



MEDER CONSULTING SERVICES

COMMUNITY PLANNING & DEVELOPMENT

**DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (DGEIS)
507-ACRE ANNEXATION
VILLAGE OF KIRYAS JOEL & TOWN OF MONROE,
ORANGE COUNTY, NEW YORK
APRIL 29, 2015**

SUBSTANTIVE REVIEW COMMENTS ON SELECTED SUBSECTIONS¹

GENERAL OBSERVATIONS

1. Unlike most other EISs that have been prepared in accordance with a disciplined scientific approach to projecting a future scenario using customary analytical methods, this DGEIS starts out by identifying a future scenario that has been decreed in advance to represent conditions in 2025, and then presents multiple analyses that are intended to justify the description of the future scenario. However, merely articulating a predetermined “take it or leave” future scenario at the outset and then trying to justify that outcome in reverse does not qualify as “taking a hard look” at the proposed Annexation Petition’s impacts on patterns of population concentration, distribution and growth, housing distribution and growth, and the concomitant impacts on the demand for community services, facilities, and utilities generated by those who may wish to reside in the Annexation Territory (i.e., any of the 10 annexation areas identified in Figure 2-3). In multiple respects, the analyses presented in the DGEIS are flawed and should be redone. It is acceptable for an EIS to present more than one methodology for evaluating potential environmental impacts, and doing so may be warranted if the environmental setting is characterized by one or more unique circumstances, but the DGEIS should not altogether exclude any presentation of customarily applied methodologies for analyzing projected population and housing growth in the Annexation Territory under a variety of assumptions. The exclusive use of alternative methodologies that have been specifically crafted for this particular environmental review of the Proposed Action under SEQRA is not appropriate.
2. The DGEIS fails to provide any justification for establishing a 10-year time horizon for analytical purposes. In acknowledgment of the fact that the Village of Kiryas Joel has experienced a higher rate of growth than all other municipalities in Orange County over many years and that trend is expected to

¹ Except as noted otherwise, substantive review comments focus exclusively on the 507-acre Annexation Petition filed in December 2013, not the 164-acre Annexation Petition filed in August 2014 that has been labeled as an alternative in the DGEIS.

continue according to the Project Sponsor, combined with the long-range impacts and far-reaching implications that the proposed Annexation Petition is expected to produce, the environmental analyses undertaken for this DGEIS should have been based upon a time horizon of at least 20 years. More particularly, use of a longer study period is justified for any and all of the following reasons:

- a. This approach would be more consistent with other population projection studies that were previously completed for the Village, such as the 2009 "Growth Study for the Village of Kiryas Joel Amended FEIS for the Proposed Connection to the New York City Catskill Aqueduct," presented in DGEIS Appendix H2.
- b. The American Community Service (ACS) data presented in Table DP05 of DGEIS Appendix H reveals that 25.3% of the Village's population is under the age of 5 using the latest available data. The 10-year study period used for all analyses in the DGEIS completely ignores the ultimate housing needs of this group, notwithstanding the DGEIS' stated assertion that most residents residing in the Village as children will remain there through adulthood and will typically require a family dwelling of their own by age 20, if not a year or two earlier at ages 18 or 19. In fact, the Village's population under the age of 5 is actually larger than the Village's population in the 5 to 9 year age cohort. So not only does the DGEIS ignore longer-term impacts associated with a growing population and all the other related impacts attendant to that condition, but it also ignores the growing bulge in the under 5 age cohort, which will have even more dramatic impacts in the future beyond the 10-year study period. For the environmental analyses to be defensible for the type of Proposed Action that is the subject of this DGEIS, the study period used for those analyses should correspond to the length of a generation. That would be approximately 20 years based on the life cycle characteristics of the population that is projected to reside in the expanded Village of Kiryas Joel.
- c. The use of only a 10-year study period severely underestimates potential long-term impacts associated with a nearly 73% increase in the land area that is proposed to be included in the incorporated Village of Kiryas Joel if the Annexation Petition is approved. In addition to underestimating potential impacts on population concentration, distribution, and growth, and potential impacts on housing demand, the DGEIS analyses also fail to accurately identify projected demand for community services, facilities and utilities (especially sewer service), traffic generation, and projected land disturbance (especially of prime agricultural land, forested areas, wetlands, and buffers surrounding existing wetlands and other surface water resources, among others). Because of the artificially foreshortened study period used for all environmental analyses presented in the DGEIS,

the full range of potential impacts is not captured and virtually every impact analysis presented in the DGEIS is flawed and unreliable as a basis for evaluating whether the proposed annexation would have potential adverse environmental impacts or be in the public interest.

- d. Though there are only two Involved Agencies for the purpose of the currently defined Proposed Action, many additional actions related to the proposed annexation will need to be taken in the future by other involved agencies and stakeholders who will be relying upon the DGEIS as a starting point for any supplementary environmental analyses that may be required to support those other future actions. Based upon the number of deficient analyses that are included in the DGEIS, reliance upon this document could easily lead to misguided and misinformed decision-making by those other involved agencies and stakeholders, many of whom are responsible for providing a wide array of community services, facilities, and/or utilities to the general public within the Annexation Area as well as the larger region of which it is a part.

Section 1.0 – Executive Summary

- 3. According to page 3 of the adopted DGEIS Scoping Outline, the document was to include 11 different “Summaries” on a variety of topics. Though the DGEIS contains the requisite Table of Contents and Section 1.0 presents information that might qualify as a “Summary” on four other required topics, the Executive Summary does not include “Summaries” for the following six required topics.
 - C. Outline significant beneficial and adverse impacts.
 - D. Issues of controversy.
 - E. Proposed mitigation measures.
 - F. Adverse impacts that cannot be avoided.
 - H. Irreversible and irretrievable commitment of resources.
 - I. Growth inducing aspects.

In view of the fact that the above information was required to be addressed by the adopted DGEIS Scoping Outline, it would appear that the DGEIS was prematurely accepted as complete by the Lead Agency on May 1, 2015 and was not actually ready for public review at that time.

- 4. Page 1-3 – Section 1.3 – Land Use and Zoning: Under the narrative sub-section entitled “Compatibility with Surrounding Land Use Patterns,” there is a statement that reads: “Ultimately the overall density of development on the land encompassing the Village and the annexation territory (±1,207 acres), with or without annexation, will be the same.” That statement is erroneous and not supportable. Clearly, the density of development in the Annexation Territory will be lower

than the density of development in the existing Village of Kiryas Joel if the Annexation Petition is not approved because no change in zoning would occur in the unincorporated areas of the Town of Monroe, and the two neighboring municipalities have very different zoning policies. While maximum permitted residential densities in the Town of Monroe may range between 0.67 and 8.7 dwelling units per acre for single-family residences with an accessory apartment, there is no maximum residential density in the Village of Kiryas Joel. Based on past experience, development has actually been permitted to occur in the Village at a much higher level of density and is projected to reach 12 to 20 dwelling units per acre² if the Annexation Petition is approved and the projected demand for housing (as generated by anticipated population growth among residents who are associated with the Village) is accurate and is satisfied by new residential construction within the Village limits. Even if there is pressure to develop new housing to accommodate the projected population growth, new residential development constructed in the unincorporated areas of the Town of Monroe without any annexation will still need to be in full compliance with the zoning and environmental regulations of that municipality.

5. This summary of DGEIS review comments often points out that many of the environmental analyses presented in the DGEIS are based upon unsupportable assumptions and/or the use of faulty methodologies, thereby resulting in erroneous conclusions. Once new and/or updated information has been presented to address those DGEIS shortcomings, a substantially revised Executive Summary will need to be prepared as well. The updated Executive Summary should be closely correlated with the content presented in the balance of the DGEIS.

Section 2.0 – Description of the Proposed Action

6. Figure 2-3 – Annexation Map: According to this figure, the Annexation Territory includes land that is part of multiple street rights-of-way, as identified below. However, land within those street rights-of-way and the Owner of Record of such street rights-of-way does not appear to be identified in the Annexation Petition filed on December 13, 2013, which is included in DGEIS Appendix D. These omissions should be clarified.

Annexation Area	Unaccounted for Street Rights-of-Way
I	Portions of Schunnemunk Road and Raywood Drive
II	Portion of Forest Road
III	Portions of Mountain Road (C.R. #44) and Seven Springs Road (C.R. #44)
IV	Portions of Forest Road and Acres Road
V	Portion of Acres Road

² DGEIS page 3.1-18.

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Annexation Area	Unaccounted for Street Rights-of-Way
VI	Portions of Acres Road and Bakertown Road
VII	<i>None</i>
VIII (A)	Portion of Seven Springs Mountain Road (C.R. #44)
VIII (B)	Portions of Seven Springs Mountain Road (C.R. #44) and Seven Springs Road
VIII (C)	<i>None</i>
VIII (D)	Portions of Seven Springs Road, Mountain View Drive, and Irene Drive
VIII (E)	<i>None</i>
VIII (F)	Portion of Toby Place
IX	Portion of Highland Road (C.R. #105)
X	<i>No streets</i>

7. Acres Discrepancies: Table E-2 in DGEIS Appendix E presents a lot-by-lot analysis of maximum development potential under existing Town of Monroe zoning policies for each property in the Annexation Territory. However, it appears that there are several discrepancies between the data presented in Table E-2 and the information concerning acreage of the annexation areas depicted on Figure 2-3, as summarized below.

Annexation Area	Table E-2 Lot Areas Summed (Acres ±)	Figure 2-3 Areas Identified (Acres ±)
I	15.1	13.7
II	13.0	20.1
III	38.1	41.6
IV	12.8	14.1
V	4.0	4.2
VI	78.0	80.6
VII	16.0	15.7
VIII (A)	3.3	4.0
VIII (B)	16.2	17.2
VIII (C)	102.6	99.4
VIII (D)	83.1	81.3
VIII (E)	99.6	98.9
VIII (F)	6.6	6.8
IX	4.5	2.3
X	5.2	7.5
Total	498.1*	507.4

*Lot 21 in Annexation Area VIII (C) was omitted from Table E-2. With that missing lot included, this total would be slightly larger. If the separate "Roads" category identified at the end of Table E-2 (9.3 acres total) is included as well, the total acreage of the Annexation Territory would exceed 507.4 acres.

The reason for these acreage discrepancies should be explained in the DGEIS narrative and pertinent tables.

8. Annexation Area VI: This area includes two different numbered lots on opposite sides of Acres Road that are both labeled "94." According to the "Notes" in Table E-2, the acreage figure associated with Lot "94" includes land on both sides of the street. When a large parcel of land is separated by a street, the individual pieces typically have different tax map designations, but only one tax map number appears to be associated with the lot labeled "94." The accuracy of this information should be reconfirmed. In addition to providing additional clarification for the purpose of ensuring that the information presented on Table E-2 is complete, it is also important to clarify this information since the lot labeled "94" with the tax map designation of "1-3-40" bears a Property Type Classification Code of 105 (Agricultural Vacant Land, productive) and appears to be subject to an agricultural assessment under the New York State Tax Law and the New York State Agriculture and Markets Law. The total amount of land within the Annexation Territory that is subject to the agricultural assessment should be clarified and identified in Table E-2 as well.

9. Annexation Area VIII (A): This area includes two numbered lots. On the Town of Monroe Zoning Map, the parcels of land that would correspond to Lots "1" and "2" in Annexation Area VIII (A) extend all the way to the municipal boundary of the Village of South Blooming Grove. On the Annexation Map (Figure 2-3), however, the northerly edges of the lots labeled "1" and "2" do not touch that municipal boundary, suggesting that portions of both lots with the tax map designations of "1-1-4.2" and "1-1-4.32" are not intended to be part of the Annexation Petition and would remain in the Town of Monroe. On other figures included in the DGEIS, however, the area of proposed annexation is shown extending all the way to the municipal boundary of the Village of South Blooming Grove in that location (e.g., Figures 3.5-3 and 3.5-4). These discrepancies should be resolved. If the depiction of the Annexation Area on Figure 2-3 is accurate, a rationale should be provided for the proposed configurations of Lots "1" and "2" in Annexation Area VIII (A), and the implications of splitting existing lots between two municipal jurisdictions and zoning district designations should be described. It is also noted that the lot labeled "2" is developed with a one-family residence but the land included in the Annexation Territory does not appear to include the adjacent lot containing the driveway access to that home. If the driveway remains in the existing location, access to the residence would be provided over land in the Town of Monroe, while the residence would be located in the expanded Village of Kiryas Joel. From a practical perspective, this may create an awkward condition for the owner of that property. Clarification should be provided on whether the existing driveway access to Lot "2" would remain the same or be modified if the Annexation Petition is approved.

10. Annexation Area VIII (C): This area contains a total of six numbered lots, but only five of them are identified in Table E-2. The lot identified as "21" in Figure 2-3 is missing so the acreage associated with Annexation Area VIII (C) in Table E-2 would appear to be underestimated. Clarification should also be provided in regard to the lot labeled "27." On the Town of Monroe Zoning Map, the parcel of land that would correspond to Lot "27" in Annexation Area VIII (C) extends all the way to the municipal boundary of the Village of South Blooming Grove. On the Annexation Map (Figure 2-3), however, the westerly edge of Lot "27" does not touch that municipal boundary, suggesting that a portion of the lot with the tax map designation of "1-1-39" is not intended to be part of the Annexation Petition and would remain in the Town of Monroe. On other figures included in the DGEIS, however, the area of proposed annexation is shown extending all the way to the municipal boundary of the Village of South Blooming Grove in that location (e.g., Figures 3.5-3 and 3.5-4). These discrepancies should be resolved. If the depiction of the Annexation Area on Figure 2-3 is accurate, a rationale should be provided for the proposed configuration of Lot "27" in Annexation Area VIII (C), and the implications of splitting an existing lot between two municipal jurisdictions and zoning district designations should be described. It is also noted that the lot identified as "26" is landlocked but currently developed with a use labeled as "School/Health." At the present time, its sole means of access is from Cliff Court, which is proposed to remain in the Town of Monroe. The lot labeled "27" is similarly landlocked. Its existing land use is identified as "Res. Vac," but the existing location of access to that lot is not clear. Clarification should be provided on whether the location of access to these lots would be modified if the Annexation Petition is approved and those properties are developed in accordance with Village of Kiryas Joel zoning regulations.
11. Page 2-14 – Section 2.4 – Reviews, Permits and Approvals (cont'd): According to page 15 of the adopted DGEIS Scoping Outline, the Town of Blooming Grove and the New York-New Jersey Trail Conference were both required to be identified as "Interested Agencies." The DGEIS does not identify either one as an Interested Agency so those oversights will need to be corrected.

Section 3.1 – Land Use and Zoning

12. Pages 3.1-1 to 3.1-4 – Section 3.1.1 – Existing Conditions: According to Section II.A.2.c of the adopted DGEIS Scoping Outline, the DGEIS was required to address the relationship between the Annexation Territory and adjoining land uses, including compatibility with those land uses, in the Town of Blooming Grove. This topic was omitted altogether from the DGEIS and needs to be addressed given the proximity of the Annexation Territory to the Town of Blooming Grove and because discussion of this topic was originally required. The failure of the DGEIS to directly study potential zoning related impacts on the Town of Blooming Grove is inconsistent with the adopted DGEIS Scoping Outline, suggesting that the DGEIS was prematurely accepted as complete by the

- Lead Agency on May 1, 2015. Given the absence of required information, the DGEIS was not actually ready for public review at that time. When the missing discussion is added, Figure 3.1-4 should also be updated to identify zoning district designations in adjacent portions of the Town of Blooming Grove.
13. Page 3.1-2 - Section 3.1.1 – Existing Conditions (cont’d): In the 4th paragraph on this page, it is stated that “Maximum residential density permitted in this portion of the Town [referring to the UR-M District] ranges (depending on zoning district) from 0.7 to 8.7 dwelling units per acre (du/ac) for a one-family residence unit with two bedrooms and an accessory dwelling.” To fully understand the derivation of that statement, the text should be correlated with Table 3.1-1, which is not mentioned until later in the narrative.
 14. Pages 3.1-8 – Section 3.1.2 – Land Use Plans (cont’d): According to Section II.A.2.d of the adopted DGEIS Scoping Outline, the DGEIS was required to address consistency of the Annexation Petition with municipal comprehensive plans, including but not limited to that of the Town of Blooming Grove. This topic was omitted altogether from the DGEIS and needs to be addressed given the proximity of the Annexation Territory to the Town of Blooming Grove and because discussion of this topic was originally required. The failure of the DGEIS to directly study potential impacts relating to Town of Blooming Grove comprehensive plan policies is inconsistent with the adopted DGEIS Scoping Outline, suggesting that the DGEIS was prematurely accepted as complete by the Lead Agency on May 1, 2015. Given the absence of required information, the DGEIS was not actually ready for public review at that time.
 15. Pages 3.1-8 and 3.1-9 – Section 3.1.2 – Land Use Plans (cont’d): The DGEIS discussion of the “Village of South Blooming Grove Comprehensive Plan/Planning Policy” should include the full description of the four named overlay districts, exactly as they are written in § 235-5.B(2) of the current Village Zoning Law, instead of incompletely paraphrasing the purposes of those overlay districts.
 16. Pages 3.1-14 and 3.1-15 – Section 3.1.3 – Potential Impacts: The third paragraph in this section includes the following statement: “*Simply put, the land use scenario Without Annexation represents reasonable maximum growth in the annexation lands pursuant to the applicable Town zoning.*” In the absence of additional information, this would appear to be an unsupported conclusory statement. In general, the DGEIS discussion of Town of Monroe zoning parameters that are relevant to the computation of maximum development potential in the 10 areas covered by the Annexation Petition is too selective in its choice of starting assumptions and too vague in describing the underlying methodology that was used to generate Table E-2 in DGEIS Appendix E. For example, in the absence of the proposed annexation, it is probably not realistic to assume that every single family residence constructed in the unincorporated Town of Monroe will contain an

accessory apartment, even if such an outcome is permissible under the Town's zoning regulations. If the Project Sponsor believes that such a conclusion can be supported, the data necessary to justify that underlying assumption should be presented in the DGEIS. Furthermore, Table 3.1-1 does not fully present the range of densities permitted in the RR-3AC, RR-1.5AC, and UR-M districts under a variety of assumptions concerning the presence or absence of central sewer service. Rather than pre-judge the future development scenario and assume that central sewer service will be available in all 10 annexations areas under the "Land Use Scenario without Annexation," as implied by the information presented in Table 3.1-1, it is recommended that Table 3.1-1 be expanded to also identify the maximum permitted residential densities permitted when there is no central sewer service available. As noted elsewhere in the DGEIS, some portions of the Annexation Territory are located outside the Orange County Sewer District #1 boundary and their future connection to central sewers is not guaranteed.³ Particularly as part of a GEIS, when the future being described includes many unknowns, it is important for the environmental analyses conducted to reflect some type of sensitivity analysis. A more neutral and objective analysis of maximum development potential would be presented if alternative zoning parameters (i.e., no central sewer service and full central sewer service, with and without accessory apartments) were identified in Table 3.1-1 and then reflected in an updated version of Table E-2 or alternative versions of that table.

17. Table 3.1-1 – Zoning Data: When Table 3.1-1 is updated, it is recommended that several other revisions be made. In addition to identifying additional parameters for maximum permitted density when no sewer service is available, as previously discussed, the following should be addressed:
 - a. Citations should be provided to the relevant sections of the municipal code(s) from which the specific zoning parameters have been obtained.
 - b. Since there is no requirement for central sewer service for a single-family dwelling in the Town of Monroe's RR-3AC District, reference to that requirement should be removed.
 - c. It is noted that maximum density standards may not be rounded up under customary zoning practice, though the figures presented for the Town of Monroe's RR-3AC and RR-1.0AC Districts in Table 3.1-1 were both rounded up to numbers that actually exceed maximum permitted density standards. Because Table E-2 correctly used the more accurate density figures, it is recommended that Table 3.1-1 either reference the same

³ According to Figure 3.5-4, currently unserved areas would include all of Annexation Area VIII (A), part of Annexation Area VIII (B), most if not all of Annexation Area VIII (C), and part of Annexation Area VIII (E). These areas include some or all of approximately 15-17 annexation lots identified on Figure 2-3.

figures or include a footnote explaining that the “Maximum Permitted Residential Density” figures were rounded up only on Table 3.1-1, but more precise figures to three decimal points were used for purposes of calculating maximum development potential in Table E-2.

- d. By making an assumption that all the lots in the Annexation Territory would be served by central sewer under the “Land Use Scenario without Annexation” option, it is anticipated that the maximum development potential of the Annexation Territory under existing zoning parameters would be somewhat overstated. It is important to present an accurate and realistic range of alternatives in the DGEIS, since the analysis of maximum development potential forms the basis of the calculation of how many new dwelling units would be constructed in the Town of Monroe outside the existing Village of Kiryas Joel in the absence of any annexation (currently estimated at 1,431 dwelling units but subject to change again once the comments herein have been addressed) and how many additional dwelling units would be needed to meet the demand for housing by the projected population within the existing Village limits or elsewhere (currently estimated at 2,394 dwelling units but also subject to change based upon a revised development potential analysis and alternative methodologies for developing population forecasts).
 - e. Given the demonstrated large size of families in the Hasidic community that have chosen to live in the Village of Kiryas Joel and surrounding areas of the Town of Monroe, it is not logical to define projected housing growth in terms of 2-bedroom dwelling units. In zoning districts where permitted housing density is defined by the size of dwelling units (e.g., the UR-M District in the Town of Monroe), additional zoning parameters for larger size dwelling units should also be identified in this table.
 - f. This table should be expanded to include zoning parameters for the Town of Blooming Grove, given the proximity of that Town to the Annexation Territory.
18. Table E-2 – Lot by Lot Development Yield – 507-Acre Annexation: Based upon a detailed review of this table, the following comments are noted:
- a. The DGEIS does not contain a sufficient explanation of the methodology that was used to generate this table, either in the column headings or notes at the end of the table itself or in the narrative included in Section 3.1.3 beginning on page 3.1-14. In fact, there is no mention of Table E-2 in Section 3.13, an omission that should be corrected. In general, this lack of explanatory detail does not allow the reader to easily understand how the computations were completed or to verify the accuracy of the results.

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- b. Under the column heading labeled “Land Use fr assess roll,” clarification is needed for the land use described as “Res. Vac.” Does that label signify that the lot was developed with a residence that was unoccupied at the time of preparation of the Assessment Roll, or something different? The date of the Assessment Roll that was relied upon to populate the fields under this column heading should be identified in Table E-2. The shortcoming of using data from an assessment roll rather than a lot-by-lot land use survey should also be described.
- c. Table E-2 contains some errors in zoning district designations for a few lots in two of the proposed annexation areas, as identified below.

Annexation Area	Table E-2 Zoning District Designation	Actual Zoning District Designation
II – Lots 66, 71, 72, 73, 74, 75	UR-M	RR-1.0 AC
VIII (B) – Lots 23, 24	RR-1.0 AC	RR-3 AC

These errors, among others, will need to be corrected before the analysis presented in Table E-2 can be verified as being an accurate characterization of future development potential in the Annexation Territory under the “Land Use Scenario without Annexation.”

- d. Both the narrative on page 3.1-15 and Table E-2 make reference to the need to account for “certain environmental constraints” and “Constrained Area(s),” respectively. However, no explanation is provided for what those environmental constraints include and how they are to be accounted for. The definition of what constitutes a “Constrained Area,” as that term is used in Table E-2, should be provided. From a practical perspective, are there other features of land that would have a bearing on its development potential that were *not* included under the label “Constrained Area.” If so, why were those other features not accounted for as well? In that event, Table E-2 should include an additional note qualifying the results of the analysis presented.
- e. The figures identified in the column labeled “As-of-right/Build per zoning density (DU/Ac) are based upon the data presented in the column labeled “Maximum permitted residential density” in Table 3.1-1. Those figures were presumably cited in Table E-2 because they produced an outcome that was intended to meet the Project Sponsor’s objective of maximizing residential development potential in the Annexation Territory. Inherent in the use of the identified density multipliers (of 0.667, 3,485, and 8.712 for the RR-3AC, RR-1.0 AC, and UR-M Districts, respectively), however, is the assumption that nearly every lot in the Annexation Territory (in all

three zoning districts) that is not already occupied by a use that was viewed as being somewhat immune to future change (e.g., cemetery, transportation feature, conservation land, stormwater feature, school, religious use, health building) would need to be developed with a single family residence as well as an accessory apartment. While that development scenario may be theoretically possible under the Town of Monroe zoning requirements, it is unclear how the use of accessory apartments on most lots would allow the projected population growth to be absorbed in the manner anticipated since accessory apartments are not permitted to have more than two bedrooms⁴ and the DGEIS repeatedly asserts that average household size among the Hasidic families in the Village of Kiryas Joel is typically 5.9 persons.⁵ It would seem that the prospective accessory apartments would either need to be occupied by smaller than average households (thereby further reducing the population assumed to reside in the Annexation Territory to a figure below 7,356 persons residing in 1,431 dwelling units) or else could produce severely overcrowded housing conditions if occupied by a typical 5.9-person household. In addition to concerns about reliance on the use of accessory apartments in the analysis presented in Table E-2, it is further noted that four lots in the UR-M District (excluding the already approved Forest Edge development) are projected to be developed at a much higher density of 10 dwelling units per acre. That density could only be achieved for one-bedroom apartments in a “multiple dwelling group” or for two-bedroom apartments in such a development if they were restricted to senior occupancy.⁶ Typically, a family with an average size of 5.9 persons could not be accommodated in such small quarters.

- f. Clarification is needed on the information presented under the column labeled “As of right/Build per zoning (# DU)” in Table E-2. At the end of that column, there is a note that reads “Calculated yield assumes combining abutting lots.” However, no information is provided on which of the annexation lots were treated in that manner. In addition, it is unclear whether the figures presented under that column are intended to represent the net dwelling unit *increase* on a lot that is already developed, or the total development potential of the annexation lot including any existing dwelling units (or assuming complete redevelopment of the lot). It is noted that the product of the number in the column labeled

⁴ Code of the Town of Monroe, § 57-21.H.

⁵ A figure of 5.9 persons per dwelling is identified multiple times in the DGEIS as the average household size in the existing Village of Kiryas Joel. It is noted, however, that data presented on Table E-1 of DGEIS Appendix E produces a different result. According to that table, the Village had a 2014 population of 22,634 persons and a 2014 housing inventory of 4,086 dwelling units. Those two figures yield an average household size of 5.539 persons, not 5.9 persons. This discrepancy in projected average household size needs to be resolved.

⁶ Code of the Town of Monroe, § 57-13.N.(1).

“Developable (Ac.)” and the number in the column labeled “As of right/Build per zoning density (DU/Ac)” often does not produce the result identified in the column labeled “As of right/Build per zoning (# DU).” An explanation should be provided on how the information identified in the column labeled “Existing density (DU/Ac)” factors into the overall analysis. Clarification should be provided on all of these matters.

- g. It is important to note that the accuracy of the maximum development potential analysis presented in Table E-2 of the DGEIS cannot be verified until the above-described discrepancies and errors are addressed. Based upon the questions that have been raised so far, it cannot be verified that the Annexation Territory could accommodate 1,431 dwelling units under existing Town of Monroe zoning requirements as stated in Table E-2, nor can it be verified that the population to be accommodated in those units would total 7,356 persons. Without a careful reexamination of this analysis, it is not possible to reach reliable conclusions concerning the potential impacts of the proposed annexation on new housing construction, population growth, and demand for community services, facilities, and utilities within the Annexation Territory, and to make an accurate comparison between existing and potential future conditions. Since this analysis is one of several fundamental starting points for a variety of additional environmental analyses that are presented elsewhere in the DGEIS, the inaccuracies and insufficiencies described herein must be satisfactorily addressed.
19. Page 3.1-14 – Section 3.1.3 – Potential Impacts: The DGEIS discussion of “Land Use Scenario with Annexation” does not provide sufficient detail to demonstrate how the existing Village of Kiryas Joel could accommodate growth of another 3,825 new dwelling units in a responsible and environmentally sound manner on the developable land remaining in the Village, which the DGEIS claims would be necessary if the Annexation Petition is not approved. Based on data presented in Table E-1 in DGEIS Appendix E, the Village had 4,086 dwelling units as of 2014. According to information provided elsewhere in the DGEIS,⁷ 80% of the parcels of land (tax lots) in the Village are fully developed, leaving at most 20% of the parcels of land (tax lots) in the Village available to accommodate the additional projected growth.⁸ On the 565.5 acres of Village land that has already been developed (80% of 700 acres), the housing density would be 7.2 dwelling units per acre (4,086 dwelling units in 2014 divided by 565.5 acres). If that development density were to be applied to the 140 acres that might remain available for development, no more than 1,008 additional dwelling units could be accommodated *based on historical trends in the Village itself*. Yet, the DGEIS

⁷ DGEIS Section 2.0 – Project Description, page 2-3.

⁸ Land that is still available for additional development could, in fact, be even less than 20% if some portion of the land not yet fully developed is currently partially developed.

effectively makes the entirely unsupported assertion that those 140 acres could accommodate 3,825 additional dwelling units, resulting in a development density of more than 27 dwelling units per acre on that land. If the pressures to accommodate additional population growth in the Village of Kiryas Joel were as great as implied in the DGEIS, then some of this development should have already occurred inside the Village. Conversely, if the lack of sufficient land in the Village were actually an impediment to accommodating that population growth, then additional pressure for development in the Town outside the Village boundaries would have already been felt. Yet, the DGEIS notes that the Annexation Territory now contains only 99 dwelling units and a population of 300 persons on 507.4 acres — relatively small numbers in comparison to the projected development density and population growth under the Annexation Petition.

20. Page 3.1-17 – Section 3.1.3 – Potential Impacts (cont’d): The DGEIS discussion of “Annexation and District Lines” should be expanded to address road maintenance considerations.

Section 3.2 – Demographics and Fiscal

21. Page 3.2-1 – Section 3.2.1. – Demographics: In the first paragraph on this page, it is stated that the Village of Kiryas Joel had a population of 20,175 in 2010 according to the U.S. Census. However, the actual U.S. Census data included in DGEIS Appendix H indicates that the 2010 population was 20,878. Similarly, different figures are presented for the Village’s population in 2014. For example, Table 3.2-1 in Section 3.2.1 identifies a population of 22,643 while Table E-1 in FGEIS Appendix E identifies a figure of 22,634. Because so many different sources of population data are presented in the DGEIS, and some of that data is inconsistent, it is recommended that the accuracy of population figures cited in the DGEIS be reconfirmed and specific data sources be cited each time a population statistic is identified. The text references provided could be to a table that is embedded in the narrative portion of the DGEIS or to supplementary data that is included in FGEIS Appendix H, as appropriate.
22. Table E-1 – Change in Population Distribution: This table contains a number of important statistics that form the basis for other analyses presented elsewhere in the DGEIS so it is important for it to be accurate and understandable. To that end, the following discrepancies are noted and should be resolved:
 - a. The first section containing 2014 demographic statistics for Kiryas Joel states that the existing average family size is 5.9 persons per dwelling unit. This is a key statistic that is often cited in many other sections of the DGEIS and is used as a basis for the population projection through 2025. However, it is not possible to verify the accuracy of that figure using the data presented in Table E-1. In fact, a figure of only 5.539 results from

dividing the 2014 population of 22,634 by the 2014 housing stock of 4,086 dwelling units. An explanation should be provided for this discrepancy.

- b. It is recommended that average family size statistics be provided for the second and third sections of Table E-1 as well so that figures are also presented for the Town of Monroe under the 507-acre and the alternative 164-acre annexation scenarios. Using the data presented in Table E-1, those figures would appear to be 3.03 persons per dwelling unit in the Town of Monroe under the 507-acre annexation scenario and 7.41 persons per dwelling unit in the Town of Monroe under the 164-acre annexation scenario.
 - c. The fourth section of Table E-1 presents a future picture of Hasidic population growth in the Annexation Territory projected out by 10 years, noting that the Study Area will gain 19,663 people between 2015 and 2025, with or without any annexation, and those new people will require a total of 3,825 dwelling units. A comparison between those two figures reveals an average household size of 5.14 persons per dwelling unit. If 5.9 persons per dwelling unit is the accurate figure to use for purposes of projecting future housing demand, then it is unclear why 3,825 new dwelling units would be needed by the Village of Kiryas Joel. Instead, it would seem that a total of 3,333 dwelling units would more than suffice (assuming the population projection of 19,663 is accurate to start with, which it is unlikely to be). Additional information must be presented to explain the discrepancy between the 5.9-person average household size, which is referenced in multiple sub-sections of the DGEIS as one of the key parameters to be used for future population projections, and the 5.14-person average household size that is derived from the figures identified in Table E-1. It is noted that none of the average household size figure identified on the second page of Table E-1 come close to the 5.9 person per dwelling unit figure that was cited elsewhere as the relevant figure to be used for determining how much housing demand would result from the projected population increase.
 - d. The second page of Table E-1 is intended to present the methodology that was used to distribute the anticipated new population between the Village of Kiryas Joel and the unincorporated portions of the Town that together constitute the Annexation Territory. However, no explanation is provided for why average household size is different for each of the individual scenarios presented on this page of Table E-1.
23. The DGEIS contains virtually no discussion of potential fiscal impacts as they relate to services that are or may need to be provided by Orange County in the future, yet it is clear that some impacts will result. This significant omission in the DGEIS needs to be addressed.

24. As previously noted in Comment 2 of this document, the time horizon selected by the Project Sponsor for study of potential environmental impacts in this DGEIS was only 10 years and should have instead covered at least a 20-year time period. Because the population projections affect virtually every other impact analysis presented in the DGEIS, the lack of reliable population projections covering a longer time period also calls into question the accuracy of nearly every other study of potential environmental impacts undertaken as part of the preparation of this DGEIS. Since it is believed that many of those other analyses will need to be redone, additional comments on what is now included in this subsection of the DGEIS will be withheld until more accurate information is available for review.

Section 3.3 – Community Services and Facilities

25. Page 3.3-16 – Section 3.3.5 – Potential Impacts – Other Public Services: The land selected for inclusion in the proposed Annexation Territory according to Figure 2-3 will result in a municipal boundary configuration that produces a few potentially awkward road relationships in the Town of Monroe. While it is likely that many of the boundaries of the proposed annexation areas were chosen to ensure that all portions of the proposed Annexation Territory were contiguous to each other and to the existing municipal boundary of the Village of Kiryas Joel, some new segments of road discontinuity will be created in a few locations. If a single road continually weaves in and out of two adjoining municipalities, such a condition could pose extra challenges for maintenance of that road as well as any sidewalks that are constructed along the traveled-way of that road. Examples of roads that will exhibit this characteristic if the Annexation Petition is approved without modification include portions of Seven Springs Mountain Road (C.R. #44), Seven Springs Road, Schunnemunk Road, Raywood Drive, Mountain View Drive, and Irene Drive. These practical considerations should be identified and analyzed.
26. Page 3.3-16 – Section 3.3.5 – Potential Impacts – Other Public Services: The DGEIS fails to adequately address potential impacts on “Orange County Social Services.” In fact, the DGEIS includes the unsupportable statement that “there will be no difference in the cost or availability of County Services as a result of annexation.” The pertinent issue is not whether a particular amount of growth will or will not occur in the Study Area. It is whether the County will be equipped to address all of the new requests for assistance, resulting from the projected population growth. If the DGEIS provides a proper analysis of potential environmental impacts, the County will be better equipped to plan for any needed expansion of its services when and as needed.
27. Page 3.3-17 – Section 3.3.5 – Potential Impacts – Other Public Services (cont’d): At the end of this page, the DGEIS includes a statement indicating that “the

residents of Kiryas Joel do not typically utilize many other available County services.....As a result, it would appear that any higher proportionate reliance on Medicaid and SNAP is offset by the lower proportionate use of these other programs so as to not reflect a disproportional reliance on County social services or depletion of Orange County tax resources.” It not the job of the Project Sponsor, however, to weigh and balance potential environmental impacts and trade one off for another so that a “no impact” conclusion can be justified. Instead, the DGEIS should include the data needed to quantify the projected usage of County services in relation to the cost of providing those services so that the potential impacts associated with the projected population growth can be evaluated, and the Lead Agency can then fulfill it duty to “weigh and balance relevant environmental impacts with social, economic and other considerations”⁹ as part of the formulation of its SEQRA Findings on the Proposed Action.

Section 3.6 – Natural Resources

28. Page 3.6-4 – Section 3.6.2 - Potential Impacts: The DGEIS points out that the proposed annexation itself would not involve any physical disturbance of the ground, which is an accurate statement. The DGEIS also acknowledges that disturbance of the land (e.g., geology, soils, topography, wildlife and habitats, wetlands and water resources) would eventually result from construction activities in the Annexation Territory, which is also an accurate statement. The DGEIS begins to go astray and deviate from portraying an accurate picture of potential future conditions, however, when it asserts that the type and amount of disturbance that would result would essentially be the same with or without the proposed annexation. Clearly, that is an inaccurate and unsupported conclusion. First, if the Annexation Petition is approved, the land in question will become part of the Village of Kiryas Joel and all proposed land development activities will be under the Village’s jurisdiction. Elsewhere in the DGEIS, it was previously noted that the newly annexed lands would need to receive a zoning designation that is likely to be one of the two mapped districts included in the Village’s Zoning Law (either “R” or “C”, until such time that a “PUD” designation may be chosen instead). The DGEIS also acknowledges that the Village’s zoning regulations do not specify a maximum density, unlike the regulations that currently govern land development in the Annexation Territory under the Town of Monroe Zoning Law. Consequently, it is also reasonable to conclude that properties in the Annexation Territory will be subject to much more intense development pressure if the Annexation Petition is approved and some of the natural resources located in the Annexation Territory (e.g., wetlands, trees) may receive much less environmental protection.
29. Page 3.6.7 – Section 3.6.3 - Mitigation Measures: Though this topic is only covered superficially in the DGEIS, it is noted that the Town of Monroe has

⁹ 6 NYCRR Part 617.11(d)(2).

wetlands regulations¹⁰ and the Village of Kiryas Joel does not. Similarly, the Town of Monroe has specific provisions concerning the protection of trees¹¹ as part of subdivision development, and the Village of Kiryas Joel does not have comparable provisions. The only wetland resources that are currently regulated in the Village are those that are defined as State- or Federally-regulated wetlands. The DGEIS should be supplemented with an analysis of whether the Annexation Territory contains wetlands that would be regulated if that land remains in the Town of Monroe, and should further demonstrate that there would be no impact to locally regulated wetlands by removal of the Annexation Territory from the regulatory jurisdiction of the Town of Monroe or, in the alternative, should analyze the impacts of deregulating any locally regulated wetlands that might become part of the Village of Kiryas Joel if the Annexation Petition is approved. The DGEIS should also include a more complete analysis of potential impacts on trees in the Annexation Territory.

Section 4.0 – Thresholds for Future Environmental Reviews

30. Page 4-1 – Section 4.0 – Thresholds for Future Environmental Reviews: This section is woefully inadequate. The opening paragraph correctly describes the intent of this subsection, but the balance of the narrative does not provide the needed level of specificity for it to fulfill one of the mandates of a GEIS. Instead of providing a clear roadmap for future environmental reviews, including identification of numerical thresholds that would trigger the need for supplementary environmental analysis beyond that which is included in the DGEIS, the narrative in this subsection merely describes the anticipated review process – one that has presumably been in effect already and will continue to be applied in the future. The DGEIS should instead provide sufficient information to enable future applicants for approval of development projects in the Annexation Territory to know whether supplementary environmental analysis would be required for their projects and what type of additional analyses may need to be undertaken. It is also important to point out that a variety of potential actions, including but not limited to “construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area....” and “construction or expansion of a single-family, two-family or a three-family residence on an approved lot including provision of necessarily utility connections,” are defined as Type II actions and would not be subject to further environmental review under SEQRA, notwithstanding any implications to the contrary in the DGEIS. It is conceivable therefore that some of the projected growth in housing development forecast under the DGEIS analysis could actually occur without any further environmental review under SEQRA.

¹⁰ Code of the Town of Monroe, Chapter 56, Wetlands.

¹¹ Code of the Town of Monroe, Chapter 57, Zoning, Article XX.

31. Page 4-1 – Section 4.0 – Thresholds for Future Environmental Reviews: This subsection should also elaborate on the “master plan committee” process that is anticipated to be pursued by the Village of Kiryas Joel “to study the opportunities and constraints of the 507 acres as it relates to Village goals for its existing and future residents, and make specific recommendations for future land use decisions.”¹² Among other considerations, this discussion should also describe the type of environmental review that would be undertaken to satisfy SEQRA prior to the Village of Kiryas Joel establishing zoning policies for land in the Annexation Territory.
32. When a SEQRA Findings Statement is adopted for Proposed Action (approval of the Annexation Petition), it should include a clear and unambiguous description of “Thresholds for Future Environmental Reviews” to ensure that proper consideration is given to various environmental resources by other Involved Agencies when more site-specific plans have been identified for development of lands in the Annexation Territory.

Conclusion

Because many of the essential underlying environmental analyses included in the DGEIS will need to be supplemented and/or revised, and those modifications could alter the conclusions to be drawn from those analyses as well as the type of supplementary environmental review to be required for site-specific projects within the Annexation Territory in the future, it is recommended that the Lead Agency provide sufficient time for review and comment on the Final GEIS before making its required Findings under SEQRA. It is also recommended that the Lead Agency schedule a public hearing on the FGEIS because (a) a limited amount of time was afforded to the public and other interested parties to review the DGEIS once it was accepted by the Lead Agency on May 1, 2015; (b) the DGEIS was already missing essential information required by the adopted DGEIS Scoping Outline at the time of the DGEIS’ acceptance by the Lead Agency on May 1, 2015; (c) the public hearing held on the DGEIS was opened and closed in a single meeting (June 10, 2015) at which speakers were limited to three minutes of oral comment each; and (d) the Lead Agency was unwilling to extend the written comment deadline on the DGEIS by even a modest amount of time as requested by some speakers at the June 10, 2015 public hearing. While 6 NYCRR Part 617 (SEQRA) does not specifically provide for the holding of a public hearing on an FEIS, it also does not preclude a Lead Agency from doing so and many other municipalities in the New York Metropolitan area have followed that procedure when new and/or revised analyses are included in a Final EIS for the first time. As an alternative, the Lead Agency could also elect to prepare a Supplemental GEIS, prior to completion of the FGEIS, and then follow all the procedures that are applicable to a DEIS. It is recommended that the Lead Agency carefully review the criteria for

¹² DGEIS Section 3.1.4 – Mitigation Measures, page 3.1-18.

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requiring preparation of a Supplemental EIS¹³ before determining its next course of action. If the Lead Agency chooses to next prepare an FGEIS, rather than a Supplemental DGEIS, it is further recommended that the Lead Agency provide for more than a 10-day waiting period between the date of acceptance of the FGEIS and the adoption of a Findings Statement so that members of the public and others, especially those who are identified as Interested Agencies, can fully digest the FGEIS and contribute in a well-informed, meaningful way to the final steps in the environmental review process under SEQRA. A period of at least 30 days should be provided for that final step to ensure effective outreach and proper coordination between all Involved and Interested Agencies and others, consistent with the urging of the Commissioner of the New York State Department of Environmental Conservation when he issued his Lead Agency Determination on January 28, 2015.

Respectfully submitted,



Joanne P. Meder, AICP
President

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¹³ 6 NYCRR Part 617.9(a)(7).

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HENRY M. HOCHERMAN
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June 22, 2015

Via Electronic Mail (tmiller@tmillerassociates.com)

Timothy Miller Associates, Inc.
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*RE: Comment on the 507-Acre Annexation Town of Monroe to
Village of Kiryas Joel Draft Generic Environmental
Impact Statement (the "DGEIS") Prepared Pursuant to the
New York State Environmental Quality Review Act ("SEQRA")*

Dear Mr. Miller:

We are counsel to the Town of Blooming Grove. On the Town's behalf, we submit herewith the enclosed written comments on the above-referenced DGEIS, which have been prepared by Joanne P. Meder, AICP of Meder Consulting Services. Ms. Meder has a Master's Degree in City and Regional Planning from Harvard University and more than 20 years of land use, planning, zoning and SEQRA review experience, representing both municipal governments and private applicants in the SEQRA process. Her comments highlight several fundamental flaws in the DGEIS that must be addressed either through a Supplemental General Environmental Impacts Statement ("SGEIS") or in the Final Generic Environmental Impact Statement ("FGEIS").

We remind you that pursuant to SEQRA, the Board of Trustees of the Village of Kiryas Joel, as Lead Agency, must identify and take a "hard look" at the relevant areas of environmental concern related to the proposed annexation. *See County of Orange v Vil. of Kiryas Joel*, 44 AD3d 765, 767 (2d Dept 2007). The enclosed comments identify relevant areas of environmental concern which the DGEIS fails to consider or inadequately analyzes. These environmental concerns must be addressed through a SGEIS or in the FGEIS or the Lead Agency simply will not have sufficient information necessary to take a hard look at the relevant areas of environmental concern. The Lead Agency's failure to meet this obligation could result in the invalidation of any findings statement and concomitant approval of the annexation by the Lead Agency by a court of competent jurisdiction.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Timothy Miller Associates, Inc.

June 22, 2015

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Please feel free to contact the undersigned if you have any questions.

Respectfully submitted,

Hocherman Tortorella & Wekstein, LLP

By: 
Noelle C. Wolfson

Enclosure

cc: Town Board of the Town of Blooming Grove
Board of Trustees of the Village of Kiryas Joel
Town Board of the Town of Monroe
David E. Church, AICP, Planning Commissioner, Orange County
Joanne P. Meder, AICP
Adam L. Wekstein, Esq.