss of wetland areas is not supported by the evidence provided. What is the significance of the loss of wetlands functions and benefits? Will species of special concern be impacted as a result of this work? The FEIS has avoided disclosing this information.</p>

FEIS Section #	GREENPLAN Comments
<p>A.115.3 B.39.3</p>	<p>The FEIS response to a concern about the loss of sensitive environmental features on the site has a response that is a tacit acknowledgment that there are sensitive environmental features on the site that will be lost where it states: “<i>The project sponsor has agreed to place a portion of the sensitive environmental features of the site in a conservation easement.</i>” [emphasis added]. The FEIS states in several locations that the site is not environmentally sensitive. The site sensitivity is not reflected either in the discussions of the impacts of the project in the Vegetation and Wildlife Section of the DEIS (i.e. Section III.D) nor Chapter IV, Unavoidable Adverse Environmental Impacts.</p> <p>The FEIS is flawed as a result of incompatible statements created by this clause. This is because the applicant, in preparing the FEIS for the Planning Board, also asserts elsewhere that “<i>This site has not been designated as environmentally sensitive.</i>” These conflicting statements create confusion for readers of the FEIS, which includes not only Town residents affected by the proposals but legislators, policymakers, and regulators who must prepare their own Finding Statements and either approve or deny the applications before them.</p> <p>The statements directly contradict the purposes of the existing Rural Zoning District designation underlying most of the site as well as the three Zoning Overlay Districts that are in place on the site, which are designed to protect sensitive environmental features. The purposes of the Rural Zoning District are as stated in both the Comprehensive Plan and the Zoning Law: “<i>Rural District (RU): to promote agriculture and compatible open space and rural uses and to guide residential development so that it protects large blocks of the Town’s open space.</i>” The remainder of the site, which is zoned Hamlet Residential, has the same purposes in places where central water and sewer are not available. Indeed, a basic purpose of the Zoning Law, as expressed in § 97-3.D is: “<i>To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as...designated open space resources.</i>” The conflicts point to additional justification for the need for a SEIS (see above for a discussion of Comprehensive Plan update justification). An SEIS is appropriate where information on specific significant adverse environmental impacts is not addressed or inadequately addressed in an EIS. [see 6 NYCRR 617.9(a)(7)(i)].</p>

FEIS Section #	GREENPLAN Comments
A.115.4	<p>The FEIS response states: “<i>The Proposed Project is not inconsistent with this plan.</i>” [i.e. Orange County’s Moodna Creek Watershed Conservation and Management Plan]. The response also states that “<i>No disturbance is proposed to the Otter Kill or to any land within 100 feet of this resource.</i>” Readers are then referred to Figure III-7: Surface Water Resources in the DEIS. Upon review of Figure III-7 in the DEIS, the map presents clear evidence that the Otter Kill flows through the State and Federal wetlands described above in this Report’s comment on A.112.5. In addition, the Response to Comment A.115.6 states that a total of 2.094 acres of Federal wetland will be “disturbed” or lost and 0.084 acres of State Protected Wetlands will be “disturbed” or lost. Therefore, if the wetland areas are to be disturbed as shown on the FEIS’s Figure 9 and as part of the proposal, then the Otter Kill will also be disturbed, contrary to the above statements. If the FEIS does not even acknowledge that there will be adverse impacts to wetlands then it follows that there has been a lack of a proper assessment of the loss of wetland functions and benefits. This is another case where specific significant adverse environmental impacts was not addressed or inadequately addressed in the FEIS.</p>
A.122.1	<p>The FEIS response fails to address the commenters first concern, which is that amusement parks are listed specifically as a prohibited use in the Town Zoning Law at § 97-10.C(1)(b). Normally, unless a use is listed in a zoning use table as permitted or specially permitted, it is prohibited in the community. Some communities, like Goshen have gone a step further to highlight specific uses that it has identified as so highly noxious as to deserve to be separately listed as prohibited, such as amusement parks, junkyards, landfills, dumps and the like. The current prohibition on amusement parks, including themed amusement parks like Legoland, provides a clear picture of the Town’s “<i>total planning strategy,</i>” as expressed in its Comprehensive Plan, and such strategy has been a long standing precedent to which it appears the Town Board is now working diligently to reverse. Ignoring a significant comment such as A.122.1 in the FEIS response is an indication that the document has inadequately addressed an important environmental impact issue.</p>

FEIS Section #	GREENPLAN Comments
B.4.7	<p>The commenter asked for an assessment of the effectiveness of the proposed stormwater ponds to treat road salt, fuel oils and pesticide removal/treatment. The FEIS did not fully answer this comment, other than providing a generalized statement about minimizing adverse impacts and being consistent with DEC regulations. Elsewhere in the FEIS it is stated that “<i>none of the...stormwater mitigation practices...remove pesticides or herbicides from stormwater.</i>” [see Response B.2.18 for instance]. What about road salt and fuel oils and other contaminants from the 74 acres of impervious surfaces? Will these flow through the proposed stormwater ponds like the pesticides that will be used?</p> <p>This response states merely that stormwater “<i>will be treated to ensure water quality...</i>” but there is no evidence of how the water quality of the stream will be affected since “<i>No surveys have been conducted.</i>” So, if the pesticides used on the 150 acre developed portion of the site find their way to a surface water, then those surface waters will be receiving waters for toxic substances such as Roundup [see Response B-9.22], a designated “probable human carcinogen” in specific states and the European Union. No other pesticides are disclosed so it is unknown what other pesticides will be applied. Here the FEIS statement of Unavoidable Adverse Impacts fails to identify such impacts to surface waters. Therefore, the FEIS has inadequately addressed water quality impacts in spite of the proposed stormwater management plans.</p>
B.5.7	<p>The Response notes that “<i>While it is noted, brine/salt mixtures have recently become popular means of reducing impacts as the amount of chloride is much lower than standard rock salt...</i>” Orange County has banned the use of brine from gas extraction wells on County roads. However, this does not prevent the use of brine from gas extraction wells (i.e. flowback or fracking wastewater) on private property. Has Merlin Entertainments committed to using only brine that has been tested and certified free of benzene, toluene and other constituents commonly found in brine from gas extraction activities?</p>
B.15.1	<p>See This Report’s comments on Response B.15.7 below on clearcutting.</p>

FEIS Section #	GREENPLAN Comments
B.15.2	<p>The comment expresses concerns about physical alteration of the site and the way it has been described in the FEIS. Undeveloped open space differs substantially from manicured lawn and yet the two are combined in multiple locations in response to comments about removal of vegetation and other related matters in the FEIS. Goshen's Zoning Law does not define open space and the term is used in a variety of ways in the Law. However, the Town Board intent for what open space means can be derived by review of § 71-2 of the Town Code. Chapter 71 is devoted to Open Space Preservation and Acquisition.</p> <p>This Chapter defines Open Space as: "<i>Parcels of land that are or may be part of a significant viewshed, harbor endangered species or abundant animal habitat, protect a vital aquifer, be adjacent to an existing conservation easement parcel, proximate to a public facility, contain a year-round stream or body of water, have an historic structure (or structures), proven native American landmarks and artifacts or border a scenic road.</i>"</p> <p>Used in the context of development in Goshen then, open space and particularly undeveloped open space is not manicured lawn and should not be used in the same context.</p> <p>The proposed 76.32 acres of manicured lawn or landscaping will be "developed" and will include removal of the existing natural vegetation, wildlife habitat, and the supporting role it plays in protecting biodiversity as undeveloped open space. This has created a misleading picture to readers of the FEIS. It has further confused readers by the statement: "<i>An additional 357.53 acres will remain completely undisturbed on the site.</i>" Unless this 357.53 acres is placed into conservation easement or otherwise protected, it will be subject to future development triggered by the proposed Comprehensive Plan and Zoning Law amendments and so the conclusive statement that it "<i>will remain completely undisturbed</i>" is a false statement. This is why a generic environmental impact analysis has been recommended in this Report. The proposal fails to include such an analysis as required by law.</p>
B.15.7	<p>The FEIS response refers the reader to an earlier response to comment that does not exist. This needs to be corrected with a proper response which would address what is believed to be the need for a Mined Land Reclamation Permit from the DEC.</p>

FEIS Section #	GREENPLAN Comments
B.15.8	<p>The statement in response to a comment that <i>“The entirety of the site is being studied by the SEQR review.”</i> is incorrect and in conflict with the FEIS itself. The FEIS fails to include a generic environmental assessment of the full build-out of the site that will be authorized by the proposed Zoning Amendments. This omission is discussed more fully in other comments and in this Report’s Section 5.</p>
B.15.9	<p>The FEIS response to a comment about deforestation on the site contains a statement that <i>“only 149.9 acres of the Project Site will be disturbed for the development and 357 acres of trees, pasture and natural wetland habitat will remain in their natural state.”</i> This threshold statement is misleading and is not supported by evidence. If the Zoning Amendments are enacted, the protections afforded <i>“trees, pasture and natural wetland habitat”</i> by the RU and HR Zoning Districts [i.e. Article IV. Development Options in RU District] and its requirements for <i>“small-scale development, open space development, and conservation density development...to give maximum flexibility and choice to landowners while protecting the Town’s special character.”</i> will no longer exist for future development that may occur within the overall 522 acre site proposed for a Zoning Map Amendment.</p> <p>This is discussed above in the context of the need for a generic environmental assessment of the full buildout of the areas on the site, other than the 150 acres proposed for Legoland’s current development plans.</p> <p>Furthermore, in the case of site clearing, the characterization of “deforestation” by the commenter versus “disturbance” by the FEIS response is entirely semantic. The evidence for this is in the FEIS document. It can be found on Figure 7, Cut and Fill Analysis, the Site Plans, which show virtually the entire 150 acres will be cleared, developed, or landscaped, and the FEIS statement in response to Comment B.15.3 which states: <i>“Within this area of disturbance, <u>one of the significant trees</u> will be preserved in place.”</i> [emphasis added].</p>

FEIS Section #	GREENPLAN Comments
	<p>A DEIS prepared by an applicant can be expected to emphasize positivity about how adverse impacts are characterized, but a FEIS is clearly an objective disclosure document that is entirely the responsibility of the Lead Agency and that must discuss, in a meaningful way, what impacts will occur as a result of the proposal. All agencies in New York State have an obligation under SEQR to: <i>“Conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.”</i> [see 6 NYVRR 617.1(b)]. The FEIS prepared by the applicant fails a fundamental standard of SEQR in the way that statements have been crafted to avoid disclosure about adverse impacts in the document.</p>
<p>B.32.23, 24, and 25</p>	<p>A significant set of comments of the State DEC were completely ignored by the FEIS document. On page 7 of 9 of Tracey O’Malley’s December 23, 2016 comment letter, the statement reads: <i>“The DEIS does not sufficiently evaluate or offer mitigation methods related to both impacts to individual species or the conversion of habitat of the overall property as a whole.”</i> This represents a lack of a “hard look” at elimination of habitats on site as discussed in the FEIS document because it involves the lack of an assessment of the overall significant adverse impacts of the development on the sensitive environmental features found on the property, as acknowledged in the Town Comprehensive Plan and Zoning Law.</p> <p>This includes the low density residential land uses permitted in the RU District using conservation subdivision or other open space protection tools plus the three environmentally-focused Overlay Zoning district designations on the site. As stated in the FGEIS adopted for the Town’s 2009 Updated Comprehensive Plan and Zoning Law, <i>“The new zoning, which reduces density and fosters Town clusters through encouragement of open space developments in the RU zone and clusters within the HR zone, will support development at a scale that is more appropriate to the rural character of the Town of Goshen.”</i> [see January 12, 2009 Town FGEIS page 53].</p>

FEIS Section #	GREENPLAN Comments
	<p>Further, on page 16 of the January 12, 2009 Town FGEIS, it is stated: <i>“The draft Comprehensive Plan Update proposed to eliminate the approximately 141 acre Hamlet Mixed Use (HM) area on Harriman Drive and proposed to rezone the area to Commercial/Office Mixed Use (approximately 84 acres) and Rural (RU) (approximately 57 acres). The Plan has been revised to recommend that the proposed CO zone (approximately 84 acres) be divided into RU (approximately 57 acres) and Hamlet Residential (HR) 2 (approximately 27 acres). This results in the entire area shown as Area 2 on Figure 6 to be rezoned to RU. This change will avoid the placement of a commercial use, producing a highway and/or heavy traffic, adjacent to an approved residential development in the Village of Goshen and a proposed development in the Town of Goshen.”</i></p> <p>It is contradictory for such a significant change to be made to the Town’s total planning strategy over such a short period of time without a comprehensive plan analysis, as would be expected for such a monumental change in the Town’s overall planning strategy.</p>
B.32.24	<p>The response about mitigation for the unavoidable adverse impacts on special concern amphibians and reptiles, that will see their habitats lost as a result of on-site construction, is missing a discussion of what <i>“appropriate mitigation measures are proposed...”</i> The FEIS therefore, has not addressed or inadequately addressed a significant impact issue in the FEIS. [see 6 NYCRR 617.9(a)(7)(i)].</p>
B.32.28	<p>The FEIS response to a State DEC concern about insufficient discussion in the DEIS about large areas of impervious surfaces proposed, air emission increases from traffic, use of fossil fuels by the tens of thousands of cars arriving at the site, was made in the context of alternatives to the proposed action where a reduced scale project would be appropriate to address such concerns. Instead, the FEIS announces that the 77.41 acres of impervious surfaces described in the DEIS will be reduced to 73.58 acres, or a reduction of about five percent. This response avoids providing the tough answers to the significant impacts the project may cause. Alternatives are the appropriate means to reduce the size and scale of the project to be more in keeping with Goshen’s rural and agricultural character, as discussed elsewhere in this Report. Citing a five percent reduction in the amount of impervious surfaces in the response to comment does not qualify as a “sufficient discussion” of adverse impacts, mitigation and use of alternatives that reduce or eliminate such impacts.</p>

FEIS Section #	GREENPLAN Comments
	<p>Appropriate alternatives to have been addressed in response to this comment include a different site closer to the source of patrons. This would reduce vehicle miles traveled, could be constructed in a town that did not as rural a community character as Goshen, could use already developed lands like brownfields instead of environmentally sensitive greenfields like the site, and would be consistent with the New York State Smart Growth Infrastructure Act, which was addressed but then dismissed in the FEIS because it: <i>“was not required in the approved scope.”</i></p>
B.33.3	<p>The US Fish and Wildlife Service recommends that bat a presence/probable absence survey be conducted. The FEIS response indicates that the applicant will conduct such a study. However, the Fish and Wildlife Service was concerned about <i>“the effects of the proposed activity”</i> on endangered and threatened species. How then will the SEQR review process include an assessment of such impacts, the mitigation measures proposed if warranted, and their effectiveness if the survey will occur outside of the bounds of the SEQR review process? How then will the Planning Board, Town Board and the DEC make findings on endangered and threatened species if such information is not available prior to preparation of Findings?</p>
B.37.6	<p>The response to a comment about property values near amusement parks refers the reader to Response A.2.2. Here, a comparison is made between the proposal and Legoland Florida. The response indicates that the commenter, Appraiser Eldred Carhart’s conclusion, <i>“is not supported by the facts”</i> and <i>“is outdated.”</i> However, the response itself fails to note directly relevant information that makes this a fallacious argument.</p> <p>For example, the City of Winter Haven, Florida is an urban area with five times the population of Goshen. A total of 70,000 persons are located in and around Winter Haven with 39,500 residing in the City itself. Goshen, a rural and agricultural Town, is dwarfed in size by Winter Haven. Goshen’s 2010 population (according to the US Census) was 8,233 persons, which means that Winter Haven can be described as between five times to eight and a half times larger than Goshen, depending on whether one relies only on the City limits itself or the larger City and its suburbs. This results in a false analogy.</p>

FEIS Section #	GREENPLAN Comments
	<p>Winter Haven also has a long history of themed amusement parks. The first one in the nation, Cypress Gardens, was opened in 1936 in Winter Haven and so this urbanized area has had an economy that not only includes amusement parks but an economy that has adjusted to amusement parks for eight decades. Winter Haven, unlike Goshen, is also home to thousands of “snowbirds” who may not be as vested in the community as Goshen’s residents are. According to the 2010 US Census, a total of 58.1 percent of Winter Haven’s housing is either rental units or is considered “For seasonal, recreational or occasional use.” Thus, the comparison falls flat and readers and reviewers are left with a false impression about potential impacts on real estate values and their effects on municipal revenues.</p>
<p>B.50.5</p>	<p>The confirmation that fireworks will be used on the site does not include a list or any other type of restriction as to when they would occur, other than “such as the Fourth of July or Halloween. [and] “Typical fireworks displays...would only occur on weekends.” While almost everyone enjoys fireworks, they are known to have both noise and air quality impacts that may be most noticeable for residents in the adjacent Arcadia Hills area. Here, depending upon the way the wind blows, approximately 822 Town residents living in the 258 homes in the Arcadia Hills area could be directly affected by the noise and fumes from the fireworks explosions, as could other residents in the surrounding areas. Weather data indicates that prevailing winds most often come from the west, as shown in the graphic below. This would directly impact Arcadia Hills and other residents located east of the site.</p> <p>The predominant average hourly wind direction in Goshen varies throughout the year.</p> <p>The wind is most often from the north for 2.3 weeks, from September 1 to September 17, with a peak percentage of 31% on September 2. The wind is most often from the west for 11 months, from September 17 to September 1, with a peak percentage of 48% on January 1.</p> <div data-bbox="597 1465 1237 1732" data-label="Figure"> </div> <p>The percentage of hours in which the mean wind direction is from each of the four cardinal wind directions (north, east, south, and west), excluding hours in which the mean wind speed is less than 1 mph. The lightly tinted areas at the boundaries are the percentage of hours spent in the implied intermediate directions (northeast, southeast, southwest, and northwest).</p>

FEIS Section #	GREENPLAN Comments
	<p>Since fireworks displays could include Friday, Saturday and Sundays for the June to October season as it is described in the FEIS, this could mean a potential 69 fireworks displays assuming there are fireworks shows each weekend over a 13 week period. The air quality effects of fireworks were not included in the FEIS even though the Final Scoping Document directed the applicant to do so as follows: <i>“The Applicant shall include any potential impacts from pesticides, construction equipment, generators during construction and after construction, trucks, busses, idling vehicles, traffic entering and exiting the site, and delivery vehicles, <u>as well as all emissions during the operation of the proposed facilities.</u>”</i> [emphasis added]. The FEIS failed to include an assessment of the potential health effects of fireworks on the surrounding neighborhoods, as directed by the Planning Board.</p> <p>According to a 2014 study published by the National Institutes of Health (entitled Potential Impact of Fireworks on Respiratory Health): <i>“Use of fireworks with their consequent detrimental effect on the air quality is widely recognized with elevated ambient air levels of particulate matter and its several metallic components and gases identified in several studies carried out during such events. Exposed individuals may be at risk following inhalation of such produced pollutants...Ambient noise level was 1.2 to 1.3 times higher than a normal day, further contributing to another type of environmental pollution...A number of health warnings have been issued on the worldwide web for susceptible individuals to avoid firework displays and avoid the inhalation of resultant fumes and airborne PM. [PM is particulate matter]...A good number of papers have reported associations between airborne particles and a range of respiratory outcomes from symptoms to mortality, while others have reported associations with pulmonary function deficits, emergency room visits, hospital admissions, and daily deaths.”</i></p> <p>If a purpose of Goshen’s Zoning Law is to <i>“protect public health, safety, comfort, convenience, economy, natural, agricultural, and cultural resources, aesthetics and the general welfare,”</i> how then can authorization of a use that has the potential to endanger public health, safety and welfare, even if it affects primarily susceptible individuals, be justified? Primarily susceptible individuals include those who have been diagnosed with asthma and COPD. This represents about eleven percent (11 %) of the US population. Taking just Arcadia Hills into consideration means that approximately 90 individuals may be detrimentally affected by the air quality impacts of fireworks displays. The FEIS is silent on the potential for these air quality and noise impacts.</p>

FEIS Section #	GREENPLAN Comments
B.56.4 B.56.6	<p>The comments about the proposed impervious surfaces associated with Legoland’s development proposal, states a concern about “<i>endangering our environment, eliminates natural rainwater filtration and groundwater recharge.</i>” and about thermal pollution. The FEIS response simply states that a SWPPP will be prepared to “mitigate stormwater drainage impacts.” However, this response is silent on how the impervious surfaces will affect rainwater infiltration, groundwater recharge, and thermal pollution . In addition, a SWPPP will only reduce the effects of stormwater pollutants on surface waters, not eliminate them. The FEIS failed to take a “hard look” at the full impacts of the 74 acres of impervious surfaces proposed. While the emphasis is “mitigation” of impacts, the first and most important action would be to “avoid” impacts, which is not even included in the proposal.</p>
B.56.7	<p>The comment expressing concern about “clearcutting” the site proposed for the Legoland development has a response that: “<i>This area is not proposed to be clear cut.</i>” However, a close review of the FEIS indicates that statements such as “<i>several mature trees [are] to be preserved within the area of disturbance.</i>” does not get to the heart of the issue presented by the commenter. That is, the proposed Legoland development of 150 acres will virtually eliminate all natural vegetation on this area of the proposed themed amusement park site and replace it with an intensive development including 74 acres of impervious surfaces.</p> <p>Saving “several mature trees” means that the 150 acre site will have its vegetation removed thereby transforming the site from its natural state to hard surfaces like concrete, buildings, and manicured lands. Going by the DEC’s definition of “clearcutting,” found in Program Policy # ONR-DLF-3/Clearcutting on State Forests then, clearcutting is a: “<i>...method that removes essentially all trees in a stand – note depending on management objectives, a clearcut may or may not have reserve trees left to attain goals other than regeneration.</i>” While this policy applies to State Forests, it is applicable here by definition and is therefore, disingenuous to claim that the area is not proposed to be clearcut based on the State definition.</p>

FEIS Section #	GREENPLAN Comments
B.64.1	<p>The response to a concern expressed about conservation of natural resources and rural character, claims that: <i>“on-site development coverage would be 14.5% which is consistent with rural design.”</i> First, it is not clear where the 14.5% coverage figure comes from. If it was intended to apply to impervious surfaces only, then 14.5% of the 522 acres is about right. But, if it refers to the initial developed area that would be authorized by Site Plan and other approvals for Legoland, then the area of development would cover about 29 percent of the site. A total of 150.1 acres has been proposed by the applicant to be placed in a conservation easement. This means that a total of 71 percent of the site could eventually be developed with high density commercial uses as a result of the Zoning Map Amendment.</p> <p>The FEIS fails to include a generic environmental assessment for other future development (as discussed above in this Report) and so Town residents and decision-makers are left without sufficient information to evaluate the full effects of the Comprehensive Plan and Zoning Law amendments. By the proposal, the Rural (RU) and Hamlet Residential (HR) Zoning designations would not need to be followed, together with the rural preservation techniques required under the current Zoning Law, that would need to be followed if and when residential development were to be proposed under the current Zoning on the site. These techniques, noted elsewhere in this Report, are designed to maintain rural character through the use of rural design techniques. So to claim that the proposal is <i>“consistent with rural design”</i> is not supported by evidence.</p> <p>In order to claim consistency, an analysis of whether the project is consistent with or inconsistent with the Town’s Rural Siting Guidelines would be necessary. This analysis is absent from the FEIS. Consistency has also been claimed in the FEIS for the Orange County Comprehensive Plan. But no analysis of consistency with the County’s Design Manual, nor even a discussion of the County’s Design Manual, even appears in the FEIS.</p>

FEIS Section #	GREENPLAN Comments
B.64.3	<p>The response to a concern about the RU Zoning District designation on the site indicates that less than half the site is zoned HR. But the response fails to inform the reader that the HR portion of the site can only be developed under the HR Zoning District regulations when central water and sewer services are provided. If they are not, then the entire site must be developed under the RU District requirements, which requires one of three rural open space preservation techniques to be used for new development, including small-scale development, open space development, and conservation density development. Since water and sewer infrastructure is not currently available to the HR portion of the site, the entire site could only be developed using such rural open space preservation techniques. This FEIS response creates a false impression that there exists current potential on the site for other non-residential development. This is not the case and it should be properly explained and assessed for its adverse impacts under SEQR.</p>
B.64.5	<p>The response to a comment about the Otter Kill and the Comprehensive Plan recommendations for its protection indicates there will be no <i>“disturbance to the Otter Kill or the Stream Corridor Overlay District.”</i> is not accurate, based upon a review of the Town of Goshen Overlay Districts Map. This map shows that the Stream Corridor and Reservoir Watershed Overlay (SC) District is partially located on parcel 15-1-59. Then, by reviewing the proposed Site Plans, it shows a portion of the proposed parking lots, the proposed cell tower and possibly the 522,000 gallon water storage tank within the SC Overlay District on the subject parcel.</p> <p>In addition, Figure 9 in the FEIS shows that the emergency access road will result in 0.016 acres of “disturbance” or loss of the Federal Jurisdictional Wetland and an additional 0.39 acres of the Onsite Emergency Connection Guest Access Rd. to Service Rd., both of which are found within the Floodplain and Ponding Area Overlay (FP) District.</p>

FEIS Section #	GREENPLAN Comments
	<p>The FEIS statements that there “<i>will be no disturbance,</i>” appear to be in conflict with the officially adopted overlay Zoning District maps. There are a number of other instances in the FEIS where this claim is made. The claims are not corroborated by the evidence provided. The response to Comment A.84.3 also states that “<i>This [emergency] access road has been reviewed with emergency service providers and will be improved to their satisfaction</i>” [emphasis added], provides further evidence that there will be greater environmental impacts on the site’s resources than are revealed in the FEIS and that the statements downplaying the potential adverse impacts on the Overlay Districts and the environment in general are missing, leading to a flawed document.</p> <p>In this regard, the Response to Comment A.112.5 states that “<i>At its current location the [emergency] access road does run through wetland areas on the site.</i>” There will be wetland loss as a result of the emergency access road, as shown and delineated on Figure 9 of the FEIS but it has been omitted in the analysis and discussion of impacts. Further, the response to Comment B.2.2 states: “<i>The proposed retaining wall required for the construction of the emergency access drive connection is approximately 1,000-feet from the Project boundary...</i>”</p> <p>Response B.2.17 also states: “<i>Minimal grading of the portion of the emergency access road east of the Otterkill is required to make the connection to Arcadia Road. The emergency access road grading is proposed to have no impact on existing wetlands except the 0.016-acre disturbance of federal wetlands as shown on the plans.</i>” There are a number of conflicting statements made in the FEIS then about the emergency access road, wetland losses, and site disturbance activities within the Town Overlay districts. A full accounting of the potential adverse impacts needs to be provided. Other locations where the emergency access road is discussed and where additional conflicting information is provided includes the Responses to Comments B.2.16, B.9.59, B.19.5, B.32.12, B.184.2, and B.211.2.</p>
B.73.1	<p>The commenter raised important issues for the Town’s decision-makers relative to whether pursuit of a singular economic driver in the form of Legoland was worth the costs. The Federal Reserve Bank analysis presented in the cited article was simply dismissed by this Response. That is unfortunate because the article goes beyond discussing “<i>economic development in general</i>” as portrayed in the FEIS Response. The point made in the Federal Reserve article goes to the heart of the issue. Pursuing a “<i>silver bullet</i>” like Legoland has been found by economists to be a “<i>double-edged sword</i>” as discussed above in this Report’s Item 4.</p>

FEIS Section #	GREENPLAN Comments
	<p>Its full effects will not become apparent by only conducting a site specific environmental review of a development proposal like Legoland but through a full comprehensive planning process as called for in this Report. As stated on page 75 of the Federal Reserve's <u>Economic Review</u> article: "<i>Economic development strategies aimed at attracting large firms are unlikely to be successful or are likely to succeed only at great cost. A recent study of new-firm locations and expansions in Georgia suggests that, on net, the location of a new large (300+ employees) firm often retards the growth of the existing enterprises or discourages the establishment of enterprises that would otherwise have located there (Edmiston)...An alternative to recruiting large firms with tax incentives and other inducements is to focus on the small business sector. Perhaps the greatest generator of interest in entrepreneurship and small business is the widely held belief that small businesses in the United States create most new jobs. The evidence suggests that small businesses indeed create a substantial majority of net new jobs in an average year. But the widely reported figures on net job growth obscure the important dynamics of job creation and destruction. Nevertheless, small businesses remain a significant source of new jobs in the United States.</i>"</p>
	<p>The 2004 and 2009 Town Plans were an attempt to focus the Town's energies on the development of small business, as cited elsewhere in this Report. The planning documents prepared by Orange County and others, such as the Mid-Hudson Region Economic Development Council Strategic Plan do the same, as cited elsewhere in this Report. Pursuit of Legoland runs counter to the Town's Plan, other relevant planning documents cited in the FEIS, as well as advice from the Federal Reserve Bank.</p>
B.146.1	<p>This May 18, 2017 FEIS response to this comment was surprisingly arrogant as it stated essentially that the Town of Goshen "<i>cannot sustain itself on these limited industries...</i>" such as farming, as it has historically for decades. The filed FEIS now revised the above response to remove the offending language. But, the prevailing attitude in the FEIS towards rural and agricultural character as somehow not worthy of protection, in spite of the Town's past efforts to secure this future vision as its plan for the "<i>immediate and long-range protection, enhancement, growth and development</i>" of the Town prevails in the FEIS document [see § 272-a.1.(a) of Town Law].</p>

FEIS Section #	GREENPLAN Comments
	<p>The commenter confirmed their and other’s opinion that farming is an integral part of Goshen’s community character, as it has been described in the Comprehensive Plan. Agricultural land uses can be found on the lands contiguous to the project site to the west, south, east and across Route 17 north of the site, as shown on the existing land use map shown in response to Comment B.2.79. The failure to address environmental impacts on agriculture as well as rural and agricultural character becomes a failure to take a “hard look” at the effects of the action.</p>
B.171.16	<p>This FEIS response fails to address the loss of agricultural lands within a New York State Agricultural District. The applicant states that the property has not been farmed “<i>for more than 10 years.</i>” But, the property is designated for “Priority Preservation” in the “Orange County Agricultural and Farmland Protection Plan” adopted by the County Legislature and approved by the State of New York. The loss therefore, is an environmental impact under SEQR [see 6 NYCRR 617.6(a)(6) and 617.7(c)(1)(viii)].</p> <p>Compliance with subdivision (4)(b) of section 305 of Article 25-AA of the New York State Agriculture and Markets Law is required by the SEQR regulations and therefore, the project should be subjected to an “agricultural impact statement” since the project may receive public funds as outlined in Responses A.16.2., A.28, A.117.9, B.9.9, B.24.7, B.63.3, B.90.70, B.168.6, B.171.17, B.173.9, B.190.17, and C.49.63 among others.</p>
B.172.3	<p>The FEIS response states that onsite grading “<i>will not have any significant adverse impacts on surrounding properties.</i>” However, no supporting studies nor other methods that could be objectively validated are included to support the conclusory statement that noise and air quality effects (and other impacts of grading activities), even if they are short-term, will not adversely affect residents living in close proximity to proposed construction activities. Construction impacts from grading and earthwork resulting in an estimated 1.7 million cubic yards of cut and 1.9 million cubic yards of fill will create noise and dust. Noise pollution can have a significant impact on both human health and quality of life for the residents of a community, especially those closest to the source of noise.</p>

FEIS Section #	GREENPLAN Comments
	<p>The DEIS included a noise study but such study did not attempt to measure how noise levels from construction equipment and activities, operating over a period of at least two years, will impact nearby residences. Some of the existing residences will be as close as 300 feet from proposed construction activity (Old Chester Road from the proposed Route 17/86 highway work). Measurements of the distance between Glen Arden and proposed construction activity indicate the distances from residences there to proposed construction activity are less than 500 feet and between proposed construction activity and Acadia Hills subdivision area less than 1,000 feet, which is contrary to what is stated in the referral response A.76.4, that construction activity will be separated <i>“by more than 1,000 feet of undisturbed buffer and will be surrounded by an eight foot tall privacy fence.”</i></p> <p>Simple measurements from publicly available, properly scaled maps and aerial photography dispute the claims of distance. Secondly, a privacy fence is an inadequate mitigation for noise impacts unless the fence is designed to perform as an acoustical sound barrier. There is no evidence presented that this is the case. The Federal Highway Administration maintains a comprehensive Handbook on Construction Noise impacts and mitigation, which serves as a roadmap for best practices, among other valuable information on assessing and mitigating noise impacts. None of the proposed mitigation measures outlined in the Handbook have been proposed for Legoland.</p> <p>The FEIS is deficient in properly addressing the full extent of construction (and operational) noise impacts as a result. Further, the proposed privacy fence conflicts with the Town of Goshen Zoning Law prohibition on fences found in § 97-29.J as follows: <i>“Chain link fences and stockade or other fence designs that block visual access to land in the corridor shall be prohibited, unless such fences are necessary to screen a preexisting use that does not conform to the requirements of this section.”</i> This prohibition was not assessed in the FEIS and it remains as an issue of compliance with the Zoning Law that has been inadequately addressed under SEQR.</p>

FEIS Section #	GREENPLAN Comments
B.172.5	<p>The reply to a comment about DEIS reader confusion, that was created because the document presented technical data in terms that were not understandable to the lay person, does not respond to the comment made. What is presented instead is a statement that generalized comments of opposition do not need an answer, that the DEIS was prepared in accordance with the scoping document, or that simply restates the technical jargon that created the confusion in the first place.</p>
B.172.6	<p>The response to a comment about the EIS serving as the source of information for all other involved agencies was simply <i>“This is incorrect.”</i> The FEIS preparers have provided misinformation about the way the SEQR review process works when multiple agencies are involved and one agency has been selected to be the “Lead Agency.” According to the SEQR Regulations at 6 NYCRR 617.11(c) and (d)(1): <i>“No involved agency may make a final decision to undertake, fund, approve or disapprove an action that has been the subject of a final EIS, until the time period provided in subdivision 617.11(a) of this section has passed and the agency has made a written findings statement. Findings and a decision may be made simultaneously. (d) Findings must: (1) consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS...”</i></p> <p>The FEIS acts as the basis for all agency decision-making. This does not mean that other agencies must prepare findings the same as the Lead Agency’s. Other agencies may choose to prepare Findings that differ from the Goshen Planning Board’s, but they must base their decisions on the documents that are developed throughout the SEQR process and filed by the Planning Board as Lead Agency in accordance with the SEQR Regulations. Further, this Response also hints at the potential for segmenting the review of the additional well that the FEIS states will be prepared by others (see this Report’s comment above in Item “D.”</p>

FEIS Section #	GREENPLAN Comments
B.172.8	<p>The FEIS response to a comment about consistency with the Town Comprehensive Plan and other relevant planning documents replies “<i>This is incorrect.</i>” Discussed above is relevant evidence to demonstrate how the proposal is inconsistent with the Town Comprehensive Plan, in spite of the proposed Amendments to it, as well as numerous instances where the proposal is inconsistent with other relevant planning documents that were selectively examined, or excluding planning documents that the proposal is inconsistent with (such as the Orange County Agricultural and Farmland Protection Plan, Orange County Comprehensive Plan, Orange County Greenway Compact, and the Orange County Open Space Plan). Rather than attempting to present evidence to support the statement that the commenter “<i>is incorrect</i>” the response instead reveals the lack of evidence in the FEIS to support such statements.</p>
B.172.9	<p>The response about wetland impacts simply restates, in part, what the commenter says about how the Federal Jurisdictional Wetland program works. It does not respond to the commenter’s concerns about indirect wetland impacts as a result of construction activities on wetlands and the absence of any upland buffer to avoid or minimize environmental impacts.</p> <p>While the Federal wetlands regulations lack upland buffers, there is a scientific basis for New York State’s regulations of all activities within 100 feet of a wetland. It has been found by science that 100 feet is the minimum upland area needed to concertedly protect wetlands from the effects of development and other physical alterations of land near such surface water bodies including wetlands. Therefore, this comment about impacts to the onsite wetlands has not been addressed and in this case, the FEIS fails to take a hard look at minimizing or avoiding impacts to Federal Jurisdictional Wetlands through, for example, the use of protective upland buffers. Such buffers, regardless of regulatory jurisdiction and procedures, are justified when assessing the proposed construction and operational impacts on surface waters and choosing alternatives or appropriate mitigation measures to reduce or eliminate adverse impacts.</p> <p>SEQR clearly permits agencies to: “<i>Impose substantive conditions upon an action to ensure that the requirements of this Part have been satisfied.</i>” [6 NYCRR 617.3(b)]. Such conditions need not follow prescribed regulatory procedures but: “<i>Must be practicable and reasonably related to impacts identified in the EIS...</i>”</p>

FEIS Section #	GREENPLAN Comments
	<p>The FEIS at pages II-711 to 713 discusses direct unavoidable impacts to wetlands consisting of what appears to be approximately four (4) acres of wetland loss as a result of the proposal. The discussion on these pages does not clearly identify the full extent of the direct wetland loss however and there is no discussion of indirect wetland loss as a result of, for example, the indirect impacts of soil erosion and sedimentation, increases in pollutants as stormwater flows across impervious surfaces (see this Report's comment on pollutants that will not be filtered by the stormwater system in Item B.4.7), and thermal pollution increases as a result of higher temperatures in surface waters due to the 74 acres of proposed impervious surfaces, among others.</p> <p>The response to comments does not address the commenters concerns about the loss of wetland functions and benefits as a result of construction and operation. In this case, the FEIS has failed to take a hard look at the full extent of wetland loss, both direct and indirect.</p>
B.172.10	<p>This comment was responded to with a referral to the Responses to Comments A.2.3, A.10.5, A.118.3, B.12.4, B.163.2 and B.172.77. A review of each of these responses reveals a lack of any response to the commenter's second and third bullet points about wetland delineations and tree surveys. Therefore, this comment was not answered in the FEIS meaning that the FEIS has inadequately addressed an environmental impact issue under SEQR.</p>
B.172.11	<p>The comment about misstatements of facts was not answered, other than a generalized statement that: <i>"there is no need to respond to statements of generalized opposition to the Project, or to speculative comments or assertions that are not supported by reasonable observations or data."</i> This FEIS response suggests that other professionals' input has no value. SEQR encourages the use of outside experts at 6 NYCRR 617.3(e), not to discourage or dismiss other expert opinions than those of the Lead Agency's consultants. As stated in the SEQR Regulations: <i>"Interested agencies are strongly encouraged to make known their views on the action, particularly with respect to their areas of expertise and jurisdiction."</i></p>

FEIS Section #	GREENPLAN Comments
B.172.12	<p>The response to this comment has been discussed at length above in this Report, which is that when an action involves a Zoning decision, the generic environmental impacts of the change in Zoning must be assessed along with the site-specific impacts of a project that would be authorized by the Zoning Amendments. In this case, the applicant has ignored both State guidance and court decisions on the need for a generic environmental assessment of the full effects of the proposed Zoning Amendments.</p> <p>This has resulted in a failure of the FEIS to take a hard look at the environmental impacts of the Zoning and Comprehensive Plan amendments in relation to the Legoland project, that will be authorized by those decisions.</p> <p>Future development on the remainder of the 522 acre property, that will be authorized by those Town Board decisions, is the relevant area of environmental concern that has been left unaddressed as required. The Response that: “<i>The comment is incorrect.</i>” reveals a misunderstanding of the Lead Agency’s responsibilities under SEQR when an action involves both a zoning decision and a proposed development project.</p>
B.172.13 B.172.14	<p>Again, the response to comments about assessing the full effects of the Zoning amendments action fails to address a requirement of SEQR to do so, with a deeply flawed response “<i>The comment is incorrect.</i>” Omitting an obvious requirement of State Law demonstrates the lack of a “hard look” as required under the Law.</p>
B.172.15	<p>The FEIS response restates, as it has in several other locations, that: “<i>No development outside of the proposed area of disturbance is proposed.</i>” If “at this time” or “based upon the Legoland applications” had been added to the end of this sentence, it would be technically correct. However, the statement may mislead readers because when a Zoning Map and Zoning text amendment is proposed (as it has here), the entire area proposed for rezoning becomes the subject of a generic environmental assessment to determine its appropriateness for the new uses that will be authorized and will be available for future development permitted by the change in land use controls, since such lands will be authorized for additional development that is not currently authorized under current zoning. The FEIS fails to acknowledge this requirement of SEQR.</p>

FEIS Section #	GREENPLAN Comments
B.172.16	<p>The FEIS acknowledges the secondary beneficial economic effects of the proposal and this is confirmed in the response to this comment about outside surrounding businesses. However, while the applicant has included the economic spillover effects of the proposed project, the FEIS does not discuss the secondary or induced environmental impacts of the project. Rather, the FEIS fails to assess whether the Town is prepared for the secondary growth that will be induced by a themed amusement park, whether its Comprehensive Plan and Zoning can accommodate the growth and if that is the type of growth the Town's residents want to encourage and/or allow.</p> <p>The 2009 Comprehensive Plan, neither in its present form nor as it has been proposed for Amendment, addresses whether the Town is prepared to accommodate the secondary growth that will inevitably occur as a result of a large-scale new land use that is projected to attract 2.5 million visitors a year, including its accompanying environmental impacts. These include demands for new housing and community services, which have not been subjected to a new comprehensive plan analysis that examines whether the Town is equipped to handle such demands.</p> <p>Other demands typically include, but are not limited to, potentially rapid changes in land use which in turn leads to increased traffic, degradation of air and water quality, loss of biological resources and habitats, increased demand on public services, and changes in visual and aesthetic qualities, all of which contribute to the Town's quality of life. The applicant's FEIS ignores these secondary environmental impacts when it states in other responses: "<i>No additional growth outside of the project site would be expected to result...</i>"</p>
B.172.18 B.172.19	<p>The FEIS statement that "<i>It is not believed that dining options at the hotel would compete with sit down restaurants in surrounding areas.</i>" is unsupported by evidence. Since the FEIS was prepared by the applicant, the Planning Board has now accepted this statement to be the case as well. On what basis did this "belief," represented in the FEIS originate? Is there any evidence presented in the FEIS to suggest that this "belief" is grounded in peer-reviewed economic analysis? A lack of evidence suggests that this type of statement is self-serving, especially since it was prepared by the applicant.</p>

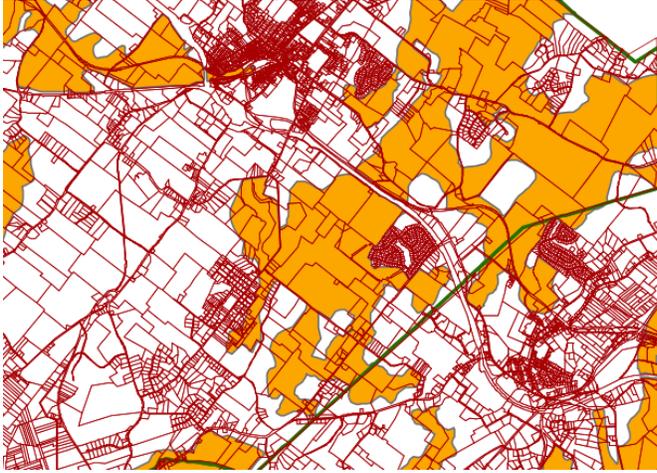
FEIS Section #	GREENPLAN Comments
B.172.20	<p>The response here refers the reader to Response “A.172.16.” There is no comment nor response with that number. Rather, there is a comment and response “B.172.16” but it is not known whether the Response here is the proper one to answer the commenter’s concern. Nevertheless, the concern about the proposed PILOT agreement and its impact on municipal revenues and costs, cites State guidelines on whether economic factors should be included in an EIS. In general, this statement is correct.</p> <p>What the FEIS fails to also include is how economic factors can result in blight or neighborhood deterioration and how this economic effect in turn affects community character, which is relevant under SEQR and cannot be ignored in the proposal’s SEQR review, as discussed elsewhere in this Report. The project’s economic effects are relevant to the Planning Board’s SEQR environmental review process, if Legoland were to drive out local businesses (including farms) that resulted in blight or increases in vacancy rates in the project area. These are relevant to the SEQR review process and should have been subjected to SEQR’s “hard look” standard for potential impacts on community and neighborhood character.</p> <p>The relevant issue here is not business competition or the harm to individual businesses in the Town but the potential closure of existing small businesses, farms and their supporting businesses, and the possible creation of vacant and decaying buildings that negatively effect the look and feel of the community, thereby impacting the Town’s community character. None of these environmental impact issues were addressed in the FEIS.</p>
B.172.26	<p>The FEIS response to this comment refers the reader to other responses that purport to respond to other comments about on-site grading activities and its potential visual and wetland impacts. However, none of the referred responses appear to address the two noted impact issues of aesthetics or wetlands.</p>

FEIS Section #	GREENPLAN Comments
B.172.27	<p>The FEIS fails to respond to this comment, concerning a DEIS statement that appears to be designed to mislead the reader, which is that the site after development will remain undeveloped open space except for the themed amusement park itself and “<i>manicured lawn and landscaping.</i>” In this case, the FEIS leaves a false impression that no further development will occur once the initial 150 acre themed amusement park is developed. This is incorrect, except for the proposed 150 acres of land the applicant has offered to place in a conservation easement. That leaves 222 acres of land that will be rezoned under the proposal to allow commercial use of the 522 acre site.</p> <p>The FEIS misleads the reader into thinking that further development of the site will not be possible in the future. A more accurate way to state the concept would be to clearly identify the remaining 222 acres as potentially developable in the future under the proposed Zoning Map Amendments but with a proviso that the applicant has no plans to develop such lands at the present time. If the applicant were to expand its operations in the future, an additional site specific environmental impact assessment would be required under SEQR. If the did not develop expansion plans for the future, such lands could be sold to others who could develop them under the new Zoning provisions for the Commercial Recreation Overlay Zoning District, approved as part of the proposed action. However, failure to address such impacts in a generic environmental analysis at this stage means that environmental impact issues of significance have been inadequately addressed in the FEIS as discussed elsewhere in this Report.</p>
B.172.29	<p>The response implies that the property to the west is not zoned residential so the buffers provided “<i>ranging from 70 to 200 feet are provided between the Proposed Project and the shared western property line.</i>” First, it would have been clearer if the response had stated that the Office-Business-Hospital (OBH) Zoning District was located in the Village of Goshen and not the Town of Goshen. Second, because the property is zoned OBH, potential impacts of the project are even more concerning because hospital uses represent an even more sensitive land use than residential for noise impacts. Therefore, the Response does not address the potential for the project to inhibit future development of these properties with additional essential health services, which may be warranted in the community, especially if growth is induced and existing health care services are inadequate to serve an expanded community. This is the type of issue that is most appropriately addressed in a new comprehensive plan process as recommended elsewhere in this Report.</p>

FEIS Section #	GREENPLAN Comments
B.172.31	<p>The comment about the parking lot rising 200 feet above the homes closest to the site was not answered in response to this comment. Instead, the referral is made to Responses A.76.3, A.102.1, and B.135.1. Response A.76.3 talks generally about a new cut and fill analysis, Response A.102.1 states that the FEIS does not need to respond to “generalized comments,” and Response B.135.1 concerns traffic and water resources.</p> <p>In this case if a reader, living in one of the homes near the site, had concerns about the proposed parking on the site as it relates to fills, they would not have any idea what had changed. The impacts and mitigation proposed for such impacts needs to be disclosed so reviewers, especially those neighbors closest to the site are properly informed about how their property and health, safety and welfare will be impacted.</p>
B.172.32	<p>The FEIS does not address the comment about buffers. Instead, the response states again that the proposed site-specific impacts of the project would not need to comply with the diminution of the RU District’s required “<i>minimum of a wooded 100-foot buffer</i>” because some of the land will be placed under conservation easement. What about land that will not be placed under conservation easement? Or what happens with future development that will be permitted if the site is redeveloped in accordance with the Commercial Recreation Overlay Zoning District? This is exactly why a generic environmental impact analysis is required for the proposed Zoning Amendments in this case, as pointed out elsewhere in this Report. Finally, the statement that: “<i>The actual setback may and will be set by the Planning Board...</i>” is not explained. “May” is a permissive term while “will be” suggests mandatory. Which is it?</p>
B.172.33	<p>The FEIS response that “<i>The proposed project is consistent with all [Scenic] overlay district requirements.</i>” is unsupported by evidence. Where is the analysis to support such a statement? This FEIS statement also directly contradicts the Response to Comment A.117.8, where it states: “<i>The visual impact analysis for the Proposed Project shows portions of the Project, including the Proposed Parking lot and hotel will be visible from Arcadia Road.</i>” The Scenic Road Corridor Overlay (SR) District is located on Arcadia Road on the Legoland site (the other SR location is on the site on Conklingtown Road) and it will be affected by visibility of the site development.</p>

FEIS Section #	GREENPLAN Comments
	<p>Visibility includes cuts and fills “in excess of 5,000 square feet...clear-cutting of more than 5,000 square feet...grading or other alteration of more than 5,000 square feet of the natural landscape”? [see § 97-29.D.(1)(b)] How will the project avoid “degradation of scenic character and/or be aesthetically compatible with its surroundings.” as required by § 97-29.F.(1), “minimize the removal of native vegetation, except where such removal may be necessary to open up scenic views and panoramas.” as required by § 97-29.F.(2) and how are buildings located and clustered to “minimize[s] their visibility from the road.”?</p> <p>How does the proposed landscaping and architecture address the minimum requirements of the Zoning? Will the proposed fencing be visible from the Scenic District corridor? How does it comply with the Zoning Law’s fencing prohibition in the SR District? How does the siting of the proposal comply with the Rural siting principles found in § 97-41? Here, there are eight principles that development projects in the SR District need to comply with. Where is the analysis in the FEIS to support a statement like: “The proposed project is consistent with all [Scenic] overlay district requirements.”? It was not provided and is evidence that significant adverse environmental impacts were not addressed or inadequately addressed in the FEIS. [see 6 NYCRR 617.9(a)(7)(i)].</p>
B.172.37	<p>A comment about the impacts of loss of mature forests, as a goal of the Comprehensive Plan which states they should be preserved “to the greatest extent practicable,” refers readers to responses that state the loss of significant “trees” will be mitigated by a landscaping plan. But the loss of 140 acres of mature forest for the proposed themed amusement park and any further loss of the remaining on-site forest in the future when the 522 acres of land subject to the proposed Zoning Amendments are developed, fails to address the loss of mature forests on the Town Comprehensive Plan’s policies. Related issues include loss of carbon sequestration, loss of community character, and the loss of one of the largest remaining mature forests in the Town, as shown on the map illustrating vegetation communities in the Town.</p>

FEIS Section #	GREENPLAN Comments
	<p>The loss of biodiversity, as described in the Southern Wallkill Biodiversity Plan, is another loss that is not properly or fully addressed in the FEIS. Since virtually the entire site is located within an area characterized in the Southern Wallkill Biodiversity Plan as “Areas Important for Biodiversity” the loss cannot be dismissed simply as an “<i>area of interest.</i>” as stated in the referred Response. The statement from the Southern Wallkill Biodiversity Plan that it “<i>is emphatic that mapped areas of interest not be preserved in their entirety.</i>” as it has been in response to comment A.12.5 misleads the reader. The full story becomes apparent by a closer look at what else the Southern Wallkill Biodiversity Plan has to say about identified “Areas Important for Biodiversity.”</p> <p>On page 23 of the Southern Wallkill Biodiversity Plan it states: “<i>To balance development with the conservation goals of this project, we propose that it [i.e. development] continue to be concentrated in areas outside of those identified as important for biodiversity (Figure A)...Land preservation remains the best route to maintaining biodiversity on select parcels...Attempt to preserve (through acquisition or easement) areas that are currently unprotected and have significant levels of biodiversity, or that contain populations of imperiled species. The locations of biodiversity “hotspots” that are currently unprotected are provided in the ‘Results and Discussion’ section.</i>” As shown on an excerpt from Figure A, the Biodiversity hotspots map reproduced below, the site is almost entirely within an area identified as an area important for biodiversity in the Southern Wallkill Biodiversity Plan (the site is in Area 2, Otter Creek), described as a “<i>host to significant biodiversity.</i>” [see page 19 in the Southern Wallkill Biodiversity Plan]. In addition to that, the site (as shown on the map below) represents a critical link in a biodiversity corridor running north to south along the water resources that flow through the site.</p>

FEIS Section #	GREENPLAN Comments
<p>Legend</p> <ul style="list-style-type: none"> Tax Parcels Areas important for biodiversity Towns <p>0 0.5 1 2 3 4 Miles</p> <p>Figure A Legend from Southern Wallkill Biodiversity Plan</p>	 <p>Figure A from Southern Wallkill Biodiversity Plan</p>
<p>B.172.40</p>	<p>The Response states that 3.07 acres of wetlands will be “disturbed” or lost as a result of the proposal. In other areas of the FEIS (see page I-15 in particular), statements are made that the total wetlands loss will be 4.28 acres. Any loss of wetland functions and benefits is inconsistent with the Comprehensive Plan’s policy goal to “<i>Protect wetlands, including, but not limited to, NYSDEC and Army Corps Wetlands.</i>” This inconsistency with the Comprehensive Plan has not been evaluated in the FEIS and therefore, the FEIS has not adequately complied with the provisions of SEQR, as discussed elsewhere in this Report.</p>

FEIS Section #	GREENPLAN Comments
B.172.41	<p>The FEIS claims consistency with the priority growth areas concept of the Orange County Comprehensive Plan by citing the site's ability to meet the concept because it is: "<i>Within or immediately adjacent to Villages or Cities, with access to major highways, and with access to public utilities.</i>" Each of these statements are true and are in general good planning policies. However, the FEIS relies specifically on the proximity to such amenities as justification for a proposal that otherwise, does not meet the County Comprehensive Plan's admonition that not all land within the priority areas are developable or necessarily appropriate for development. The County Plan and the more recent Orange County Greenway Compact document recommends against intensive development of the site by outlining appropriate development standards for rural, agricultural, and environmentally sensitive locations, such as the proposed project site area. The County Plan suggests retention of those rural areas "<i>containing important agricultural land and open space or environmental resources.</i>" [see County Plan page 7]. This Report outlines and discusses the 2013 recommendations of the County Compact elsewhere. Based upon those recommendations, the site cannot be deemed to be consistent with County planning policies.</p> <p>The site is within a New York State Agricultural District, contains soils suited for agriculture, and much of it was farmed in the past. Its open space has been designated with three different Overlay Zoning districts by the Town due to its environmental sensitivity and open space character. The project will generate hundreds of thousands of new vehicle trips annually, which is not consistent with the County's Plan's recommendation to "<i>Curb traffic congestion...[and] help reduce demand for single occupancy vehicle use (SOV)...</i>" [page 11].</p> <p>As discussed elsewhere, the entire site does not appear within the very generalized area designated in the 2010 County Plan for "priority growth." The 2013 County Compact document's map for priority growth areas is much more detailed than the 2010 County Plan map and it includes specific parcels the County has designated as agricultural lands as shown in this Report under Item 5. In addition, the County's 2015 Agricultural and Farmland Protection Plan (the most recent County approved plan) designates the site or portions of the site as a "Priority for Preservation."</p>

FEIS Section #	GREENPLAN Comments
	<p>To claim that the County Comprehensive Plan fully supports the proposed project is not supported by evidence. More recent County planning documents identify the site for protection of its agricultural, open space, and other values. Finally, Orange County recently initiated a new process to update its 2010 Plan. It is reasonable to assume that the most recent planning efforts of the County will be consistent with the County Compact (which has been approved by the State’s Hudson River Valley Greenway), County Farmland Plan, and incorporated into a new County Comprehensive Plan once it is completed.</p>
<p>B.172.42</p>	<p>The statement that: <i>“The Proposed Project is consistent with all of the relevant regulations of these overlay districts.”</i> [i.e. the three overlays that currently exist] is not supported by evidence such as a point by point analysis within the FEIS of how this was determined, as stated elsewhere in this Report. Therefore, the FEIS has inadequately assessed consistency with the Town’s existing Zoning Districts.</p> <p>It also misleads readers into thinking that the HR District’s allowance for non-residential uses, such as <i>“restaurants, service establishments, and retail and recreational businesses”</i> is somehow a justification for the intense commercial proposal just because some limited commercial uses are permitted under specific circumstances. These special circumstances include availability of water and sewer and compatibility with the community, as determined by a Special Use Permit that can only be granted by the Goshen Town Board.</p> <p>The FEIS also fails to inform the reader that such uses would only be permitted in the HR District: <i>“provided that water and sewer service is available. In the absence of water and sewer infrastructure, the HR District shall be subject to the regulations of the RU District.”</i> [§ 97-8.A.(6)].</p> <p>Other additional requirements of the HR District that have not been addressed in the FEIS is the requirement that <i>“At least 30% of the site area must be protected as undeveloped open space...[and] the preserved open space area may not include wetlands or other constrained land.”</i> Finally, non-residential uses within a HR District are subject to issuance of a Special Use Permit by the Town Board, which is a legislative action.</p>

FEIS Section #	GREENPLAN Comments
	<p>Development within the HR District is also required to comply [i.e. “shall comply”] with the Town of Goshen Design Guidelines by § 97-15.H. The FEIS statements, therefore inaccurately represent the potential for development in the HR District. No attempt has been made in the FEIS to demonstrate how the proposal will comply with the Design Guidelines, even in a permissive manner. This is relevant because the Zoning at § 97-5 states: “<i>The Town of Goshen encourages development that is compatible with the existing character of the Town...Where this chapter specifically requires that the guidelines be followed, they shall be mandatory. In other cases, they shall be advisory only.</i>” There is no evidence in the FEIS that shows how the proposal: “<i>Is compatible with the character of the Town.</i>” as required by the Zoning.</p>
B.172.45	<p>The figures provided in response to a question of wetland impacts conflicts with the information provided on page I-15 and Responses B.172.66 and B.2.14. The B.172.66 Response states “<i>2.178 acres of wetland will be disturbed for both the Proposed Project and the revised off-site traffic improvement plan.</i>” while the other two can be ascertained by adding the acres of Federal and State wetland areas that will be lost for the proposed project and the traffic improvement proposed. On page I-15 wetland impacts are listed as “<i>4.28</i>” acres, and in this Response B.172.45 as “<i>2.262</i>” acres. Response B.2.14 states a loss of “<i>3.07 acres</i>” for the revised layout, so this does not appear to include the traffic improvements.</p> <p>It appears as if the FEIS has inaccurately portrayed the number of acres of wetlands that will be lost using at least three different figures. Decision-makers at the State and Federal level are left with inaccurate information upon which to base their own decisions to prepare SEQR Findings and issue permits.</p> <p>The public also has a right to know the full extent of wetland loss and its effects on surface water resources, wildlife habitats and numerous other functions and benefits of wetlands. What adds to the confusion are the figures used in the DEIS of wetland disturbance, which were listed as “<i>0.075 acres of Federal wetland will be permanently disturbed</i>” and “<i>No NYSDEC wetlands or adjacent area will be disturbed.</i>” Clearly changes can be made between the DEIS and FEIS. In this case, the changes are detrimental to the State and Federal wetlands involved since a much larger acreage of wetlands will be lost. However, it does not appear as if any attempt was made in the FEIS to assess the impacts on the functions and benefits of the wetlands and how such a loss of functions and benefits will affect surface waters.</p>

FEIS Section #	GREENPLAN Comments
	<p>For example, in terms of biodiversity, freshwater wetlands are home to a great diversity of species. Although such ecosystems cover only 1% of the Earth’s surface, they hold more than 40% of the world’s species and 12% of all animal species. The lack of an assessment of the additional wetland areas that will be lost, now that a greater area is proposed in the FEIS, does not appear to have been properly studied.</p> <p>Rather than study the effects of the loss of wetland functions and benefits in the FEIS, the statement made in Response to Comment B.172.70 goes the other way as follows: <i>“In some instances there are benefits to preservation of buffers around wetland areas. For this reason, the Project Sponsor has provided additional undisturbed land around many of the Federal wetlands which is not required. In some cases, the park design does not allow for such additional areas. While there are benefits to the provision of additional land, it is not required by law and disturbance of these areas are permitted.”</i> In the absence of an assessment of impacts, it is impossible to know whether such loss is significant resulting in an inaccurate assessment of impacts.</p> <p>In other words, the applicant has chosen not to assess impacts and identify mitigation designed specifically for the impacts on the functions and benefits of the wetlands, relying instead on a rush to judgment - a position that <i>“it is not required by law and disturbance of these areas are permitted.”</i> Nevertheless, as discussed elsewhere in this Report, 6 NYCRR 617.3(b) of the SEQRR Regulations allows all agencies <i>“to impose substantive conditions upon an action to ensure the requirements of this Part have been satisfied.”</i> In this case, the FEIS does not demonstrate the impacts, that may be reasonably expected to result from the proposal, have been fully assessed including appropriate mitigation or alternatives that would eliminate the unavoidable adverse impacts.</p>
B.172.48	<p>The figure about impervious surfaces provided in this FEIS response conflicts with impervious surface figures provided elsewhere in the FEIS. Here, it is stated as 79.38 acres while on page I-9 and elsewhere in the FEIS it is stated as 73.58 acres. Nevertheless, six acres of impervious surfaces is a large area so the question becomes to what extent the full 79.38 acres of impervious surfaces has had an impact assessment applied. Impervious surfaces affect water quality and quantity in many different ways.</p>

FEIS Section #	GREENPLAN Comments
	<p>This includes alteration of natural hydrology, alteration of channel morphology, alteration of in-stream hydraulics, disruption of the balance between sediment supply and transport, increases in stream temperatures, increases in pollutants from the impervious surfaces to the stream such as sediment, nutrients, pesticides, wear metals from vehicles, organic pollutants, as well as oil and grease.</p> <p>The FEIS fails to assess the specific water quality effects to surface waters from these changes, instead relying on the New York State standards for stormwater management. However, as acknowledged in the FEIS, pollutants such as pesticides will not be filtered by the stormwater management system. What other pollutants will not be filtered? The FEIS is silent on this important issue of water quality effects from either 73.58 or 79.38 acres of impervious surfaces.</p>
<p>B.172.49 B.172.50</p>	<p>The FEIS responses to these comments do not address the impacts of the proposed rezoning of the entire 522 acre area, as outlined elsewhere in this Report. This analysis was omitted from the proposal's SEQR review process and is a failure to adequately and accurately address the environmental impacts of a generic environmental review and its effects on the Town of the entire Zoning action.</p>
<p>172.56</p>	<p>The reviewer's comment about linear feet and miles of retaining walls was designed to provide a frame of reference in non-technical terms for lay readers of the DEIS, in a manner where such readers could understand the scale and magnitude of the earthwork that is proposed. In the DEIS it was estimated that 20,460 linear feet or 3.9 miles of retaining walls would be constructed while in the FEIS it has been revised down to 12,361 linear feet or 2.3 miles of retaining walls. The figures still have relevancy for decision-makers and the public as an indication of how the 150 acre portion of the site will be transformed in a manner that was never contemplated by the current Town Comprehensive Plan and Zoning Law. See the comment below for more details on this significant planning and zoning issue.</p>

FEIS Section #	GREENPLAN Comments
B.172.59	<p>The FEIS Response refers the reader to the Response B.172.53, which in turn refers the reader to the Response to Comment A.76.3. None of these responses address the comment. The commenter wanted a clarification of the DEIS statement that: ““<i>The site is being designed to respect existing topography as much as possible</i>” since the evidence presented in the DEIS demonstrated the magnitude of the proposed transformation of the site’s topography (labeled by the commenter as “<i>extreme</i>”) as a result of the proposed themed amusement park.</p> <p>The response fails to adequately and accurately address the significance of the impacts to topography on the site. In fact, the response misleads the reader into thinking that the construction impacts are somehow being minimized (i.e. through the euphemism “<i>as much as possible</i>”). Earthwork will involve ± 1.7 million cubic yards of cut and ± 1.9 million cubic yards of cut for a total of $\pm 3,743,712$ cubic yards of earthwork proposed. Add to that the proposed 2.3 miles of retaining wall and the proposal for the Town of Goshen is, without question, unprecedented.</p> <p>For comparison purposes, this amount of earthwork is roughly equivalent, but less than (by about 360,000 cubic yards) the volume of the Great Pyramid at Giza outside Cairo, Egypt. This pyramid measures 756 feet on its sides and has a height of 480 feet. For comparison, the photograph below shows the Great Pyramids taken by an Expedition 32 crew member on the International Space Station. There are three pyramids shown in the photograph and the largest is on the left next to the encroaching urban development shown. It should be noted that the Space Station orbits at a distance of 249 miles above Earth. This is the type of comparative analysis that informs readers of the FEIS and helps in understanding the project’s impacts on topography.</p>

FEIS Section #	GREENPLAN Comments
	
<p>B.172.60</p>	<p>This Report's comment follows on the one provided above. The response to comment, like the previous one, hides the scale and magnitude of the project. The euphemistic statement that the project "<i>minimizes clearing to the greatest extent practicable</i>" must be viewed in context since it does not reveal the true picture of the project's impacts, only that 150 acres will be cleared and that this amount of vegetation removal "<i>minimizes</i>" clearing the full 522 acres. The project's initial phase (see other Report comments on additional development permitted by the Zoning amendments) will result in 150 acres that will be physically altered, 74 acres that will become impervious (3,205,145 square feet), and earthwork volumes more extensive than the volume of the Great Pyramid in Egypt. The statement: "<i>minimizes clearing to the greatest extent practicable</i>" simply fails to convey the magnitude of the project's effects, misleads readers into thinking that 150 acres of clearing is not significant nor that 74 acres of impervious surfaces is significant, and as such, presents a misleading and inaccurate portrayal of the project in the FEIS, relative to Goshen's small-town and rural character.</p> <p>Impervious surfaces alone will be the equivalent of 18 Walmart Supercenter store footprints on the site (the average size of a Supercenter is 179,000 square feet). This is significant because the Zoning changes that are requested will be diametrically opposed to those that would be permissible within the RU and HR Zoning districts and those existing Zoning districts will be replaced with one that will permit the intense level of development proposed.</p>

FEIS Section #	GREENPLAN Comments
	<p>This has been pointed out above in this Report and is because any proposal for residential development of the 522 acre site under the RU and HR districts would result in far greater development consistency with the character of the community as required by the Zoning district regulations, open space and rural protection would be further protected through use of the Design Guidelines, Rural Siting Principles and the mandatory open space requirements, and such residential development will result in a much smaller footprint of development than the proposal as a result of the clustering/conservation provisions of the Zoning. Additional coverage and minimum open space requirements of the RU and HR districts have been pointed out elsewhere in this Report, and such requirements will avoid the impacts of the proposal on topography, water resources, vegetation and other relevant issues associated with construction of Legoland.</p>
B.172.63	<p>The comment raises an issue of the accuracy and boundaries of the Federal Jurisdictional Wetlands, since the US Army Corps of Engineers will ultimately make a determination regarding the extent of the Federal Waters on the site. Since this information was not available at the time the FEIS was filed, the Federal Wetland areas could be larger than shown on the Plans. If so, then potential impacts to Federal Wetlands could be greater than depicted throughout the FEIS, resulting in flawed impact descriptions (such descriptions are already inconsistent with one another). This comment did not receive a response.</p>
B.172.72	<p>It is inexplicable why the FEIS would use a State designation for surface water quality of the Otter Kill from an outdated (i.e. 2004) Orange County publication. Doing so not only raises credibility issues in the FEIS but it has also misled readers of the FEIS. This is because the New York State DEC publication designation of the Otter Kill as “Threatened” was published on April 1, 2016, well in advance of the DEIS publication and more than one year before publication of the FEIS document. As correctly pointed out by the Commenter, the Otter Kill is designated as “Threatened” by the DEC as shown on Attachment C to this Report. The source of this information is the most current Waterbody Inventory/Priority Waterbodies List (WI/PWL) water quality assessment information for the waters of the Lower Hudson River Basin, posted on the DEC website.</p>

FEIS Section #	GREENPLAN Comments
	<p>As stated in the DEC designation document: <i>“Hydrologic/habitat uses in Otter Kill/Black Meadow Creek are known to experience threats due to impacts to habitat from increasing development...The Metropolitan Conservation Alliance of the Wildlife Conservation Society issued a Biodiversity Plan for the Southern Wallkill area, including this watershed. The plan identified Otter Creek as a biodiversity hub that is host to significant biodiversity. The plan noted that portions of the habitat system are at risk from dense residential development.”</i></p> <p>The absence of a proper assessment of impacts on the Otter Kill has resulted from the use of outdated information, meaning that the FEIS has inaccurately assessed the current state of the Otter Kill and has underestimated the degree of impact on a “Threatened” stream. If increasing development is the cause of the “Threatened” designation, how will construction of an intense development consisting of 74 acres of impervious surfaces, 150 acres of vegetation removal, and future use of pesticides, oil and grease, other hydrocarbons and toxic pollutants, some of which will find their way to the Otter Kill, going to prevent further deterioration of the water quality of the Otter Kill and other downstream waters?</p>
B.172.73	<p>Following on the above comment, the statement that the measures proposed: <i>“have been designed with open bottom culverts specifically to avoid impact and protect species which may utilize this waterbody.”</i> does not address the issue, which is degradation of water quality in the Otter Kill. The FEIS already acknowledges that the stormwater management system will not filter out pollutants like pesticides as discussed elsewhere in this Report. This type of FEIS statement may leave readers convinced that special measures have been taken to protect the Otter Kill. But the evidence presented in this Report as well as the FEIS itself speaks otherwise and in this case, the FEIS provides an inaccurate picture of the overall impacts of the project.</p>
B.172.74	<p>The comment noted that an assessment of impacts on the wetland as a result of the use of herbicides (a type of pesticide) was not included in the DEIS. This Response then refers readers to the Response to Comment B.2.18. The Response states: <i>“none of the approved NYSDEC stormwater mitigation practices in the NYSDEC Stormwater Management Design Manual remove pesticides or herbicides from stormwater.”</i></p>

FEIS Section #	GREENPLAN Comments
	<p>The introduction of pesticides into the Otter Kill appears to be an “Unavoidable Adverse Impact” on surface waters including wetlands and streams. Yet, the FEIS (including page 169 from the DEIS list of Unavoidable Adverse Impacts) fails to identify such unavoidable adverse impact on surface waters, which results from potential degradation of water quality in the Otter Kill (already a State designated “Threatened” stream) and other potentially affected surface waters on and near the site. In this case, the FEIS has failed to address or has inadequately addressed such impacts as required by 6 NYCRR 617.9(a)(7) and is justification for preparation of a SEIS as called for elsewhere in this Report.</p>
B.174.75	<p>The Response to a concern about groundwater quality impacts of salt and other deicing compounds refers the reader to the Response B.5.7. Here, the FEIS statement made concludes that: “<i>Road-deicing activities will not impact surface water or ground water resources.</i>” But, before this statement, another clause uses the words “<i>it is believed</i>” in reference to the volumes of salt reaching surface or ground waters. A belief, which is really a state of mind, is not the same as a fact supported by evidence. Only facts can be verified and in this case, it does not appear as if facts have been used in assessing the potential impacts of the proposal on surface waters.</p> <p>The Response states that estimates were made (in Appendix G of the FEIS) calculating impacts of “<u>Groundwater Chloride Loading.</u>” [emphasis added]. But this leaves the reader wondering whether salts and other de-icing compounds will have <u>surface water quality</u> impacts. The FEIS is silent and does not provide any evidence to conclude that road de-icing “<i>will not impact surface water...</i>” as alleged. This is an omission of the FEIS in that winter de-icing compounds have been found by both the State and Federal governments to have adverse impacts on surface waters.</p> <p>According to the US Geological Survey’s publication “Chloride in Groundwater and Surface Water in Areas Underlain by the Glacial Aquifer System, Northern United States” there are many streams that have chloride levels toxic to aquatic life and that also exceed the chronic water-quality criteria recommended by the US Environmental Protection Agency. In addition to the salt itself, additives, like ferrocyanide, are used to prevent caking in large salt supplies. Ferrocyanide can release cyanide ions into the environment, and the EPA has determined that ferrocyanide is one of the “cyanides” in its list of toxic pollutants under the Clean Water Act.</p>

FEIS Section #	GREENPLAN Comments
	<p>Another publication by the Adirondack Watershed Institute at Paul Smith's College titled "Review of Effects and Costs of Road De-icing with Recommendations for Winter Road Management in the Adirondack Park" states: <i>"The environmental effects of road salt have been extensively studied over the past 50 years. Based on the evidence presented in numerous scientific papers, we can confidently state that NaCl imposes negative impacts on the environment. The impacts of road salt are discussed in detail in this report and can be summarized as: Increases salinity of groundwater and surface water adjacent to roadways, potentially impacting human health and resulting in localized decreases in the biodiversity of organisms...Runoff from salted roads can be as salty as sea water...Creates unfavorable changes in the physical properties of roadside soils, leading to increased surface runoff, erosion, and sedimentation of rivers and streams...Displaces heavy metals that accumulate in roadside soils from vehicles. These displaced heavy metals may contaminate water supplies..."</i> The FEIS does not assess the impacts to surface waters as a result of winter deicing of paved surfaces. This leaves the reader with incomplete and inaccurate information about the environmental impacts of the project on surface water.</p>
B.172.76	<p>The Response states that the project site is not located in the AQ-6 Overlay District. This is correct but the commenter was asking about the AQ-3 <u>and</u> AQ-6 Overlay districts. The project site is clearly located in the AQ-3 Overlay District as shown on the Town of Goshen Zoning Overlay Map dated June 2004. The remainder of the Response fails to address the concern of the commenter, which was the groundwater quantity and quality impacts of the project on AQ-3. The FEIS fails to address such impacts as requested in this Comment.</p>
B.172.78	<p>The Response does not address the commenters question about the avoidance of a tree survey of the site that uses the referenced size of "significant" trees from the Town Zoning Law, and instead uses a 36 inch diameter size threshold. The Zoning Law uses either an 8 inch diameter threshold (Site Plan review) or a 12 inch diameter threshold (open space development) for trees to be assessed for retention or removal in site development plans. Neither standard was used in the FEIS. Rather, readers have a mistaken impression that the site, because it was characterized as containing "only" 45 significant trees (see Response B.194.23), can be readily developed. Forty-five trees of 36 inches in diameter at breast height on the proposed 150 acre development area is a significant finding in itself and is rarely encountered. There may be only <u>two</u> or <u>three</u> other sites in Orange County where old growth forests, such as the site's, can be found.</p>

FEIS Section #	GREENPLAN Comments
	<p>The Zoning specifies that: <i>“existing trees and other vegetation shall be conserved and integrated into the landscape design plan”</i> as part of Site Plan review and approval. However, avoiding the identification of all significant trees to be removed, as defined to be either 8 or 12 inches in diameter in the Zoning Law significantly understates the impact to onsite mature trees of less than 36 inches in diameter. In addition, the loss of 44 of the 45 significant trees on the site remains a potentially significant unavoidable adverse that has not been addressed in the FEIS. As stated in response to comment B.15.3: <i>“one of the significant trees will be preserved in place.”</i> The FEIS is flawed as a result of the avoidance of full disclosure concerning significant trees that will be lost.</p>
B.172.80	<p>The Response refers the reader to the Response A.64.9. Here, the FEIS states that species of concern, like the turtle species noted by the commenter: <i>“Will not be displaced or impacted by the Proposed Project as no disturbance to the Otterkill Creek is proposed.”</i> This statement conflicts with the proposed Site Plans that show direct disturbance to the Otter Kill as discussed above in this Report in Item A.115.4. Of course, indirect impacts can also occur, as pointed out elsewhere in the Report concerning increases in pollutant loading of the surface waters. Such increases in pollutant loading, if it involves toxic substances like pesticides, can have negative impacts on wildlife that depend upon the surface waters. This has not been adequately assessed in the FEIS.</p>
B.172.90	<p>The Response does not address the commenter’s concern about impacts on the AQ-3 Overlay District but instead simply states that the project is not located in the AQ-6 District. The commenter’s concern was with the impervious surfaces proposed within the AQ-3 Overlay District and any impacts that may have on the aquifer. This concern remains unanswered and therefore unaddressed in the FEIS.</p>
B.172.91	<p>The Response states that: <i>“The Proposed Project is consistent with all regulations.”</i> of the Stream Corridor and Reservoir Watershed Overlay (SC) District. However, the FEIS states in other locations (and as pointed out in this Report) that there will be pollutants, such as pesticides, that will not be filtered out by the proposed Stormwater Management system. These pollutants will then find their way from the stormwater management system to protected surface waters.</p>

FEIS Section #	GREENPLAN Comments
	<p>The SC District regulations include a requirement that the Planning Board: “May grant site plan approval only if it finds that, with appropriate conditions attached, that the proposed activity: Will not result in erosion or surface water pollution from surface or subsurface runoff.” [see § 97-28.E(3)]. Since the FEIS discloses surface water pollution from runoff, how then can the Planning Board formulate Findings that adverse impacts on surface waters have been avoided and grant Site Plan approval, unless the applicant is able to demonstrate how the proposed construction and operations will not result in surface water pollution?</p>
B.172.92	<p>This Response states: “The referenced language discusses impacts related to the rezoning only.” in relation to buffers. How then can the FEIS claim that it has assessed the environmental impacts of the Zoning Amendments, when in fact the document states elsewhere that it has not conducted a generic environmental impact assessment of the development that will be enabled by the proposed Commercial Recreation (CR) Overlay District, nor is one required in this case? This Report has in multiple locations refuted this erroneous allegation.</p>
B.172.93	<p>The concerns about affordable housing must be viewed as to the availability in the Town of areas where multi-family housing, that is affordable, can be constructed. This is the HR Zoning District. There are two locations where the HR District is found. One is the site, which is proposed for rezoning as the Commercial Recreation Overlay District. The other is one small area immediately east of the Village of Goshen. In this HR District, the Hambletonian Park subdivision, a single family subdivision is already developed, and there appears to be just one 23.4 acre parcel that is vacant.</p> <p>This means that the Town’s potential for development of affordable multi-family housing is constrained by having only one small site available. It is not know whether this 23.4 acre site has development constraints that would preclude its use for multi-family or other development purposes, nor whether it meets the Zoning criteria for development in a compact form with central water and sewer. Therefore, the elimination of the only significant lands in the Town where affordable housing could be developed is an issue that should have been addressed in the FEIS, and it was not. It is a reason why this Report has called for a new updated comprehensive plan process.</p>

FEIS Section #	GREENPLAN Comments
B.172.94	<p>An additional concern about affordable housing refers the reader to the DEIS discussion of affordable housing. But that discussion was based upon the availability of affordable housing in both the Village and Town of Goshen. In New York State, every municipality has an obligation to address affordable housing. This means that each community cannot exclude from their residential zoning districts housing accommodations, such as multi-family, that are generally more affordable than single-family on individual lots. The issue of the affordable housing implications of the proposal have not been adequately addressed in this SEQR review process but should be in a SEIS or a stand alone new SEQR review process on a new comprehensive plan update process and/or SEIS.</p>
B.172.100	<p>See, in general, Items 1 through 5 of this Report for a discussion of consistency/inconsistency of the proposal with Orange County's planning documents and regional planning documents.</p>
B.172.104	<p>The proposed project will be visible from public viewing locations, as shown in the Visual Impact Analysis. In this regard, the Town's Rural Siting Principles found in § 97-41 of the Zoning Law apply to all nonresidential uses that are subject to site plan or special permit approval, regardless of whether they are located in the SR District. Sites within the SR District also have additional requirements that apply.</p> <p>There does not appear to be any analysis in the FEIS of how the proposal complies with each of the specific Rural Siting Principles nor how it complies with the standards for new uses that "<i>may only be granted if, with appropriate conditions attached, the proposed activity</i>" complies with the General Standards, Landscape Standards, Architecture Standards, Fencing Standards, and the Rural Siting principles. For a project of this scale and magnitude, each and every standard needs to be subjected to an analysis that identifies how the proposal complies (or does not comply) with the standards. This is absent from the FEIS and is therefore, an inadequacy of the FEIS.</p>

FEIS Section #	GREENPLAN Comments
B.172.113	<p>The commenter alleges that the proposed hotel “<i>could be as high as 10 stories.</i>” and yet, the FEIS response is silent on the issue, instead referring the reader to the Response to Comment B.172.108 that uses elevation benchmarks without any frame of reference for the FEIS reviewers, and then states that the grading and retaining wall height has been reduced. But no further description is provided to inform non-professionals and help them determine what environmental impacts will occur as a result. A FEIS must provide information to lay readers in non-technical terms that are understandable. This is just one example of many where readers are left confused by a response.</p>
B.172.115	<p>The FEIS claims that the visual impact of the project does not constitute an Unavoidable Adverse Impact. A simple reading of the Town’s criteria for the RU, HR, and SR districts emphasizes “Rural Siting Principles,” allowing development at traditional scales consistent with rural character, “<i>limiting building in areas where it would conflict with the Town’s predominantly rural pattern and scale of settlement</i>” and similar language, which can be found throughout the Zoning Law.</p> <p>Further, applicants of “<i>large-scale development</i>” are instructed to “<i>consult the Town’s Comprehensive Plan to understand how to make a proposed development fit within the Town’s <u>vision of its future.</u></i>” [emphasis added]. The vision is articulated in the Comprehensive Plan and in the references to “<i>small-scale development</i>” in the Zoning. It is reasonable to conclude therefore, that a large-scale themed amusement park development for which there are no amusement park elements found in the Town at present, would present the probability that it will have an Unavoidable Adverse Impact due to its visibility as a potentially discordant element in the Town’s landscapes. The omission of visual impacts as an Unavoidable Adverse Impact represents an omission and/or an inaccurate characterization of impacts in the FEIS.</p>

FEIS Section #	GREENPLAN Comments
B.172.121	<p>The FEIS fails to address the concern about increases in greenhouse gas emissions as a result of the proposal, which is contrary with the Final Scoping Document requirements. A review letter prepared on the DEIS by Brian Ketchum Engineering, P.C., estimated that the proposal would result in an increased “<i>gasoline use by about 9 million gallons per year producing 90,000 tons of CO2 emissions annually.</i>” The FEIS fails to address this Unavoidable Adverse Impact, instead referring readers to the air quality analysis. A review of this analysis finds that the issue was not addressed. Comment B.173.41 further asks for clarification on the issue but this comment has not been addressed in the FEIS.</p> <p>The failure to address greenhouse gas emissions represents a serious inadequacy of the FEIS, given the project’s auto dependency, its furtherance of an attraction for attendees who will be required to travel “<i>up to 200 miles to get to the site,</i>” and the proposal’s contribution towards climate change. The Final Scoping Document required that such an assessment be included in the SEQOR review process [see pages 24 and 25 from the Final Scope]. The FEIS is flawed as a result of this omission.</p> <p>The threats of climate change are real and based upon a preponderance of peer reviewed scientific evidence. Lego, as a corporation, has taken steps to curb its own greenhouse gas emissions in other areas of its operations but in this case its development arm, Merlin Entertainments, has failed to acknowledge its contributions to greenhouse gas emissions as a result of a massive increase in vehicle miles traveled created by the project. Therefore, impacts on air quality as a result of the proposal have not been fully evaluated and discussed in the FEIS.</p>
B.172.124	<p>The commenter alleges that 24,524 and as much as 66,398 truck trips will be needed on local roads for the earthwork on the site during the construction phase. The FEIS is silent in its response to this allegation, instead referring readers to restatements about the changes made to the cut and fill analysis. This is a failure to provide information that is needed in assessing Unavoidable Adverse Impacts on local roads, the neighborhood, the community, air quality, noise and a host of other potential impacts as a result of the large number of truck trips.</p>

FEIS Section #	GREENPLAN Comments
B.172.125	<p>The FEIS fails to answer a question about tax revenues to the Town and other tax jurisdictions. The referral to another Response (B.172.119) says nothing about tax revenues meaning that the issue of municipal revenues is left unanswered and inaccurately addressed in the FEIS.</p>
B.172.127	<p>The FEIS response is not supported by evidence. It pertains to the requirements for a residential development of the site versus the proposal. In the RU Zoning District, the Zoning Law requires <i>“that this land is either protected from development or developed in a manner that is consistent with the goals of the Comprehensive Plan.”</i> The Town accomplishes this goal through one of three options, either “Small-scale development,” or “Open space development,” or “Conservation density development.”</p> <p>Small-scale development is restricted to four residential lots and a maximum development of 25 percent of the area of a parcel. Open space development is a cluster option under § 278 of New York State Town Law where 50 percent of the land area must remain as permanent open space preserved by conservation easement and no more than 10 percent coverage with impervious surfaces is allowed. Conservation density development results in a low density of 20 acres per lot or more. This option may allow for up to seven houses within the area proposed for Legoland.</p> <p>Unlike the proposal, no building may exceed 35 feet in height, and many other conservation techniques must be incorporated into the design plans for any one of the three options. When community water and sewer is not available, which is the case for the HR District lands, new residential development must also abide by these restrictions that are in place for the RU Zoning District.</p> <p>The proposal represents a massive change from what is currently permitted in the RU and HR districts. The FEIS has inadequately assessed the changes that will occur between such districts and the proposed Zoning Map amendment. This is a failure of the SEQQR review process and is the reason why a new comprehensive planning process and/or a SEIS is warranted and called for elsewhere in this Report.</p>

FEIS Section #	GREENPLAN Comments
B.172.128	<p>In regards to tax revenues, the DEIS states what the economic advantages are to the Town by approving Legoland. The No-action alternative was apparently subjected to the fiscal analysis, concluding that \$91,000 in tax revenues would continue to flow to the Town if the site were not developed. The analysis however, is silent on what the costs to the Town, School District and other taxing jurisdictions would be if the No Action alternative were selected.</p> <p>While residential development generally does not pay its share of property taxes to offset the costs of schooling the children generated by subdivision development, every cost of community services study that has been prepared to date has found that agricultural lands pay more in taxes than they demand in services from municipal agencies such as the Highway Department and School District. Thus, the comparison is not a fair comparison, it distorts the reality of different land uses and their contributions to the community based upon real world fiscal studies, and the FEIS is deficient in omitting such information.</p>
B.172.131	<p>The FEIS fails to address an issue concerning the potential growth inducements of the project meaning that the FEIS has failed to assess an environmental impact issue well known to occur. As stated elsewhere in this Report, growth inducement impact analysis is warranted for a large-scale job producer such as Legoland, a project of this scale will lead to other growth in the community, and yet, the FEIS is silent on what those impacts will be. The comprehensive Planning process is the best means available to properly study the effects of such a significant change in the Comprehensive Plan and Zoning Law, as described above in this Report.</p>
B.172.141	<p>The question of whether calling Legoland a “commercial recreation facility” rather than an amusement park, has been questioned by numerous commenters. While the Town Board has the ability to define an amusement park as a “commercial recreation facility,” the way it has been structured is simply a device used to conceal the truth. Legoland is an amusement park, better described as a themed amusement park, as it has been in this Report.</p>

FEIS Section #	GREENPLAN Comments
	<p>The proposed Zoning Amendments do not remove “amusement parks” from the list of prohibited uses, but adds a clause that will make a “commercial recreation facility” exempt from the prohibition. If the Town Board or Planning Board believe this to be anything other than the case, please see Attachment D for a simple Google search for “legoland amusement park,” including the first hit, which is “legoland.com’s” own description of Legoland Florida as an “amusement park.”</p> <p>Zoning in its most essential form is a regulation of use and density by location. As such, uses must be carefully described and defined so that new development, that fits within the definitions, can be properly regulated for their adverse effects on neighborhoods, the community and potential to be in or out of harmony with the overall comprehensive plan. Redefining an amusement park as something else (i.e. Commercial Recreation Area) may be a clever ploy, but its full effects were something to be avoided in the 2009 Comprehensive Plan and Zoning Law amendments and such effects will be lasting on Goshen.</p>
B.173.40	<p>The Response to this comment states simply that: <i>“There is no technical or factual basis for the statements in this comment.”</i> This is a curious response because the commenter cited the sources used as a basis for the comment about 224 million miles of travel and estimated costs of \$301 million annually as a result of the project’s traffic impacts. The sources were the DEIS traffic projections and New York State Department of Transportation traffic accident rates. The failure to answer this comment represents a flaw in the FEIS because it does not adequately address information that is of relevance to decision-makers.</p>
B.173.42	<p>The FEIS response states <i>“There is no evidence to support the assertion regarding increases in gasoline use.”</i> The commenter used simple math to calculate gasoline use based upon standards in common practice applied to the DEIS’s projections of vehicle trips. The math is so simple an elementary school student can be assigned to do the calculations. The FEIS response is simply an avoidance maneuver so that the answer is omitted from the FEIS and escapes scrutiny in the SEQR review process.</p>
B.194.13	<p>The FEIS misinterprets a provision of the Zoning Law about the Scenic Road Corridor Overlay (SR) District. The FEIS Response states that: <i>“The Scenic Road Corridor Overlay requires development within 500 feet of the Right-of-Way of a designated roadway to be consistent with the scenic character and must minimize removal of vegetation in order to maintain the aesthetic quality of the area.”</i> This is incorrect.</p>

FEIS Section #	GREENPLAN Comments
	<p>The SR District boundaries apply up to 500 feet from a Town Road, such as Arcadia or Conklingtown roads where the SR District is located on the site, but the Zoning requirements pertaining to buildings found in § 97-29.H(2) and subject to Site Plan approval are such that: <i>“Buildings visible from the scenic roads, including canopies for accessory facilities, shall have peaked roofs with a slope of at least 8:12, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.”</i> There is no qualifier so that during Site Plan approval of a development project that includes the SR District, the buildings must be sited within the 500 foot corridor for the above requirement to apply.</p>
B.199.13	<p>The FEIS states in response to a concern about affordable housing that: <i>“No study of housing demand was required by the adopted scope.”</i> This does not seem to be a wise decision since every community has a legal obligation to provide for its own affordable housing needs and to consider the affordable housing needs of the region. When faced with Comprehensive Plan and Zoning Law decisions that will remove one of the only locations for affordable housing in the community, it would seem not only prudent but a basic requirement of the process to include an examination of the amendment’s effects on the availability of affordable housing as a result of the action.</p>
B.198.10	<p>The response to this comment about the economic impacts of tourism simply dismisses an important point of the commenter as <i>“not relevant”</i> rather than presenting facts to back up the applicant’s claim of non-relevance on an issue that has been well studied both nationally and internationally. The potential for failed local businesses as a result of the type of mass-market tourism that would be permitted by the proposed Zoning Amendments is a relevant SEQR issue when it involves the potential to result in economic deterioration and blight in the community, therefore affecting the character of the community. Failure to address the issue means that a “hard look” at its consequences is now lacking in the environmental review process.</p>

FEIS Section #	GREENPLAN Comments
B.211.2	The FEIS response conflicts with other statements in the FEIS and with the most recent Site Plans prepared for the project. The Site Plans show there will be disturbance to the wetlands as a result of the emergency access. Even in this Response there is an acknowledgment that “ <i>Only minor grading tree clearing will occur for this road...</i> ” [sic]. The lack of full disclosure of the potential impacts of grading and tree clearing for the proposed emergency access road have not been provided in the FEIS.
B.212.2 B.212.9	The FEIS ignores the commenter’s concern about how the FEIS has avoided The SEQR Handbook advice. That is, when a zoning change is proposed as part of a specific development, both the rezoning and the site specific impacts must be addressed. This Report has described the need for such an approach and the lack of its inclusion in the FEIS above in this Report’s Item 5.
C.49.111	This comment on the adverse visual impacts of the project did not receive a response. It is left with a blank in the “Response” area.

Attachment A

TOURISM

The scenic beauty and well known destinations of the Hudson Valley continue to help the tourism industry grow in Orange County. Home to three of the top five tourist attractions in New York State outside New York City (the United States Military Academy at West Point, Woodbury Common Premium Outlets, and Storm King Art Center), the county also boasts an excellent collection of wineries, historic sites, museums, farmers markets, farm to fork restaurants, parks, outdoor recreation, fairs, festivals, and events.

One in twelve United States residents lives within driving distance of Orange County. Located just fifty miles from Manhattan, many come from the New York City metro area for experiences not found in an urban setting: wineries, apple picking, hiking, canoeing and rafting, and more. Those traveling from further distances come to visit the county's one-of-a-kind attractions such as West Point, Orange County Choppers, and Sugar Loaf Craft Village.



Tourism as a whole has a significant impact on the economy of the county. In 2012, more than 4 million tourists visited Orange County, spending over \$430 million. This relative windfall contributed \$28,785,397 in local taxes, lowering personal tax bills of residents. Overnight visitors to Orange County also paid the hotel occupancy tax, or "bed tax," of 5% instituted by the County in 2009. In 2010, this tax generated over \$2.6 million for the County general fund. In 2012 the figure was \$2,867,763, an increase of 10% over the initial two year period. Over 9,000 people are employed in the tourism industry throughout the County, or 7% of workers in the County. Payroll for workers in the tourism field for 2012 was over \$236 million.

For the county to continue its growth in tourism a broader reach is necessary to increase the number of visitors coming to the County. Since overnight visitors spend three times as much as day trippers, it would pay to invest in promotional programs that cast a wider net beyond the metro area, as tourism offices throughout the northeast vie for hotel guests and the revenue it brings to their counties. Attracting tourists also requires reinventing themes and itineraries to give new meaning to longstanding destinations.

Orange County could accomplish the following:

- ✦Banner ads on major media web sites (CBS, NBC, ABC, PBS, etc.) to expand beyond the metro area and into the Philadelphia, Boston, and Washington, D.C. markets promoting hotel stays
- ✦Television spots in the same markets touting Orange County as an overnight, weekend, and week-long destination
- ✦Radio advertising to entice people to spend more than one day
- ✦Attendance at consumer trade shows such as the Travel Show at the Javits Center in Manhattan, and group travel shows such as the American Bus Association, with a staff person dedicated to attending these shows and marketing the County to travel writers, which will increase our media visibility.
- ✦Advertising in print publications and on their web sites outside of New York State to attract the public

RECOMMENDED ACTIONS

- Organize a recreational page on the Tourism website concentrating on walking, hiking and biking trails with promotions to an urban population. Mapped routes of these trails that include locations of amenities along the way have seen a marked increase in demand.
 - ◊ *Responsibility:* County Tourism, County Planning, Orange County Parks, Orange County Land Trust, OCCF, OC Chamber, OCTC, County Health Community Health Outreach
 - ◊ *Timeframe:* Short
 - ◊ *Cost:* Low to moderate

- Create culinary adventure tours centered around wineries, microbreweries, cideries and distilleries to participate in the “Napa East” program; create similar tours around farms, farmers markets, farm to fork restaurants and lodging facilities.
 - ◊ *Responsibility:* County Tourism, County Agriculture and Farmland Protection Board (AFPB), Cornell Cooperative Extension, Hudson Valley Food and Beverage Alliance
 - ◊ *Timeframe:* Short, ongoing
 - ◊ *Cost:* Low to moderate

- Encourage place-based retailers and municipal and County Chambers of Commerce to participate in cooperative marketing promotions including printed or online brochures with locations and descriptions of local businesses, plus nearby lodging.
 - ◊ *Responsibility:* County Tourism, OC Chamber, County Planning, OCCF, local Chambers of Commerce
 - ◊ *Timeframe:* Short, ongoing
 - ◊ *Cost:* Low to moderate

- Increase and improve mapping and signage for tourism destinations in the County. These improvements should also encompass mobile and GPS technology.
 - ◊ *Responsibility:* County Tourism, County Planning, OC Chamber, with assistance from County IT
 - ◊ *Timeframe:* Short
 - ◊ *Cost:* Moderate

- Design and implement a broad marketing program to increase the County’s overnight visitors. The plan would build on the strategic location of the County within the Hudson Valley as a prime getaway destination for the entire Northeast. Emphasis would be placed on the affordability of a reverse commute to New York City where hotel rates have skyrocketed. The County could evaluate the feasibility of funding this program through the hotel occupancy tax; success of the program would be measured by the increase in hotel occupancy taxes collected.
 - ◊ *Responsibility:* County Tourism
 - ◊ *Timeframe:* Short, ongoing
 - ◊ *Cost:* Moderate to high

- Develop and map water trails along each of the County’s three rivers. Encourage riverfront communities to include facilities for small watercraft such as boat launches, docks, and storage facilities in their waterfront plans to attract more boaters.
 - ◊ *Responsibility:* County Planning, Orange County Land Trust
 - ◊ *Timeframe:* Medium
 - ◊ *Cost:* Low to moderate

- Work with museums, historic sites, arts venues and others to create themed destination trails and itineraries., similar to the “culture trails” proposed to be marketed through the Sullivan County casino. Identify retail sectors with high concentrations of similar products, which can be turned into trails and itineraries that cover areas such as pottery, antique shops within antique buildings, local processed foods such as maple syrup, etc.
 - ◊ *Responsibility:* County Tourism with OCCF and OC Chamber
 - ◊ *Timeframe:* Medium, ongoing
 - ◊ *Cost:* Low to moderate

- Work with municipalities, small businesses and private developers to incorporate amenities, including restrooms and water stations, for walkers, hikers, and bicyclists along the Heritage Trail and other trails throughout the County.
 - ◊ *Responsibility:* County Planning, OC Partnership
 - ◊ *Timeframe:* Medium
 - ◊ *Cost:* Moderate to high

- Create strategies to increase experiential tourism so that tourists can do more than just be viewers. Activities such as participating in the cooking demonstrations at Fort Decker, talking to one of the artists at Storm King Art Center, taking a behind the scenes tour of Museum Village, etc., bring the visitor closer to the experience.
 - ◊ *Responsibility:* County Tourism with OC Chamber and OC Partnership
 - ◊ *Timeframe:* Medium to long
 - ◊ *Cost:* Moderate to high

- • Work to promote the “shoulder season” (January through March), encouraging sites to offer special events and experiences to increase tourism traffic in these off months.
 - ◊ *Responsibility:* County Tourism
 - ◊ *Timeframe:* Long, ongoing
 - ◊ *Cost:* Moderate

Attachment B

 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-62	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	ARCADIA GREEN AREA WELLS P & L			
Total Acreage/Size:	7.30	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$2,700	Total Assessment:	2017 - Tentative \$16,300	
Full Market Value:	2017 - Tentative \$26,100			
Deed Book:	2295	Deed Page:	705	
Grid East:	0	Grid North:	0	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	7.30 acres			

 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-64	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	ARCADIA GREEN AREA			
Total Acreage/Size:	1.40	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$700	Total Assessment:	2017 - Tentative \$700	
Full Market Value:	2017 - Tentative \$1,100			
Deed Book:	2295	Deed Page:	705	
Grid East:	544452	Grid North:	924622	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	1.40 acres			

 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-66	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	WELL PUMP HOUSE GREEN AREA PUBLIC USE			
Total Acreage/Size:	1.90 x 870	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$1,900	Total Assessment:	2017 - Tentative \$19,300	
Full Market Value:	2017 - Tentative \$29,500			
Deed Book:	2295	Deed Page:	705	
Grid East:	543711	Grid North:	925129	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	3.79 acres			

 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-66	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	WELL CONNECTR-GREEN AREA			
Total Acreage/Size:	2.10	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$1,100	Total Assessment:	2017 - Tentative \$1,100	
Full Market Value:	2017 - Tentative \$1,700			
Deed Book:	2295	Deed Page:	705	
Grid East:	544195	Grid North:	925532	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	2.10 acres			

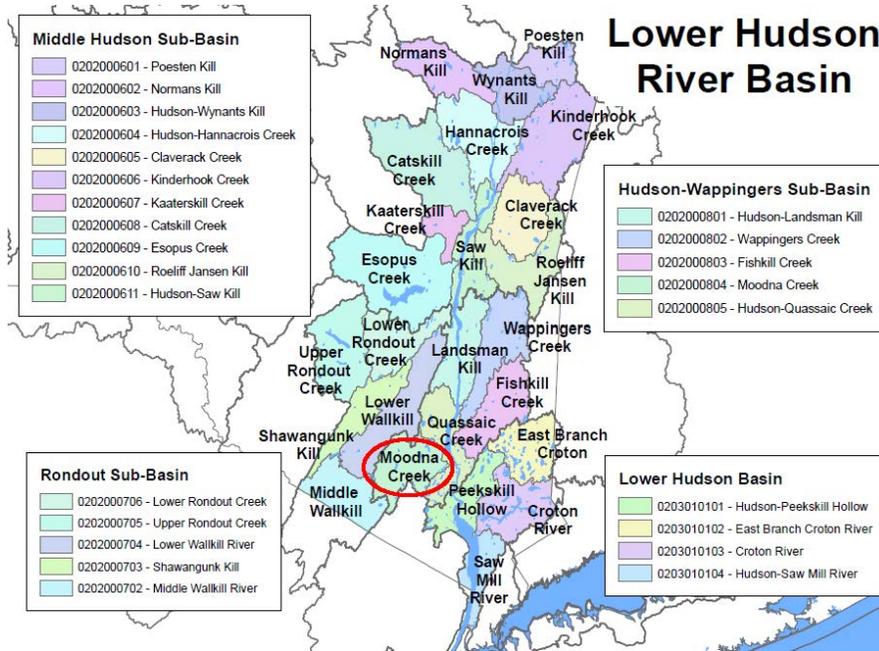
 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-68	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	ARCADIA GREEN AREA			
Total Acreage/Size:	2.00	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$2,000	Total Assessment:	2017 - Tentative \$2,000	
Full Market Value:	2017 - Tentative \$3,100			
Deed Book:	2295	Deed Page:	705	
Grid East:	544358	Grid North:	924801	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	2.00 acres			

 **Image Mate Online**

Municipality of Goshen				
BWIS:	333089	Tax ID:	11-1-68	
Tax Map ID / Property Data				
Status:	Active	Full Section:	Wholly Exem	
Address:	Arcadia Rd			
Property Class:	822 - Water supply	Site Property Class:	822 - Water supply	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	02092 -	Bldg. Style:	Not Applicable	
Neighborhood:	00009 - CCM	School District:	Chester	
Legal Property Description:	ARCADIA GREEN AREA			
Total Acreage/Size:	1.80	Equalization Rate:	---	
Land Assessment:	2017 - Tentative \$1,800	Total Assessment:	2017 - Tentative \$1,800	
Full Market Value:	2017 - Tentative \$2,900			
Deed Book:	2295	Deed Page:	705	
Grid East:	542990	Grid North:	925828	
Bank Code:	N/A			
Special Districts for 2017 (Tentative)				
Description	Units	Percent	Type	Value
FD017-Goshen fire 1	0	0%		0
OPN30-Open Space	0	0%		0
Land Types				
Type	Size			
Woodland	1.80 acres			

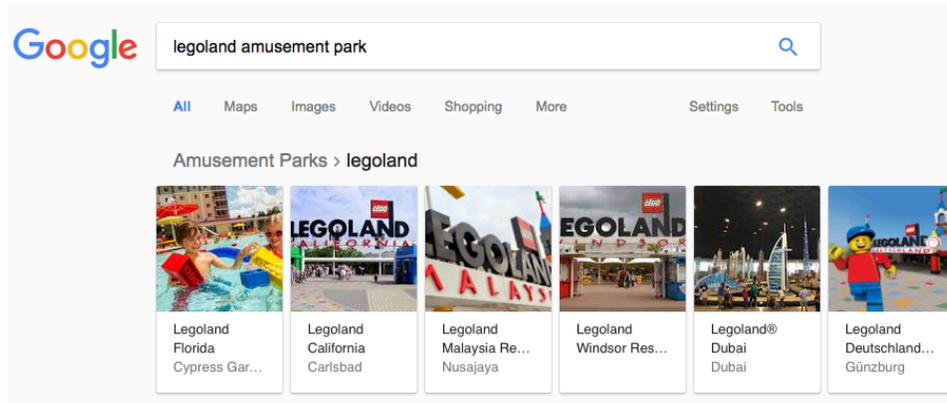
Attachment C



Moodna Creek (0202000804)

Water Index Number	Waterbody Name	Category
H- 89	Moodna Creek, Lower, and minor tribs (1303-0010)	NoKnownImpact
H- 89	Moodna Creek, Upper, and minor tribs (1303-0011)	MinorImpacts
H- 89- 2-P225	Lake Washington (1303-0012)	NoKnownImpact
H- 89- 2-P226a	Browns Pond Reservoir (1303-0013)	NoKnownImpact
H- 89- 7	Woodbury Creek and tribs (1303-0014)	MinorImpacts
H- 89- 7- 4-P228	Sutherland Pond (1303-0015)	UnAssessed
H- 89- 7- 6-P229a	Earl Reservoir (1303-0016)	UnAssessed
H- 89- 7- 7- 2-P231	Cromwell Lake (1303-0017)	UnAssessed
H- 89- 7- 7-P231a,P231b	Shadow Lake, Hillside Lake (1303-0018)	UnAssessed
H- 89- 7-10-P231f	Lake Frederick (1303-0019)	UnAssessed
H- 89- 7-P232	Peckermans Pond (1303-0020)	UnAssessed
H- 89-12-P234	Beaver Dam Lake (1303-0021)	UnAssessed
H- 89-12-P234..P234g	Crest View Lake (1303-0022)	UnAssessed
H- 89-17-P239d	Orange Rockland Lake (1303-0023)	UnAssessed
H- 89-19-10-P257	Walton Lake (1303-0004)	Need Verific
H- 89-19-P240d	Tomahawk Lake (1303-0024)	UnAssessed
H- 89-20	Otter Kill/Black Meadow Creek and tribs(1303-0025)	Threatened
H- 89-20-17-P304b	Goshen Reservoir (1303-0026)	UnAssessed
H- 89-20-P260	Browns Pond (1303-0027)	UnAssessed

Attachment D



LEGOLAND Florida Amusement Park Map

<https://www.legoland.com/florida/map-explore/park-map/>

Map & Explore. ... With more than 50 rides, shows and attractions designed for kids to take the lead, awesome awaits at LEGOLAND® Florida Resort! ... We will keep you up to date with offers and information from LEGOLAND® Florida Resort and the Merlin Entertainment Group.
[The Beginning](#) · [LEGO Kingdoms](#) · [Lego® ninjago® world](#) · [Land of Adventure](#)

Awesome awaits at LEGOLAND®

<https://www.legoland.com/>

Choose your LEGOLAND® Park adventure with over 50 rides, shows and ... LEGOLAND® California opened in 1999 and was the third LEGOLAND Park in the ...
[LEGOLAND New York](#) · [LEGOLAND California Resort](#) · [LEGOLAND Florida Resort](#)

Legoland Florida Amusement park and Water park - Review of ...

<https://www.tripadvisor.com> > ... > [LEGOLAND Florida Resort](#)

★★★★★ Rating: 5 - Review by a TripAdvisor user
 LEGOLAND Florida Resort: Legoland Florida Amusement park and Water park - See 6352 traveler reviews, 3481 candid photos, and great deals for Winter ...

LEGOLAND Florida Amusement Park - Road Trips For Families

<https://www.roadtripsforfamilies.com/legoland-florida-amusement-park/>

The mother of three elementary-age kids all who are "into" LEGO and LEGO Friends, we recently visited the LEGOLAND Florida amusement park in Winter ...

Legoland Florida Amusement park and Water park - Review of ...

<https://www.tripadvisor.com> > ... > [LEGOLAND Florida Resort](#)

★★★★★ Rating: 5 - Review by a TripAdvisor user
 LEGOLAND Florida Resort: Legoland Florida Amusement park and Water park - See 6352 traveler reviews, 3481 candid photos, and great deals for Winter ...

Attachment E

Merlin Entertainment plc Annual Report and Accounts 2016

HEALTH, SAFETY AND SECURITY *Committee Report*

STATEMENT FROM THE CHAIRMAN OF THE HEALTH, SAFETY AND SECURITY COMMITTEE

Dear Shareholder

Our number one priority is delivering safe and memorable experiences to our guests. Central to this is our total commitment to continuously achieving high standards in Health, Safety and Security (HSS). Every day we remain focused on ensuring our operations and business activities remain safe, thereby fulfilling the trust placed in us by our guests, employees, business partners and shareholders.

The HSS Committee assists the Board in ensuring that HSS risks are managed effectively across the Group. This report describes the work of the Committee, the Group's HSS management systems, processes and performance, together with details of developments during 2016.

The Smiler accident

The accident on 'The Smiler' ride at Alton Towers Resort in June 2015 shocked the entire organisation.

We have always prided ourselves on being an industry leader in terms of amusement park safety, working alongside national regulating bodies to improve industry practice and highlight innovation in terms of safety management.

This accident called the Group's safety record into question and our response has included a 'root and branch' review of all our safety procedures and protocols. The criminal prosecution that followed, and the Judge's comments, reflect the seriousness of the offence and the shortcomings in our safety arrangements on this specific ride, as did the resultant fine of £5 million. We are taking action to address the Judge's comments.

The Judge did accept that we generally have a good health and safety record and procedures in place, particularly given our size. Further, the Judge also recognised our exceptional co-operation with the UK's Health and Safety Executive during their investigation of the accident and that full and extensive steps have been taken to remedy the problem.

We have a strong history of delivering millions of safe experiences to our guests and we are determined to rebuild the trust that our guests rightfully place in us.

Independent reviews

Following 'The Smiler' accident the HSS Committee commissioned an independent review of ride safety across the business. A global risk management consultancy, DNV GL, were engaged to assess and validate how ride safety is continuously achieved and how the Company's safety culture supports this.

The findings of the DNV GL review provided reassurance to the HSS Committee and the Board that the Group's safety management systems in place were suitably robust. No major or systemic areas of concern were identified during the extensive audit. Furthermore, the safety culture within the business was described as 'strong'. Nevertheless a number of recommendations were made and these are being duly actioned.

The Committee also commissioned an independent review of the Company's corporate governance arrangements for HSS, with a leading figure in the UK's HSS professional community engaged and provided with full access to the business. Existing governance arrangements at Board and Executive Committee level

were assessed to determine whether they were sufficiently robust and if they could be strengthened.

Confirmation was provided that the governance arrangements in place were of a suitably rigorous standard, especially given the Company's size. A small number of recommendations were made and these are also being duly implemented.

Risk control

Our fundamental goal is to ensure the effective prevention or mitigation of HSS risks through robust management systems and programmes that are supported by the right organisational structure and a genuine commitment from all staff.

'Protecting the Magic' is the name of our ongoing commitment to controlling HSS risks. This branding provides us with a high-profile communication platform through which we drive workforce engagement and a proactive safety culture.

Performance reporting

Our performance reporting has evolved during 2016. We now report on both 'leading indicators' (those activities such as inspections and audits we perform to manage risk), as well as 'lagging indicators' (the incident frequency type reporting that has traditionally been the Group's primary reported KPI). Further details are set out on page 74.

Looking forward

Looking forward we will continue to challenge, monitor and support the whole of Merlin in their HSS efforts.

Sir John Sunderland
Chairman of the HSS Committee
1 March 2017