

**State Environmental Quality Review
POSITIVE DECLARATION**

Notice of Determination of Significance and Intent to Prepare a Draft EIS

OZ THEME PARK AND RESORT DISTRICT
Town of Wheatfield, Niagara County, NY

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review - SEQR) of the Environmental Conservation Law.

On November 14, 2005, the Town of Wheatfield Town Board, as SEQR Lead Agency, determined that the proposed action described below may result in one or more large and important impacts that may have a significant effect on the environment, and that a Draft Generic Environmental Impact Statement should be prepared.

TITLE OF ACTION:

OZ THEME PARK AND RESORT DISTRICT
Oz Central, LLC
6929 Williams Road, Suite 600
Niagara Falls, New York 14304

JURISDICTION:

The project requires a rezoning of approximately 232 acres from Planned Unit Development (PUD) to Manufacturing (M-1) by the Town of Wheatfield. The project will also require site plan approval. The Wheatfield Town Board is the approval agency for rezoning (with recommendation from the Planning Board) and is, therefore, acting as Lead Agency for SEQR purposes. The Town Planning Board is the approval agency for the site plan.

SEQR STATUS:

Type I Action

DESCRIPTION OF ACTION:

The proposed project is a Theme Park and Resort Area that will occupy approximately 800 acres. The project is proposed to include the "Magical Lands of Oz" Theme Park and associated development, to be built in three phases. Phase I consists of the theme park on approximately 442 acres at the eastern portion of the site developed with indoor and outdoor rides, attractions and activities, including a 780,000 square foot climate-controlled building for full year operations. The applicant intends to incorporate the existing lakes on the site into site design. There will also be a 90-acre parking area (assumed capacity 8,000 to 12,000 cars) and associated support buildings for administration, maintenance and public safety (emergency medical and "first response" fire brigade). An emergency generator is also proposed. Phase I will also include a theme hotel providing lodging, dining and entertainment, located on approximately 15 acres of land in the northwest corner of the area designated for the theme park. Phase II is proposed to contain additional hotel, convention and restaurant uses, located at the north central portion of the site. A total of 1,000 hotel rooms are projected. Phase III is

proposed to contain additional retail, entertainment and dining areas on the western portion of the site (between Williams Road and the rail line). This area is proposed to be developed on a parcel by parcel basis, as demand indicates, according to existing zoning restrictions. Existing wetlands in this area would remain undisturbed.

Associated infrastructure required for the development includes an extension of the LaSalle Expressway to the theme park site, with a bridge crossing over Williams Road and over the rail road tracks to the proposed parking area; a new roadway to serve development on the western portion of the site, which will also require a crossing over the rail line, either at-grade or via tunnel; and necessary water and sewer line extensions to serve the development.

LOCATION:

The proposed project is located east of Williams Road, south of Jagow Road, west of Witmer Road, and north of River Road in the Town of Wheatfield, Niagara County, New York.

REASONS SUPPORTING THIS DETERMINATION:

Impact on Land:

1. The project will result in the permanent conversion of more than 700 acres of vacant land.
2. The project will involve approximately 3 phases (per applicant) being constructed over an extended time period.
3. The project will involve construction of a large, mixed-use development.
4. The project will involve parking for an estimated 8,000 to 12,000 cars.
5. The project may involve construction on land where the depth to water table is less than two feet.

Impact on Water:

6. There are Federal and State wetlands on the project site and a large proportion of the site is located on hydric soils. The wetlands may have some disturbance due to construction and utility crossings and permits need to be obtained from the New York State Department of Environmental Conservation (NYSDEC) and/or the United States Army Corps of Engineers (USACOE). It must be documented that the design will minimize disturbance to wetlands and provide mitigation where wetlands cannot be avoided.
7. The project area includes existing surface waters (lakes). Construction of this project has the potential to impact surface water quantity and quality due to stormwater runoff.
8. Large areas of impervious surfaces will be developed on currently vacant lands, and drainage flows and patterns will be affected. A stormwater management system will be required, which must be designed to established standards.
9. It is anticipated that the project will create a large demand for public water when fully developed. It must be shown that there is capacity in the existing distribution system to provide the water needed for the project (peak and fire flow demands).

10. The sanitary sewer flow from the proposed site will be discharged to the existing Town and County sanitary sewer system. Documentation must be provided showing that adequate capacity exists for the additional flow. It is possible that anticipated waste flows may require expansion of existing waste treatment and/or storage facilities.

11. The project may require the storage of petroleum or chemical products.

Impact on Air

12. The project will result in increased traffic and an emergency power generation facility, which may affect air quality.

Impact on Agricultural Land Resources

14. The project will irreversibly convert lands currently under agricultural use to non-agricultural uses.

Impact on Aesthetic Resources:

15. The proposed change in land use will result in a landscape that is obviously different from and in sharp contrast to current surrounding land use patterns, from primarily vacant lands to a developed theme park and associated commercial development.

16. The site is within an archaeologically sensitive area, based on information contained in the Office of Parks, Recreation and Historic Preservation Sensitivity Mapping.

Impact on Open Space and Recreation:

17. The project will result in a major reduction of an open space in the community.

Impact on Transportation:

18. The project is likely to result in a change to the present patterns of movement of people and goods. Changes to the existing transportation system are proposed, including possible bridge crossings, two crossings over an active rail line, as well as two new roadways through the area to service the development.

19. The project will result in an increase in traffic to the area, and is likely to result in significant traffic problems.

20. There are likely to be impacts associated with construction traffic.

Impact on Energy:

21. Proposed action will require the creation or extension of an energy transmission system to serve the theme park and associated development.

22. Due to the size of the development, the proposed action is likely to result in a large increase in the consumption of energy in the Town.

Noise and Odor Impacts:

23. The proposed project will result in construction activities that may extend over five or more years, and cause extended periods of construction noise and possible dust and odors.

24. The proposed project will produce operating noise exceeding the local ambient noise levels for noise outside of structures.

Impact on Public Health

25. The proposed project may result in excavation or other disturbance within 2,000 feet of a site that was used for the disposal of solid and hazardous waste (Niagara County Refuse Disposal site) and the Kozdranski remediation site is within the project area.

Impact on Growth and Character of Community or Neighborhood:

26. The proposed action will cause a significant change in the density of land use that could negatively impact the character of the surrounding area.
27. Development will create a demand for additional community services (police, fire, etc.) The extent of the potential increase in demand and its significance must be evaluated.
28. The development is likely to result in additional development in the vicinity (spin-off development).
29. The proposed action will result in a significant increase in employment (estimated by applicant at 8,000 jobs).

Controversy:

30. There is likely to be public controversy related to these potential adverse environmental impacts.

A public scoping session will be scheduled at a later date.

LEAD AGENCY:

Town of Wheatfield Town Board
Town Hall
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North Tonawanda, NY 14120

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