

# John J. Lynch AICP

14 Spring Street

Hastings-on-Hudson, New York 10706

917 / 478 0800 914 / 478 7287 (fax)

[volleyurb@aol.com](mailto:volleyurb@aol.com)

[www.johnjlynchaicp.com](http://www.johnjlynchaicp.com)

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Lee Bergus, Chairman  
Town of Goshen Planning Board  
41 Webster Avenue  
Goshen, New York 10924

Re: Legoland Draft EIS, Comments to Town of Goshen Planning Board

Thank you for providing an opportunity to provide comments relative to the proposed Legoland New York project Draft Environmental Impact Statement (DEIS). I have been asked to provide comment on the areas of community services and fiscal impacts by the Concerned Citizens for the Hudson Valley; my comments also focus on the County IDA involvement in providing inducements to the project and comprehensive economic development planning for Orange County as well as on the proposed zoning amendment to create the overlay District allowing the theme park use.

I have recently provided comment to the NYS Gaming Commission on the behalf of the Town of Monroe when that agency was considering site selection for large-scale casino developments in Orange County pursuant to NYS's multi-pronged economic development program for the lower Hudson Valley region.

It is exciting that so much interest is focused on tourist-related economic development opportunities throughout the Hudson Valley region. Tourist destination-type projects – particularly projects having a mix of retail, hospitality and entertainment / recreation uses – can be a desirable ratable for a locality. If the potential for adverse effects can be avoided or minimized through appropriate site selection, site planning and design, and / or mitigation including additional revenue streams to localities affected by the proposal, an outcome that accommodates new development in select locations while assuring that impacts associated with the proposal are mitigated is possible.

I have found however that often such projects are viewed and reviewed in a vacuum as they are proposed at a specific time and locale typically on large vacant sites that have significant buffering potential from surrounding uses to reduce the potential for the project to be seen. This is what I call the developers' choice of the path of least resistance. Attention is focused on the palpable and immediate effects of the proposal i.e., how to connect the project to infrastructure and utilities or otherwise provide them onsite, how to mitigate traffic flows to and from major arteries, how to reduce or eliminate direct views of the proposed construction and cleared areas, how to ameliorate effects on drainage and significant environmental resources like wetlands, how to handle short-term construction-related effects, effects on the taxpayers' bottom lines and the like.

Things that are forgotten or given substantially less attention include emergency service specifics, the potential for displacement of existing uses, whether the proposal makes good public policy sense (in this case, whether this proposal is an appropriate use of County IDA inducements) and the effect of the proposal on other public policy objectives, such as the desire to conserve agricultural land in the area of the proposal, or to direct development to specific locations. Little attention is typically given to the potential for negative effects should the resort destination need to downsize or close as competition increases or the novelty of the activity erodes. In this instance, a site has been selected along a major traffic artery on lands that are relatively close to existing water and sewer services but that are nevertheless outside existing major developed population centers and which notably lack any significant public transportation access.

I have the following specific comments:

1. The fiscal analysis relies on the proportional valuation approach for projecting costs to the local taxing jurisdictions but goes on to note that the areas of potential effect are relatively few (i.e., primarily related to community services such as police, fire and EMS, and roadway maintenance). Utilizing the generic approach of this methodology ignores the uniqueness of this commercial use, and the more unusual demands on services it might create, comparative to other typical types of commercial uses. The results of the proportional valuation computations appear relatively low, amounting to a projection of just under \$79,000 for the County, the Town of Goshen and the Goshen Fire District combined. \$79,000 is roughly equivalent to the annual cost of one additional full-time person within the local emergency services, or within the local government, and is also a small amount when considering that some new equipment may need to be acquired by the local emergency service providers. Moreover, the analysis does not consider the fact that the types of costs associated with this type of development can be projected more accurately because they are primarily related to manpower and equipment which can be projected based on readily-available information and conversations with the local service providers. In addition, the Applicant has the benefit of experience in FL and CA and provides actual figures on emergency service calls to Legoland parks in those locales. A simple analysis of the staff time and equipment purchases and depreciation would provide a much more accurate assessment of the costs which could be expected.

To illustrate my point, I refer you to a June 9, 2016, memo prepared by the Goshen Village Chief of Police James C. Watt that enumerates specific police and security concerns and references discussions with Deputy Chief Brannon of the Winter Haven, FL, Police Department and which describes the experience of that Department with the Legoland park there. Clearly, a project that draws large number of people on a regular basis would generate its own unique types of criminal and security concerns. Chief Watt's concerns that a satellite security facility would be warranted – like those both at Woodbury Commons and at the Legoland in FL – should be accounted for in any fiscal and community services analysis. Chief Watt's own estimate provided in a brief memo totals \$818,000 in the first year. Despite the availability of Chief Watt's letter and the information contained within, the DEIS projects the Town of Goshen to experience only \$17,200 in costs. It is notable, too, that this cost estimate includes expenditures for new equipment, yet the DEIS also concluded relative to police services that "No special equipment related to the project would be necessary."

Moreover, it is important to note that these estimated costs come from the Police Chief of the Village Police Department, not the Town Police Department. As noted, the DEIS only provides an estimated impact on the Town Police Department of \$17,200 (an amount that itself seems absurdly low if the fiscal impact on the Town Police Department is even a fraction of the fiscal impact that was estimated by Chief Watt on the Village Police Department). The DEIS is completely silent regarding any impact to the Village Police Department. It simply fails to consider the fact that the Village of Goshen Police Department may be dispatched to the proposed Legoland park, likely being the nearest readily-available personnel and equipment during an emergency. Remember the land on which the park is proposed directly abuts the Village of Goshen. The proposed project will therefore undoubtedly impact the physical and fiscal resources of the Village of Goshen, without the Village receiving tax revenues. None of this is addressed in the DEIS.

In this instance, a more detailed case study approach would have required little additional effort, and would prove to be far more accurate in that it both can rely on data from the existing parks and on data that is readily and publicly available relative to existing annual expenditures by local emergency service providers, and the actual costs of new manpower and necessary equipment. Similarly, expenditures for roadway maintenance, signalization and signal maintenance for roadways affected by the proposal could be projected.

Even the Applicant on page 119 of the DEIS notes that “[t]here are too many unknown variables outside the control of the Project Sponsor to reliably predict what revenues and costs will be generated at a future date,” presumably to justify use of the standardized proportional valuation approach as a means of projecting costs associated with the proposal. I submit that there is more than ample data to perform simple, straight-forward projections of the costs to local emergency service providers and the public works functions that would be impacted by the proposal. This approach would also be far more accurate.

2. In addition, it appears the preparer of the fiscal impact analyses – for the cost projections -- has relied on the *real property tax levy* rather than the total expenditures in developing a projection of municipal expenditures. While the use of the levy may be preferable in projecting the impact on the taxes paid by real property owners, a more accurate assessment would rely on the total expenditures, and then provide a breakdown of budget components including the property tax levy.
3. The analysis of community service impacts is lacking in that a conclusory statement of “No additional costs are anticipated to” the Goshen Volunteer Ambulance Corps (GOVAC) is unsubstantiated, especially given the admission by the authors of the DEIS that they failed to contact a representative of the ambulance services for their input. The DEIS concludes that there will indeed be a substantial demand on ambulance services. How then can the DEIS claim that this service will be provided without additional cost to GOVAC? The conclusion lacks any credible basis.
4. The assessment of all analyzed services is based on the assumption that the proposed park will only operate seasonally from April through October. This is a false assumption, as the hotel and aquarium would both operate year-round. While the demands on services will certainly be diminished, there is nonetheless a demand that has not been acknowledged or assessed in the DEIS.

5. The assessment of all analyzed emergency services also fails to consider the costs associated with a worst-case scenario associated with the introduction of Legoland into Goshen; that is, as noted in Chief Watt's letter, that "Legoland Theme Park will eclipse Woodbury Commons as the highest risk terrorism target in Orange County." Clearly, police, fire, and ambulance services will all have to plan and prepare for this possibility in ways not previously warranted by conditions that currently exist in Goshen. This is also a direct impact of the proposed action, and must be considered in the DEIS.
6. The DEIS acknowledges that the authors did not get needed input from either the NY State Police or the local ambulance service, and may be lacking similar information in other areas. This absence of information may be a direct result of rushing the preparation of the DEIS to meet an artificial deadline. However, it is equally clear that where information was provided, as in the letter from Chief Watts, it was ignored and not incorporated into the analysis in the DEIS. The lack of information from providers of emergency services is likely masking hidden costs that must be considered as part of the SEQRA review.
7. A revised cost analysis as recommended above may reveal that the minimum \$520,000 host community fee may be too low. Overall, even with the PILOT and other potential revenues added in, the costs left uncalculated by the DEIS may significantly exceed the revenue generated by the proposed project. There is grossly insufficient basis for the conclusory statement, "Given the total revenue generated from the PILOT, host community fee, hotel tax, sales tax and special district taxes exceed the costs to the project's taxing jurisdictions no additional mitigation measures are required." The fact that this statement was made based on obviously incomplete information, and is being used to justify a lack of any proposed mitigation, illustrates clearly the necessity of making a sincere effort to gather complete information and produce a valid analysis. Proper planning dictates that this must occur.
8. The fiscal revenues associated with the proposal and the projected costs should be presented in one summary table at the end of the impact discussion after the revenue and cost projections have been re-computed and independently confirmed by a third party.
9. It is surprising that the proximity to the Village of Goshen has not been considered more formally with respect to the potential for annexation of the subject lands by the Village. In fact, as noted in Chief Watt's memo, this is an approach that was implemented in Winter Haven, FL. I believe such an alternative is warranted in this instance, both due to the proximity of the Village of Goshen and since County IDA tax inducements (financial incentives, tax exemptions, etc.) subsidize the proposed development. This should be reviewed as an alternative in the DEIS.
10. Industrial Development Agencies (IDAs) in New York State are intended to attract, retain and expand businesses in their respective areas: To do this – as outlined in a May 2006 report by the NYS Comptroller – IDAs "attract, retain and expand businesses within their jurisdictions through the provision of financial incentives to private entities. IDAs are *legally empowered to buy, sell or lease property and to provide tax exempt financing for approved projects. Real property owned or controlled by IDAs is exempt from property and mortgage recording taxes, and the value of these exemptions can be passed through to assisted businesses. Moreover, purchases related to IDA projects can be exempt from State and local sales taxes.*" (my emphasis)

With County tax money being part of the development financing for this project it appears incumbent that inter-municipal concerns should be addressed satisfactorily – that is, one Town should not benefit disproportionately from the project, while another jurisdiction which borders the development project being assisted – in this case the Village of Goshen – is adversely affected, or must tolerate the adverse effects without any tax benefit. In addition to the Village of Goshen which adjoins the development project site, other municipalities in Orange County including Chester, Florida, Warwick and the Town of Wallkill may be adversely affected as water for the proposed development may be drawn from each of these community supplies.

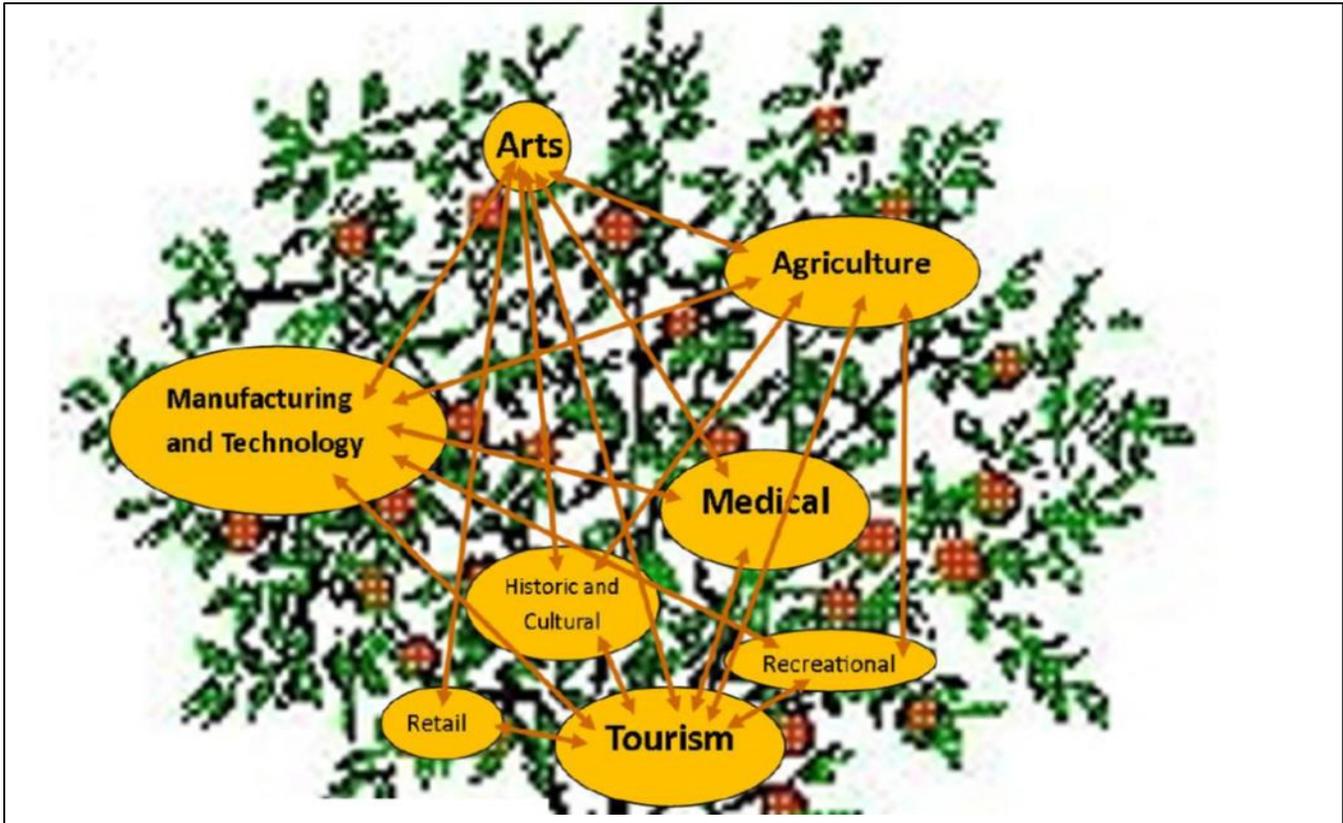
11. It would be helpful to include information regarding whether municipal budgets increased overall or with respect to specific municipal services for the localities that host the FL and CA Legoland parks. While these are likely areas experiencing other development pressures, at least some of the growth experienced in municipal expenditures is likely due to the presence of large destination resorts such as Legoland.
12. The proposed zoning amendment is written in such a manner that it appears to be tailored specifically to the proposal at hand. This is not a good practice as it belies any sort of comprehensive planning that, if done, would have identified appropriate sites for this type of large-scale development. Instead, it appears that “ad-hoc” planning has been done – just enough to facilitate the proposal at hand.

In this specific instance, the inclusion of the term “an aquarium” couldn’t be more specific to this proposal. It appears like the text has been written specifically for this project. While I don’t consider it my business to tell a community how to approach comprehensive planning (at times, working with what the market offers can be as good an approach as preparing a plan and waiting for the developers to come), I do know when I see a community being less than discerning when reviewing a development proposal it feels overwhelmingly positive about. The fact that the zoning text has been written expressly to allow this particular development project as proposed, rather than more generically to address the varied uses that may be present in a theme park or similar venue, or to address the appropriate siting standards for theme parks or similar large-scale venues is indicative of “ad-hoc” planning.

This is true whether for a prospective future development project or for this one before the board now. For example, will this developer or park operator ultimately want to add – say a *water park* to the mix of uses as is the case at other Legoland parks, or if not that use – *meeting or convention facilities* or additional *hotel rooms* or *time-shares*? If so, the proposed text as recited in the DEIS currently makes no mention of any of these uses. The language should be re-visited to be more generic and consider other theme park / large-scale resort-type permutations, and any potential growth at the subject property. After all, only 140 acres of the 522 acre site is proposed for development. It is clear that there remains ample room on this site for additional uses or growth in the theme park itself, while still maintaining considerable distance to adjacent properties and development. In turn, the impact of potential expanded or additional uses on the remaining land must also be addressed as part of the SEQRA review of the proposed zoning changes. This is a fundamental oversight in the DEIS that must be addressed either by revising and recirculating the DEIS, or via the preparation of a Supplemental Environmental Impact Statement (SEIS).

13. The same lack of comprehensive planning can be attributed to the Orange County IDA as well. In fact, the May 2006 report on IDAs in New York State referred to earlier notes that the effectiveness of IDA programs typically suffer from “[a] lack of objective selection and evaluation data and criteria” meaning “the criteria by which IDAs evaluate potential projects are not always clear and / or consistently used, and IDAs do not always seem to make an attempt to evaluate the potential success of proposed projects.” Moreover, the 2006 NYS Comptroller’s report notes that “IDAs have extensive latitude to determine the types of projects that are eligible for assistance. By either stated policy or practice, some IDAs favor industrial and manufacturing projects over commercial and service proposals, but others use a case-by-case approach, often placing a heavy emphasis on the perceived local advantage of the project. While originally conceived as agencies to spur industrial and manufacturing development, IDAs increasingly provide assistance to a wide variety of projects, including office buildings, retail, education facilities, transportation, sports arenas and assisted living centers. For example, while current statute generally prohibits IDAs from assisting retail projects, several broad exceptions severely dilute such prohibition.” I submit that this local desire for this project has spurred participation by the Orange County IDA to ensure the bottom line of the Applicant rather than the overall economic development of the County.
14. As noted earlier, in this application a 140-acre theme park and related uses are proposed on 522 acres. None of this area is designated for future use, either to accommodate induced effects of the proposal or for expansion of this development node along Route 17. To think that a successful Legoland project would be confined to just over one quarter of the actual land area available at this site, and that the unused 382 acres is going to be left as “buffer” area in perpetuity is very unsophisticated. Either this issue should be addressed now as part of this review through appropriate limitations on future development or the developer should disclose what ideas – however preliminary they may be – are being considered for growth at this site now and these should be analyzed in the DEIS even if generically.
15. Portions of the site and large amounts of the surrounding area are designated Agricultural Districts according to current Orange County mapping taken from the County’s web-site. As I have seen numerous times in Orange County, little attention is given to the effects of commercial development on the agricultural uses that still form the backbone of much of the County’s economy.

The figure on the following page is taken directly from the Orange County Industrial Development Agency’s website. The County IDA pays lip service to agricultural uses by including it in the graphic but when it comes to the real threats to the use of agricultural land – sprawl, large-scale developments such as Legoland and the potential increases in land values they bring – no meaningful analysis of adverse effects is done. These perceived more “lucrative” developments can either directly consume lands in Agricultural Districts or can present development impacts that displace agricultural use in the longer term. As shown below, *Agriculture* is one of the foundations of the County’s economy. But also as shown, all arrows point towards *Tourism* as being the primary or if not primary, the seemingly most important, objective of economic development activities in Orange County today.



16. While it is noted that onsite restaurants will likely avail themselves of locally grown produce, other opportunities for local connections as well as the agricultural connection should be memorialized in an agreement, especially if Orange County moneys in the form of inducements from the Orange County Industrial Development Agency are part of the funding plan for the project’s development. Any development that utilizes County IDA inducements should be required to demonstrate specific positive fiscal benefits to the local economies, not simply stating generically that it would increase economic activity, spending and jobs. If some jobs or economic activities run the risk of being lost because the proposal shifts the focus of the local economy to tourism, than these should be accounted for and discussed in the DEIS.
  
17. Using generic modeling, the DEIS also concludes that Legoland will produce a significant beneficial spillover effect to other offsite businesses. To support this contention, the DEIS cites estimations that “the Legoland Resort in Winter Haven generated nearly \$110 million in sales for off-site hotels and over \$20 million in sales for off-site restaurants” since it was built in 2011. This is not a fair comparison, however, as the DEIS fails to mention that this Legoland did not open its own onsite 151-room hotel and restaurant until 2015, four years later. The millions of people who attended Legoland during those four years had no choice but to seek lodging and restaurant services offsite. Under those circumstances, it is almost surprising that the totals are not even higher.

These businesses were also located on the approach roads immediately outside the Legoland gateway. Neither circumstance will exist in Goshen. The initial phase of construction will include a 250-room hotel (nearly 100 more rooms than the Winter Haven hotel) and restaurant services. There are also no similar businesses on Harriman Drive, the only approach road to the proposed park. The nearest hotel and restaurant businesses are located at distances that are significantly removed from the project site. Depending on whether separate access is provided to the hotel and restaurant, these onsite services could potentially even provide competition to established local businesses, reducing their revenue.

18. The proposal is projected to generate 500 full-time, 300 part-time and 500 seasonal jobs (900 Full-Time Equivalents or FTEs were assumed for the DEIS). While significant, given the likelihood of success for the project – at least in the short-term – and the comparative advantage of any Orange County location (i.e., at a major northeastern US crossroads within the NYC metropolitan region), wouldn't County inducements be better used for other projects that attract higher-paying jobs, or retain or invest in manufacturing or agriculture already in Orange County? In any event, should not inducements be used to attract industrial development that may not otherwise be attracted to Orange County or whose bottom line indicates that such assistance is good policy? Stated a more blunt way, this developer doesn't need any help developing a successful project nor is a location outside of Orange County likely to be selected; so why is County assistance being provided?
19. Moreover, the Applicant should clarify whether the 500 full-time jobs would be needed for the entire year as the hotel and aquarium are not likely to need this level of staffing when the theme park is closed. What will the staffing levels be at the hotel and aquarium on a seasonal basis?
20. It is also notable that while incentives are being offered to the applicant by the local municipality and county, in part to create new job opportunities for constituent residents, that the DEIS states that the applicant has committed only to hiring 85% of the workforce from the "local" surrounding 7-county area. This local Town and County investment will therefore largely be benefiting a workforce that does not even reside within the Town or even Orange County, but may reside, and spend their money in, towns within Sullivan, Ulster, Dutchess, Putnam, Westchester, and Rockland Counties. Another 15% can be hired from even more distant locales, including out-of-state entirely. It would be wiser to invest that same money in businesses that will have a more beneficial local impact.

### Final Thoughts

1. Once committed for a major commercial development like the proposed use, a substantial chunk of land (522 acres to be exact) is devoted to that purpose. In cases involving virgin land, this means clearance of vegetation and other disturbances and installation of new infrastructure, all of which carries costs, including costs to the locality if the development is unsuccessful or underutilized, and ultimately vacated. No guarantees are ever provided by the developer.

2. Most large development projects are developed by non-local entities, and operated by other non-local entities. Under such circumstances, substantial amounts of money in the form of profits from large-scale development and operation would be drawn out of the region. The development financing, approval and permitting and construction processes are good at quickly implementing projects when projects are viewed as lucrative and provide quick returns on investment. When economic conditions or tastes change or the market starts to become over-built, and the brakes are put on, it will be the localities that will bear the greatest burden of either unfinished sites or underutilized / unsuccessful developments, (including host and non-host communities alike).
3. My final point is perhaps more subjective – the expeditious manner in which prospective large-scale non-residential developments have been approved in localities such as casino proposals in Thompson, NY (near Monticello), and the overwhelming, uncritical support typically given to these types of proposals, troubles me and tells me that few are interested in actually considering the pros and cons of large-scale development.

Thank you again for the opportunity to provide written comments.



John J. Lynch AICP