



Michael G. Murphy  
15th Floor  
477 Madison Avenue  
New York, NY 10022-5802  
+1.212.702.5436  
mmurphy@bdlaw.com

August 1, 2019

[Via Email \(belmontoutreach@esd.ny.gov\)](mailto:belmontoutreach@esd.ny.gov)

Empire State Development  
633 Third Avenue  
New York, NY 10017

**Re: Belmont Park Redevelopment Project: Final Environmental Impact Statement**

Dear Sir or Madam:

This firm has been representing the Incorporated Village of Floral Park (“Floral Park” or “Village”) in relation to the Belmont Park Redevelopment Project proposed by New York Arena Partners, LLC. (“NYAP”). On July 8, 2019, Empire State Development (“ESD”) accepted the final environmental impact statement (“FEIS”) for the NYAP project. In releasing the FEIS, ESD continues to violate both the letter and spirit of the State Environmental Quality Review Act (“SEQRA”), as well as its mandate under the Urban Development Corporation Act (“UDC Act”) to give “primary consideration to local needs and desires” when facilitating development projects. UDC Act § 6266.

This letter provides our initial comments to the FEIS on behalf of the Village, and incorporates and includes the attached comments from the Village’s traffic consultant, NV5. This letter should not be construed as constituting our only comments to the FEIS. Rather, in the limited amount of time ESD has made available, these comments identify some of the more significant and obvious problems with the FEIS.

When ESD released the FEIS, it invited public feedback, initially, for 15 days and then extended to August 1, 2019 because the FEIS was missing information. This “feedback” period, even as extended, is inadequate and does not comply with SEQRA’s procedural requirements. Nor can it act as a substitute to issuing a supplemental environmental impact statement (“SEIS”) when a project undergoes major changes and adds significant new elements that have not been studied and have not been subject to a formal public review and comment process.

Based on a preliminary review of the FEIS, the Village’s prior comments have been largely ignored. On behalf of the Village, we submitted comments on March 1, March 19, and

Austin, TX   Baltimore, MD   Boston, MA   Charlotte, NC  
New York, NY   San Francisco, CA   Seattle, WA   Washington, DC

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April 3, 2019.<sup>1</sup> The March 1<sup>st</sup> submission provided an extensive set of comments addressing deficiencies in the draft environmental impact statement (“DEIS”) issued by ESD for the NYAP project. Among the many deficiencies, the submission highlighted that DEIS objectively failed to properly assess the project’s severe traffic impacts on local roads and impacts to the unique character of the Village of Floral Park.

The March 19<sup>th</sup> submission included a document received from the Franchise Oversight Board (“FOB”) after the March 1<sup>st</sup> deadline in response to a Freedom of Information Law request. That document included a Master Plan that was attached to a November 2016 email submitted by Christopher Kay, President of NYRA, to Robert Williams, head of the FOB, as well as several other State officials. That 2016 Master Plan, which was kept secret from the public, laid out a detailed proposal for development at Belmont Park that is virtually identical to the NYAP proposal, including the development of a 19,000 seat arena specifically earmarked for the Islanders and extensive mall/retail space, in addition to a series of improvements to and expansion of the existing Belmont Racetrack facilities. The Master Plan proved that ESD’s SEQRA process was impermissibly segmented.

The April 3<sup>rd</sup> submission addressed a March 27<sup>th</sup> Newsday article that demonstrated the DEIS’s assumed use of natural gas to support the NYAP project’s operations was infeasible. NYAP almost certainly knew about the likely lack of available natural gas capacity before the DEIS was issued. The DEIS’s reliance on natural gas in Chapter 3 to address the proposed project’s impacts on community facilities and utilities was misleading.

The FEIS fails to meaningfully address the Village’s comments or the deficiencies in ESD’s analysis:

- ESD has fundamentally failed to consider local community needs and desires as mandated by the UDC Act. UDC Act § 6266. Instead of significantly reducing the size of the NYAP project, ESD has allowed the project to grow well beyond what was described in the initial Request for Proposals. In issuing the FEIS, ESD misleadingly claims that certain aspects of the project have been reduced when it is patently obvious that the overall project has grown significantly since the proposal was first selected in December 2017. ESD has completely disregarded local needs and desires, most notably local residents’ expressed concern over the project’s size and unified request that a smaller project be pursued.
- The FEIS introduces new project components that have not been studied. The two primary measures relied upon in the FEIS to mitigate the project’s significant adverse traffic impacts—a new Long Island Railroad Elmont station and a Draft Traffic Management Plan (“Draft TMP”)—are, remarkably, introduced to the public for the first time in the FEIS. ESD improperly released the FEIS without subjecting these significant

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<sup>1</sup> Additional detailed comments have been separately submitted by Village officials during the SEQRA process.

new project elements to formal public scrutiny as required by SEQRA. The impacts of the new train station have not been assessed at all—at most, the FEIS offers a set of vague conclusions about the train station’s purported impacts, reached without the benefit of any public input whatsoever. As with the original traffic analysis, the newly introduced Draft TMP relies on input assumptions that have no analytical support whatsoever. Specifically, NYAP and ESD have assumed that peak traffic that cannot be handled by the Cross Island Parkway will divert to other highway/parkway routes instead of local road systems. But neither NYAP nor ESD has attempted to verify that any of those other highway/parkway routes have any available capacity during peak conditions. There is no analytical support for the FEIS’s conclusion that local roads will not be inundated by traffic as a result of the NYAP project.

- Despite ample evidence at the time suggesting that natural gas would not be available to the project, the DEIS nevertheless assumed that project operations would be supported by natural gas. Now that National Grid has formerly announced a moratorium on new natural gas supply, the FEIS proposes to replace natural gas with two 30,000 gallon liquefied petroleum gas (“LPG”) tanks. The FEIS fails to even attempt to assess environmental and safety concerns associated with adding 60,000 gallons of LPG storage facilities in a densely populated area, including safety concerns associated with transporting LPG to these facilities by truck on local roads.
- As detailed in the attached letter from NV5, the FEIS also fails to address significant deficiencies in the DEIS including but not limited to: trip generation and the failure to include an analysis the typical evening commuter peak hour traffic; trip distribution and the failure to use a regional transportation model; traffic capacity and the failure to properly mitigate significant adverse traffic impacts to the Cross Island Parkway and local roadways; effects on emergency response times.
- The FEIS still fails to assess the cumulative impacts of the NYAP project and NYRA’s planned improvements, as described in the secret 2016 NYRA Master Plan that was widely distributed to State officials, and verified in multiple subsequent NYRA statements and other sources. The FEIS just speaks past this improper segmentation, and fails to address the larger elephant in the room. The recent disclosure of the secret NYRA Master Plan demonstrates that the entire RFP process had a predetermined outcome.
- The FEIS continues to claim consistency with the Nassau County Master Plan, when an objective reading of the plan shows this is not true. In particular, the project’s significant retail mall development is completely contrary to the Nassau County Master Plan’s stated objection to such development and its traffic congestion consequences, and the plan’s clearly stated goal to protect local “downtown” retail businesses.

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- Despite clear comments, even at the scoping stage, the DEIS failed to consider a “no retail village”/mall alternative that would have reduced the size of the project, reduced associated traffic and community character impacts, and reduced the project’s reliance on NYRA’s parking facilities. Now, for the first time, ESD addresses the “no retail village”/mall alternative in the FEIS, far too late for meaningful public participation. Even a cursory review of the “no retail village” alternative shows that the assessment is inadequate and skewed to a particular outcome. This is demonstrated by the FEIS’s statement that the “no retail village”/mall alternative “would not substantially avoid or reduce project-related significant adverse impacts related to construction and operational transportation.” FEIS at 16-14. At best, this statement is misleading. As noted by NV5, the FEIS fails to apply the mitigation measures proposed for the NYAP project to the “no retail village”/mall alternative. If the FEIS had done so, then, unlike the NYAP project, most if not all significant impacts associated with the “no retail village”/mall alternative might be avoided. It is simply disingenuous to undertake an alternatives analysis assuming none of the mitigation measures proposed for the preferred alternative would be applied to the project alternatives.

The FEIS violates SEQRA and ESD’s actions violates UDC Act mandates. The Village of Floral Park hopes that ESD will take a step back instead of proceeding in this ill-advised manner.

Sincerely,



Michael Murphy

cc:

Mr. Howard Zemsky, President and CEO Empire State Development  
Rachel Shatz, VP Planning and Environmental Review, Lead Agency Contact, ESD  
Village of Floral Park:  
Hon. Dominick Longobardi, Mayor  
Gerard Bambrick, Village Administrator  
Village Board of the Village of Floral Park