

3.1.5 Land Use and Zoning Comments and Responses

Comment 3.1-1 (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): A County-owned parcel, specifically SBL 1-1-5, is being included within and as part of the petition for annexation of territory. This 7-acre parcel constitutes a portion of a significant County park facility known as Gonzaga park, and also accommodates the routes of the Highlands Trail and Long Path – two regionally significant hiking trails. Any future impacts to the park as a result of annexation into the Village of Kiryas Joel must be evaluated within the context of the anticipated scale and intensity of development that will likely occur at neighboring properties, as well as an increase of patronage from nearby Village residents and additional needs for particular amenities or services. Preservation of the aforementioned hiking trails must also be ensured in the future, as such trails are characterized by undevelopment on the annexation territory will have the potential to negatively impact the natural qualities of these regionally-significant hiking trails. As such we express concern about the lack of documentation on the public interest and potential impacts of including such lands, without our agreement, on operations of this parkland including issues with public access.

Response 3.1-1: *There are county parks in practically all towns and villages in Orange County. According to the County,*

"The Parks, Recreation and Conservation Department of Orange County manages and maintains over 3400 acres of parkland throughout the County with annual visitation figures estimated at 800,000.

The facilities in the County Park System include: two golf courses, dog park, arboretum, group and family picnic sites, reception and visitor centers, camping sites, multi-purpose trails, 11+ mile Heritage Trail, multi-purpose sports fields, softball fields, baseball field, playgrounds, equestrian area, observation tower, tennis courts, ponds, waterfront areas, open space, skating rink, snow tubing park, cross county ski trails and much more.

The Parks, Recreation and Conservation Department of Orange County is dedicated to serving the community with quality active and passive recreation opportunities for all ages to enjoy."

Given the location of the Gonzaga Park relative to the existing Village of Kiryas Joel, there is no reason to believe the annexation action will adversely affect the use of the park.

The Village fully anticipates that development on the annexation lands will honor and respect all public lands, including the County park and any existing trails and easements related thereto.

Comment 3.1-2 (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): The stated purpose of the annexation is to accommodate an expansion of the population of the Village of Kiryas Joel, as the capacity of the Village to add additional housing units within its current confines is constrained.

Response 3.1-2: *The expansion of the population of the Village will occur with or without annexation. Extending services to the annexation area, which is already largely owned and populated by individuals affiliated with the cultural mores of Kiryas Joel, in the opinion of the Village, makes good planning sense and does not force higher density*

and reconstruction in the existing Village boundaries to accommodate the inevitable growth.

Comment 3.1-3 (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): The immediate and predictable outcome of the annexation is to replicate the land use pattern now in place in the Village in the annexed lands.

***Response 3.1-3:** Comment noted. As noted in the DGEIS, the Orange County Comprehensive Plan has identified the area in the vicinity of Kiryas Joel as a future growth center, encouraging smart growth development in proximity to existing development and services, presumably to avoid the effects of suburban sprawl. Any future development on the annexed lands will not be immediate but will likely occur over time to accommodate the natural growth of the Village.*

Comment 3.1-4 (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): Approval of the annexation will have the effect of increasing the population units within the 507 acres under consideration and increasing the population. Moreover, the Petition, in our view, is based on the assumption that identical growth will occur with or without the annexation. If that is true, could not that identical growth happen by an even greater amount with the annexation. Put more simply, if the Village will grow vertically if not permitted to grow horizontally, what is to stop the growth from being vertical and horizontal if horizontal growth is permitted.

***Response 3.1-4:** The Village seeks to accommodate growth in a manner that respects the living conditions and cultural needs of its population. Population projections included in the DGEIS forecast a steady rate of growth that will not be affected one way or the other as a direct result of annexation. Exactly when, where and what type of future development might occur cannot be predicted with any certainty and therefore, it is possible that both horizontal and vertical growth may occur under either scenario.*

Comment 3.1-5 (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): The Annexation Proposal is inconsistent with Town of Monroe's Comprehensive Plan. The annexation territory is comprised of lands currently zoned by the Town of Monroe as Rural Residential (RR-1 and RR-3) as well as smaller areas zoned Urban Residential Multi Family (URM). The Town of Monroe Comprehensive Plan references these zoning areas and while it acknowledges some of the Rural Residential Areas may be located in close proximity to the Village, these lands are not targeted for increases in development density. The Town of Monroe notes that because of the development constraints and sensitive characteristics of the lands, it recommends the use of clustering, limiting tree clearing, avoidance of siting development on ridges, and use low impact development techniques. Annexation will permit the Village (as described in the DGEIS) to rezone the lands PUD and permit development densities inconsistent with the Town's vision (and public interest).

***Response 3.1-5:** The Town of Monroe Comprehensive Plan was last updated in 2008 using data available prior to that time. It did not expressly take into account data from the 2010 US Census, or the County's population projection for the Village also published in 2010, that indicated that the population of the Village would be some 55,500 persons by the year 2020.*

The Village of Kiryas Joel is within the Town and comprises a substantial portion of the Town's population. While the Town's Comprehensive Plan did not take into account the

population growth of the Village that was indeed inevitable, even eight years ago, the Town's planning history includes its record for approving development within proximity of the Village, for example the recent subdivision approvals for Vintage Vista and Forest Edge.

Further, it is notable that at the time of the last annexation decision by the Town Board, it acknowledged that growth is best in the vicinity of the village rather than spread out in the Town. Additionally, the County's Comprehensive Plan identifies a significantly large area surrounding what is now the Village as a Priority Growth Area.

Comment 3.1-6 (Letter 3, James C Purcell, Village of Monroe Mayor, June 10, 2015): The statement here, and elsewhere in the DGEIS to the same effect, that the "without annexation" and "with annexation" scenarios "reveal that potential impacts of annexation relate not to population growth, but to the difference in population distribution, one to the other, based on the underlying premise of inevitable and continued population growth" is not supported in the DGEIS. Simply stating the assumed premise that the same growth will occur with or without annexation is not proof of the same. Further, such a premise defies logic. To posit that the anticipated 20,000 additional people in the annexation parcel -- if annexation proceeds at a pace as the DGEIS proposes - will simply be "redistributed" into the Village of Kiryas Joel if there is no annexation is reckless speculation. The DGEIS states that the Village of Kiryas Joel has 80 percent of its tax lots "fully developed." (DGEIS at 2-3). 20,000 people will not be "redistributed" to the remaining 20% of the less-than-fully-developed tax parcels remaining in Kiryas Joel, a large portion of which are not controlled by Kiryas Joel, but instead are held in ownership by private developers. There must be additional studies in a SGEIS or in the FGEIS addressing the true impact of the substantial increase in population growth in the annexed area if annexation occurs and higher density zoning provides the basis for the projected 20,000 additional people.

Response 3.1-6: *The DGEIS did not assume that if no annexation were to occur, all growth would be accommodated within the existing village boundaries. Rather, the DGEIS acknowledges that without annexation almost 40 percent of the projected ten year growth would occur in Monroe (outside of the Village) under existing Town zoning conditions.*

The DGEIS addresses the foreseeable impacts of growth with and without annexation in a fashion that is consistent with the requirements of SEQRA. The Village is confident that its projections of potential housing construction within the existing Village under the no-annexation scenario can be accommodated through new construction and reconstruction activities. Obviously, the DGEIS intends to present a rational analysis of potential significant impacts from annexation. If development to accommodate the anticipated population growth in and around the Village does not ultimately occur here but elsewhere then, presumably the identified potential impacts would be less.

Comment 3.1-7 (Letter 3, James C Purcell, Village of Monroe Mayor, June 10, 2015): The DGEIS fails to provide mitigation measures regarding the environmental impacts of the large increase in population growth. This is improper under SEQRA. The reference in Section 3.1.4 that undefined zoning regulation constitutes mitigation, demonstrates a lack of understanding of the issue - or an avoidance of it. Zoning in the abstract mitigates nothing. Zoning only provides the opportunity for mitigation if, and then only to the extent, that the zoning regulations anticipated are set forth in detail and substantively have the effect of some level of mitigation.

Thus, there is no mitigation set forth. In a similar fashion, the referenced "mitigation" in Section 3.1.4 that Kiryas Joel anticipates a master plan "for future land use decisions" is apropos of nothing, without any detailed substance of such a comprehensive plan. True and relevant mitigation measures must be addressed in a SGEIS or the FGEIS; failure to do so will leave this EIS process fatally flawed. It also would be illegal SEQRA segmentation not to address the zoning that Kiryas Joel anticipates.

***Response 3.1-7:** As clearly stated in the DGEIS, the annexation action will not cause the projected population growth; rather such growth will occur with or without annexation. Nevertheless, while the implications of population growth require good planning, population growth itself is not an impact of annexation requiring mitigation under the provisions of SEQRA.*

Comment 3.1-8 (Letter 5, Susan H. Shapiro, Esq., Preserve Hudson Valley, LLC., June 10, 2015): The proposed annexation isolates my clients from the rest of the Town of Monroe, resulting in reduced Town services to my clients, including but not limited to snow plowing, leaf collection and dog catcher. This annexation directly hurts my clients by reducing community services, reducing their property values, and impairing their freedom to pursue life, liberty and happiness. The proposed annexation is not in the over-all public interest and certainly is not in the interest of my clients.

The Swiss cheese or lace-like structured annexation with baroque boundaries, is highly irregular and is evidence of unadulterated gerrymandering. The irregularly shaped white areas within the orange annexation territory and the red area has been excluded from the annexation since the owners of these properties have not laterady agreed to the annexation. The yellow areas included in the proposed 507 acre annexation as well as the 164 acre annexation. See attached color coded map (attached Exhibit "A").

The red area on the map is a neighborhood in which my clients reside and is bordered on two sides by the Village of South Blooming Grove in the Town of Blooming Grove. The proposed annexation isolates this neighborhood from the rest of the Town of Monroe.

***Response 3.1-8:** This comment appears to be directed to the sufficiency of the annexation petition, which is a topic beyond the scope of the DGEIS. To the extent the comment identifies a reduction in services as an environmental impact to be considered under this SEQRA review, the following is in response.*

The area noted by the commenter will be no more or less isolated from the Town of Monroe after annexation than it is under current conditions. These parcels would still remain part of the Town of Monroe and entitled to all public town and county services as they are today. There is no indication that the Town would or could treat these parcels any differently. Under existing conditions, primary access to this area is via County Route 44, through the Village of Kiryas Joel, and that would not change as a result of annexation.

Comment 3.1-9 (Letter 9, Cathy Herbert, Tuxedo, June 14, 2015): Current zoning laws protect all residents of Orange County. Annexation is, as others have stated, just an attempt to avoid zoning laws.

Response 3.1-9: *Annexation does not avoid zoning laws. Once annexation is formally completed, the lands added to the receiving municipality will be subject to that municipality's local laws, including its zoning law. Further, annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken.*

Comment 3.1-10 (Letter 10, Itzik Gold, Monroe, June 12, 2015): Every municipality is divided in multiple zoning districts. Residential, commercial, industrial, parks etc. Even residential are divided in different zoning areas. Like rural, semi rural, high density and urban. It would be appropriate to impose this zoning districts together with the annexation approval.

Response 3.1-10: *Once annexation is formally completed, the lands added to receiving municipality will be subject to that municipality's local laws, including its zoning law.*

Comment 3.1-11 (Letter 12, Jim Freiband, Town of Woodbury, June 10, 2015): Lack of a comprehensive plan: present development creates a pattern of unworkable city scape: Current housing is dangerous: There is no planning for all the other land uses that a city of 40K will need. By applying sound urban planning principles the higher density housing should be six to ten-stories in masonry construction. This will allow pedestrian scale development which is essential for an urban setting. The growth should result in a livable workable new city that is safe and well integrated with the surrounding communities; access ways and non-residential components.

Response 3.1-11: *All existing development within the Village is subject to the New York State Fire Prevention and Building Code. Once annexation is formally completed and approved, the lands added to the Village will be subject to the Village's local laws, including its zoning law. The Village anticipates updating its comprehensive plan and zoning law, if necessary, to accommodate the annexation lands.*

Comment 3.1-12 (Letter 18, Stephen Welle, Mayor, Village of Harriman, June 10, 2015): Why shouldn't we expect to see multi story apartment units built even though this possibility doesn't appear to be addressed in the DGEIS?

Response 3.1-12: *Multi-story units are identified in the DGEIS as one of the possible forms of future construction in the annexation lands.*

Comment 3.1-13 (Letter 21, Doreen & Louis Fallot, June 13, 2015): Our main objection to the annexation is the urbanization it will bring. Buildings upon buildings, loss of scenic beauty and wildlife. I understand sewage from their poultry plant is affecting our waters and the disregard of our building codes, zoning and any other laws that affect their community is ignored by their government.

Response 3.1-13: *To the extent "urbanization" refers to compact, high-density development, it should be noted that areas in the vicinity of the Village, including the annexation territory, have been identified by the Orange County Comprehensive Plan as priority growth areas. Likewise, this type of development was lauded by the Commissioner of the NYSDEC in his January 28, 2015 lead agency decision for this action where he stated that compact, high density development (as anticipated if annexation is approved) "is more likely to result in a community that is more walk-able,*

bike-able and more conducive to mass transit while reducing vehicle miles traveled and generation of greenhouse gas emissions from combustion. As a general rule, high density development, appropriately sited, is considered more environmentally sustainable and conserves open space.”

If annexation is ultimately approved, all future development in the annexation territory will be subject to all applicable federal, State and local laws, including both the NYS Fire Prevention and Building Code and the Village’s zoning code.

Comment 3.1-14 (Letter 29, Mary Bingham, Monroe, June 21, 2015): Currently the Town of Monroe has designated the URM zoning district for more affordable housing. The DGEIS did not address the possible need for rezoning in the Town of Monroe should the current URM (high density housing) be annexed into the Village of Kiryas Joel.

Response 3.1-14: *The Village of Kiryas Joel will continue to be part of the Town of Monroe, whether or not the annexation occurs. Higher density housing likely to be developed in the annexation lands will satisfy local and regional demands for diversified and affordable housing that is not accommodated in many other suburban areas of the County.*

Should the Town choose, it may modify its comprehensive plan and zoning code to make further provisions for such housing in the Town at large.

Comment 3.1-15 (Letter 30, Jennie Brach, Monroe, June, 2015): In the event that for whatever reason this proposed annexation would not pass it will result in the following. The population of KJ will just continue to grow and while not have enough land to expand in width they will have no choice but to expand in height. We will then see first 6 story houses and then 8 to 10 story houses which will have the same impact on traffic or environmental as you falsely claim.

Response 3.1-15: *Comment noted.*

Comment 3.1-16 (Letter 38, Michael Kroposki, June 20, 2015): The annexation area is rather hilly and uneven making high density development difficult and more expensive. With reports that KJ has the lowest per capita income in the County, can they realistically afford such high cost development. If they cannot, annexation will lead to a economic disaster in terms of a functioning municipal government.

Response 3.1-16: *The Village of Kiryas Joel is not in the business of land development -- however, like any other local government entity, it manages land use and provides services for its population through revenue generated through property taxes.*

The private sector ultimately will be responsible for the supply and demand issues relating to the costs of development, its financing and future sale or rental of residences.

Comment 3.1-17 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): The DGEIS states (3.1.4) “It is anticipated that the Village of Kiryas Joel will establish a master plan committee 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.” Shouldn’t an updated plan by the Village of Kiryas Joel already be

completed so that the DGEIS can study the anticipated impacts of the annexation and the “Smart Growth” elements to be adopted?

How will the FGEIS set the thresholds required by SEQR regulation 6 NYCRR 617.10[c]? What if the goals and recommendations of the Village master plan are different than those that are stated in the GEIS?

Response 3.1-17: *The annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. The petition was not accompanied by a development plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes, and SEQRA.*

This GEIS review will not displace any of these requirements. This is a similar process to what takes place in all municipalities in New York State. Comprehensive plans are prepared, reviewed generically, zoning decisions may follow that are also reviewed generically and site specific applications are reviewed at a level of detail consistent with the site specific application.

Comment 3.1-18 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

The DGEIS states (3.1.4) that “Land use compatibility has occurred in the Village and the Town of Monroe, generally, through adherence to commonly accepted planning principles, zoning codes, building codes and environmental rules and regulations. Such rules and policies are expected to continue with or without the annexation action.” Can you be more specific and list those principles, codes, rules and regulations that are “commonly accepted” and those that are not? And what about compatibility with the bordering municipalities’ land use regulations?

Response 3.1-18: *The most common laws and regulations include the New York State Fire Prevention and Building Code, New York State General Municipal Law, New York State Village Law, the New York State Environmental Quality Review Act, the New York State Environmental Conservation Law and the Village and Town zoning and land development laws.*

Compatibility with bordering municipalities’ land use regulations is not required; however, such regulations are often typically taken into consideration when developing comprehensive plans and zoning amendments.

Comment 3.1-19 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

There should be a comparison between the two municipalities’ plans, policies, procedures and standards of development review included in the zoning data summary (Table 3-1-1). For example, what is the comparison of regulations by zoning district between Town of Monroe and Village of Kiryas Joel on limiting development of steep slopes and around waterbodies; lakes/streams and what is the difference in building setbacks?

In addition, the Town of Monroe has utilized the Town Law (Section 278(3)(a)) for clustered layouts for projects which may not achieve greater development density than would be permitted for a conventional subdivision in the zoning district but do so in a fashion that “encourage[s] flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands.” This authority is also included in Town Code A65-2. This could be used to preserve the important greenway with hiking trail linkages. What zoning

provisions does the Village of Kiryas Joel have currently, or would it adopt, to accomplish the same goal?

Response 3.1-19: *This comment pertains to future Village comprehensive planning for the annexation territory and is beyond the scope of the current annexation action. As indicated in the DGEIS, the Village expects to convene a planning committee to study the 507-acre territory and consider any necessary updates to its comprehensive plan and zoning code.*

The Village shares the aforementioned goals set forth by the commenter -- flexibility of design, preservation of the environment, etc., along with the achievement of development densities to accommodate its growing population. The Village's PUD zoning designation provides for substantial flexibility and discretion to applicants and decision-makers. The DGEIS alerts future decision-makers to utilize such discretion to promote good design, protection of trails and linkages and consideration of environmental factors when considering future development projects within the annexation territory.

Comment 3.1-20 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

How does the Village of Kiryas Joel foster public involvement in the land use review process? Is information of meetings (agenda & minutes) available on its website? Does it issue public hearing notices for site plan review to property owners within 300 feet of the proposed action like the Town of Monroe does?

Response 3.1-20: *The Village of Kiryas Joel has and will continue to conduct its business in accordance with New York State laws governing municipal operations.*

Comment 3.1-21 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

The DGEIS (3.1-16) states that it "assumes that the new development in the study area would accommodate the current mix of uses including open space on the few lots that are currently vacant or under-developed." How did you come to this assumption? Can this statement be clarified and more specific: which "few lots" will include open space, how much open space will be preserved and will it be contiguous open space within the study area and adjacent property, e.g. County parkland?

Response 3.1-21: *As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan or project for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes, and SEQRA.*

Accordingly, while this DGEIS cannot identify which lots will include open space, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of residents and to be carefully cognizant of important environmental assets of the annexation territory including the areas near the County's Gonzaga Park, Coronet Lake, regulated wetlands and protected wildlife areas.

Comment 3.1-22 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): As for County parkland, what is the reasoning for a portion of it being included in the annexation?

Response 3.1-22: *As noted elsewhere, the annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. The annexation territory defined by this petition was not (and indeed cannot be) determined or altered by the Village or Town. Whether the Park is included in the annexation territory has no bearing on the decision being considered by the Town and Village and will have no significant environmental impact on the County Park. No ownership or jurisdiction over the use, operation or maintenance of the Park will change if annexation is approved.*

Comment 3.1-23 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): As you know, when a municipality reviews development, it needs to ensure that it does not negatively affect surrounding properties and that the community develops in an orderly and cost effective fashion. “Smart Growth” principles also include drawing boundaries of growth areas and conservation areas. Is there any such distinction of conservation areas if high density, urban development is planned to continue in the annexed area with no maximum density? What happens if the Village of Kiryas Joel meets the “level of ultimate development” as quoted in the Comprehensive Plan (dated Dec. 1999 page 19)?; will there be an effort to annex additional lands to develop them in the same way as what is being proposed now?

Response 3.1-23: *It is expected that future development within the annexation lands will include the provision of active and passive open space, as exists in the existing Village. Such areas have not yet been designated. Any future annexation to the Village would be the subject of a separate analysis and evaluation.*

Comment 3.1-24 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): The DGEIS references the Orange County Comprehensive Plan and states that it (the County Plan) depicts the Village of Kiryas Joel as being in the center of a sizable urban area or “Priority Growth Area”. The designation does not necessarily mean that the development planned if the land is annexed is appropriate for urban development on all of that land, as implied in the DGEIS (3.1-12). Consideration for steep slopes, wetlands and the location of resources like the Long Path and County parkland should be taken into consideration. We feel the following excerpt from that County Plan should be included in its entirety in the final GEIS (3.1-9):

Orange County Plan 2010, page 32 - “It is important to note that the Growth Areas were created at a broad-scale and represent generalized areas of the County where growth should reasonably be focused; therefore, not all land within the proposed Areas are developable or necessarily appropriate for development. Any development project should seek to preserve important natural and cultural resources, regardless of location.”

Response 3.1-24: *Comment noted.*

Comment 3.1-25 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): The plans of the neighboring municipalities, as described in the DGEIS (3.1), emphasize protecting their natural environment. Does the DGEIS recognize that the impacts associated with the development of the lands in the proposed annexation will not end at the municipal boundary? If the land is annexed, what are the requirements in the Village of Kiryas Joel code to avoid habitat fragmentation, protect shared water resources, preserve prominent hiking trails, preserve tree lines and avoid visual impacts to surrounding areas?

Response 3.1-25: *Planning activities subsequent to an annexation decision should take these topics into consideration as they reflect common planning goals for the Village as*

well as the broader community. Accordingly, while this DGEIS cannot identify which lots will include open space, it provides the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals to consider the open space needs of residents and to be carefully cognizant of important environmental assets of the annexation territory including the areas near regulated wetlands and protected wildlife areas.

Comment 3.1-26 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

The DGEIS states (3.1-18) that “Ultimately the overall development density of the land encompassing the Village and the annexation properties, with or without annexation, will be the same order of magnitude.” How did you come to this determination if the “theoretical maximum residential development density on the annexation land” will change from approximately 5 to 8.7 du/ac without annexation (and .1 to 3.5 du/ac in the adjoining municipalities) to at least double that, approximately 12 to 20 du/ac if annexation occurs and the Village has no regulated maximum density? As mitigation, will the Village implement a maximum density where areas abut low density zones and determine areas appropriate for either residential or commercial development based on surrounding uses?

Response 3.1-26: *Under the future scenarios presented in the DGEIS, an estimated 7,911 dwelling units will exist in the Village and proposed annexation territory (1,207 acres in total) in ten years with or without annexation, both calculated to have an overall density of 6.55 units per acre.*

The annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan or project for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes, and SEQRA.

Comment 3.1-27 (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015):

We do not believe enough supporting analysis was provided that concurs with the DGEIS statements that (3.7.3) “under either development scenario described in the Project Description (without or with annexation), disturbance of the land would result from development activities to much the same degree regardless of the action.” and (3.6.3) “General areas of review related to the natural resources of any particular site in either municipal code include similar reviews and approvals”.

Briefly reviewing the Town of Monroe code, there appears to be more specific and more preventive regulations to guide its Planning Board in the approval process, including guidance from a Conservation Commission. In addition, the Town of Monroe has a regularly updated website with meeting agendas and minutes plus its site plan regulations improve public participation in the review process by encouraging participation by those living in the close proximity of the study area, due to their personal knowledge to communicate issues affecting a proposed action.

Response 3.1-27: *Comment noted. Any future action relating to a comprehensive plan or zoning decision for the annexation territory is subject to State and local laws, including SEQRA, and that process will take place in accordance with all local, state and federal regulations. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws, including those with respect to public participation. Accordingly, while this DGEIS cannot identify specific development scenarios which will be presented to the*

Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory including the areas near regulated wetlands and protected wildlife areas.

Comment 3.1-28 (Letter 42, Lorraine McNeill, June 21, 2015): “The annexation lands are currently largely vacant or underdeveloped and provide an open space resource, although neither designated nor protected as such. In the future, whether or not the proposed annexation land becomes part of the Village of Kiryas Joel, it will likely be developed to accommodate the projected population growth.” 507 Annexation DGEIS 3.6-5.

This means high density housing. Is this annexation an attempt to circumvent current zoning? Current zoning in the 507 acres does not in any way restrict the practice of any religion, just the intense build out. Surely, religious worship is recognized whether you live in apartments or in a private homes. Surely religious worship is recognized whether you drive or not.

Response 3.1-28: *The annexation is not intended to circumvent zoning but rather to consider the petition by property owners in the annexation territory seeking public and community services not readily available in the Town.*

Villages and cities are traditionally areas with concentrated higher density development while areas outside cities and villages commonly have lower densities. Cities and villages grow as populations grow. This has happened throughout the State of New York historically.

Any community is well within its rights to make land use and zoning decisions based on changes in population demand, employment trends and constraints or removal of constraints to infrastructure development. Annexation does not avoid zoning laws. Once annexation is formally completed, the lands added to receiving municipality will be subject to that municipality’s local laws, including its zoning law. Further, annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken.

In its consideration of this petition, the Village is attempting to responsibly address the needs of the annexation petitioners as well as its growing population in a manner that also recognizes the benefits and detriments to the Town.

Comment 3.1-29 (Letter 44, Susan Roth, June 22, 2015): The analysis in the DGEIS does not provide enough information to evaluate the impacts of the project in the community. The basis of the analysis, the project description, which is supposed to allow the public an understanding of project, tells us that old housing was built at a density of about 6 units an acre and newer housing built at 19 units per acre. I am not convinced that, without a plan of development, that higher, unsupportable density would result.

There should be a supplement to the EIS demonstrating a potential build out scenario that illustrates how the land could be developed and integrated into the community in such a way that it transitions from higher densities of KJ to nearby rural densities. If this petition was for a zoning change, the development community would have had to demonstrate how it would look,

and how impacts related to high density, such as the need for new residents to have access to nearby open space, how development would address the need for transit, new schools (whether or not they are public or private) and traffic. There is no particular plan at this point, even though this petition to change municipalities is a request of private development I think that this level of detail is important, especially since KJ is part of this community, and shares resources with surrounding towns and Orange County. We ask no less of other developers that come to our community.

Response 3.1-29: *This is not a petition for a zoning change or otherwise for development approvals. Rather, the action being considered by the Town and Village governments is solely an annexation petition filed by a group of private property owners in the Town. The DGEIS therefore is consistent with the mandate of SEQRA which requires analysis at a level of detail appropriate to the proposed action. Contrary to the comment, the DGEIS analysis indicates that the growth projected to occur over the next decade can be supported in the Village and the annexation territory without significant adverse environmental impacts.*

Comment 3.1-30 (Letter 44, Susan Roth, June 22, 2015): Communities should be built with the idea that they would continue to work for all types of family groups, not just the current community. Communities evolve over time, needs become different, and sometimes they move away, and dismissing traffic concerns because women of this community do not drive is presumptuous. This practice insures that if the people who currently live here move or change their minds about women drivers in a few generations, then we will all have problems with parking and traffic.

Response 3.1-30: *The DGEIS analyzes potential traffic impacts based on an assessment of existing uses and conditions and a projection of future uses and conditions based on a rational and reasonable understanding of the study area. SEQRA does not require an overly speculative analysis of each and every possible scenario.*

Comment 3.1-31 (Letter 45, Edward Scarvalone, Willens & Scarvalone, LLP., June 22, 2015): Some of the public comments appear to assume that KJ Poultry is operated or controlled by the Village, and that any environmental compliance issues affecting the poultry plant must be the fault of the Village. This assumption is erroneous. The Village is not responsible for KJ Poultry's conduct, any more than KJ Poultry is responsible for the Village's. Nor does it make sense to argue that the Village has "allowed" KJ Poultry to violate the Clean Water Act, as some commenters have claimed, inasmuch as the state and federal environmental regulators (not municipalities) are generally responsible for enforcement of the Act.

Response 3.1-31: *Comment noted.*

Comment 3.1-32 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Submit a map which illustrates the boundary of the annexation area, which also highlights each property for which an owner signed the annexation petition. It should be clearly understood which property owners consent to the annexation within the annexation territory. This is especially important for purposes of understanding the impact that the annexation would have on the existing single family neighborhood which is zoned R-1.0, as the annexation will change the community character of this residential neighborhood.

Response 3.1-32: *Such a map is not required or necessary under the annexation law or SEQRA. The map provided with the petition and included in the DGEIS provides*

significant detail as to which parcels are included in the annexation proposal, their tax ID number and location relative to the existing Village and surrounding Town properties.

Comment 3.1-33 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Existing Zoning. It is incorrect to state that the zoning allows 8.7 dwelling units per acre for typical residential units with two bedrooms or more. The URM district allows the highest density residential use and is regulated in Section 57-13.N of the Town of Monroe Code is 8 dwelling units per acre for non-age restricted two-bedroom units.

Response 3.1-33: According to the Town code, multiple dwelling groups in the UR-M district are required to meet the following standards [§57-13.N.(1)]:

(a) The maximum density in dwelling units per acre for multiple dwelling groups shall be 12 for efficiencies, 10 for one-bedroom units, eight for two-bedroom units and five for two-bedroom-and-den or three-or-more-bedroom units.

(b) For senior citizen multiple dwelling groups, the densities in dwelling units per acre shall be 14 for efficiencies, 12 for one-bedroom and 10 for two-bedroom units.

(c) All units in excess of two bedrooms shall be limited to five dwellings per acre.

The development scenarios presented in the DGEIS for evaluation are intended to illustrate the greater extent of possible development. The scenarios therefore include the stated assumptions, such as with central sewer and water which is generally required for higher density development, and accessory apartments where they are allowed, but exclude known development constraints such as wetlands. Yield was calculated applying the calculated maximum density multiplier to the net lot area (after reducing the lot area by its constraints).

Comment 3.1-34 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Existing zoning. The DGEIS incorrectly states that multifamily dwellings are permitted under certain conditions." As per 155-20 of the KJ Code, multifamily dwellings are permitted principal uses in the same manner that one and two family dwellings are allowed. There are supplementary standards which guide the development, but these standards in no way limit the location or density of the use, which is permitted by right.

Response 3.1-34: In the Village zoning code, multifamily dwellings are permitted, principal uses in the R district (§155-19); multifamily dwellings are allowed by special permit in the C district, with additional specific standards (§155-22); and multifamily dwellings are allowed in the PUD district (§155-27). This comment cites a limited phrase in the DGEIS executive summary; please refer to DGEIS section 3.1 for a more detailed elaboration on Village zoning.

Comment 3.1-35 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Page 1-1. Existing zoning. It is incorrect to state that the need for central water and sewer is not a requirement of the "existing zoning". Current zoning makes few references to the requirement for central water or sewer and it is not referenced as a specific standard for development to occur.

Response 3.1-35: In its description of zoning in the Village of Kiryas Joel, the DGEIS states: "Connections to central water and sewer are typically required for uses other than one- and two-family dwellings." The commentor is correct that central water and

sewer is not a requirement of zoning, but central utilities are usually necessary to accommodate higher density development that is typical in the Village.

Comment 3.1-36 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The analysis, which evaluates a potential build out based on a predicted population growth to 2025, is arbitrary. The proposed build out of the annexation land should be based on well-established building practices in the Village, and assuming the maximum build out as is appropriate for a worst case scenario. Nothing provided in the DGEIS justifies a lesser build alternative. The Village of Kiryas Joel zoning specifically states that multifamily buildings can each contain from 18-24 dwelling units per building. The PUD could allow more density. The DGEIS fails to evaluate the full, significant and adverse impacts that would result from the annexation.

Response 3.1-36: *Any potential build out scenario for a GEIS must use reasonable and rationally-based factors to establish a projection. Chapter 3.1 of the DGEIS presents the zoning of the Town and Village that would affect potential development yields in those jurisdictions, which is tabulated in Table E-2. Chapter 3.2 then presents the population information of the anticipated future population of the study area, which is tabulated in Table E-3. DGEIS Table E-1 presents a reasonable comparative analysis based on the zoning and demographic information in chapters 3.1 and 3.2 to assess potential build-out projections both under existing Town zoning (without annexation) and Village zoning (with annexation).*

The DGEIS used a ten year build-out scenario as a reasonable time frame for SEQRA analysis. Many generic impact statements developed for assessment of comprehensive plans use a five or ten year time frame for long-term impact studies. Refer to response 2-23.

If population grows at a lower rate than projected in the next ten years, fewer homes will be built, and if it grows at a faster rate, more homes will be built. It is no different than what will happen in the rest of Orange County.

Comment 3.1-37 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): It is incorrect to state that with and without annexation environmental impacts vary only as to the distribution" of the population. The DGEIS would have one believe that the build out under either scenario would be the same. This is only the result of establishing an arbitrary build out scenario which caps growth to 19,663 persons. There is no rational basis to cap growth, as the Village does not do so now. The Village of Kiryas Joel has not provided, as mitigation, a restriction that it will only build the 1,431 dwelling units which is purported to be the necessary number of housing units to accommodate the arbitrary 19,663 persons by 2025. Nor will the build out be the same, as mentioned previously.

Response 3.1-37: *The growth projections were based on solid demographic data and it was never stated that the numbers represented a "cap". The Village does expect the growth projections presented in the DGEIS to likely occur and the Village intends to accommodate that growth with or without annexation. That is its role as a government agency responsible to its citizenry.*

Nor has the DGEIS concluded that the population growth projected represents an adverse impact. There will certainly need to be additional planning and expansion of

services to accommodate growth, but this cannot be termed an adverse impact that requires "mitigation".

Comment 3.1-38 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): It is noted that neither the Town of Monroe nor the VKJ have adopted the County Comprehensive Plan as a statement of their own policies. In addition, nowhere in the County Plan does the document define recommended densities for a Priority Growth Area.

Response 3.1-38: Comment noted. There is no requirement that any Orange County municipality adopt the County Comprehensive Plan. The constitution of the State of New York provides the right of any community to establish its own rules and regulations so long as it does not conflict with the broader rules of the State. The County's Comprehensive Plan reference to the area in the vicinity of the Village as being a Priority Growth Area is identified in the DGEIS as an example of how the County has promoted the concentration of future growth and development proximate to areas of existing higher densities rather than promoting sprawl, which is consistent with the proposed annexation.

Comment 3.1-39 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The creation of the VKJ "Master Plan Committee" is irrelevant to the DGEIS. The Town of Monroe would have no control over how the annexation lands are developed once incorporated into the Village. The Town should not rely on future "promises" as a basis for ensuring that environmental impacts are considered, the whole purpose of this DGEIS.

Response 3.1-39: As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes, and SEQRA.

Comment 3.1-40 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The comment that the Village is a mix of Single family and multifamily buildings is not supported by Census data. The Village's housing stock is almost exclusively multifamily. Based on 2011-2013 ACS data, only 1.1 percent of all housing units are single-family detached dwellings where 3.7 percent of the housing stock were single family detached in the previous 3-year ACS period. Approximately 99.1 percent of the housing stock consists of buildings with 3 or more dwellings, with the majority in the 5-19 dwelling unit range. The Village is overwhelmingly multifamily in character. The same can be anticipated to occur in the annexation area, which would be grossly inconsistent with the Town of Monroe Comprehensive Plan and existing community character. The Village of Kiryas Joel does not provide any diversity of housing.

Response 3.1-40: The DGEIS contains a comparative analysis of the existing development patterns in both the Town and the Village. The DGEIS also indicates that with annexation the bulk of future development will likely be in the form of multifamily buildings, though as currently exists in the Village, such form of development is not exclusive and single family residential development could also be accommodated.

Comment 3.1-41 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS appears to be pointing out that even though the Village has approved PUD zoning districts, it has not mapped them. Thus, the adopted zoning map is in fact not representative of actual zoning in the Village.

***Response 3.1-41:** The PUD zoning is applicable as an overlay to all districts in the Village. As is done in many communities throughout the State, the overlay district gives the Village substantial flexibility in design and density choices for new projects or redevelopment projects.*

Comment 3.1-42: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The maximum density within the unincorporated area is incorrect -- the maximum density is not 8.7 acres. The actual density for single family with accessory apartments, based on Forest Edge and Vintage Vista, is closer to 4.5-5 dwelling units per acre. Density is reduced due to the need to construct streets, stormwater basins, and other inefficiencies of land development.

***Response 3.1-42:** Refer to response to Comment 3.1-33. The DGEIS assessment first calculates development constraints and then applies the multiplier to the net developable land, effectively reducing the density, as the commentor states.*

Comment 3.1-43 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The comment that the Town created an "impediment" to growth of the Hasidic community is not supported by the facts. This comment is inconsistent with the DGEIS itself, in that the DGEIS concludes that the amount of growth required to be accommodated to the year 2025 can occur without annexation. Further, the surrounding properties within the Town and other nearby municipalities support extensive growth of the Hasidic community, but at a density consistent with land use policies and zoning laws.

***Response 3.1-43:** The DGEIS refers to the historical fact that zoning amendments were adopted by the Town of Monroe in the early 2000's that reduced development density by changing RR-1.5 zones to RR-3.0 zones and eliminating multifamily as a permitted use. (See DGEIS page 3.1-3.) This fact however is not relevant to the DGEIS methodology which is based on population growth that will occur with or without annexation and therefore there is no inconsistency as asserted by the comment.*

Comment 3.1-44 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS attempts to portray that the rezoning to a three acre lot minimum density is inconsistent with the Comprehensive Plan. This is wrong, as the UR-M districts that adjoin Kiryas Joel allow a substantially high density of development to accommodate a diversity of housing, and each zoning district in the Town allows accessory apartments. The Town of Monroe is the one municipality which allows multifamily dwellings, consistent with the overwhelming majority of housing in the VKJ, adjacent to its borders.

***Response 3.1-44:** The Town of Monroe's 1998 Master Plan and the 2008 update specifically identified lands proximate to the Village as suitable for higher densities, citing an urgent goal of providing affordable housing near available public and sewer services. Rezoning some of these lands to half the prior permitted density and eliminating multiple dwellings in the RR-3.0 lands would appear inconsistent with the Town's Comprehensive Plan.*

Comment 3.1-45 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): First, the zoning is not the Comprehensive Plan for the Village. The Village has a comprehensive plan, which was appended to the Village's submission to the NYSDEC in a lead agency dispute with the Town of Monroe. The DGEIS fails to discuss any of the recommendations, goals and objectives of the Plan.

Response 3.1-45: *A comprehensive planning document was prepared for the Village by Parish Weiner & Schuster in 1999. This Plan has guided planning and development together with the Village's Zoning Code, adopted in 2007. In fact, a number of the specific recommendations in the planning document have been implemented by the Village. The comprehensive planning document fully anticipated the potential for and the Village's accommodation of the annexation of land into the Village. A copy of the 1999 Comprehensive Plan is appended here as FGEIS Appendix K.*

According to the New York State Department of State:

*"A comprehensive plan need not be a single document. It need not be a formally adopted plan. Instead, the question of whether an inclusive scheme of action exists or has been undertaken is a conclusion reached only after considering an entire complex of facts, rather than by looking for a single planning document. For instance, the courts may find evidence of a plan in the zoning law itself, if the regulations set out in the law form a coherent pattern that furthers a land use policy that benefits the entire community. In *Asian Americans for Equality v. Koch*, the Court of Appeals stated: A well-considered plan need not be contained in a single document; indeed, it need not be written at all. The court may satisfy itself that the municipality has a well-considered plan and that authorities are acting in the public interest to further it by examining all available and relevant evidence of the municipality's land use policies. Environmental reviews, environmental impact statements, and SEQRA findings "provide a constant source of readily identifiable considerations by which all those involved in the planning process can measure the background progress and effect of land use decisions". Legislative findings relating to the adoption of a zoning law could evidence the plan, as could minutes of the legislative body and relevant studies. A previously-adopted master plan or comprehensive plan may show evidence of comprehensive planning. In *Town of Bedford v. Village of Mount Kisco* the Court of Appeals held that:zoning changes must indeed be consonant with a total planning strategy, reflecting consideration of the needs of the community....What is mandated is that there be comprehensiveness of planning, rather than special interest, irrational ad hocery. The obligation is support of comprehensive planning, not slavish servitude to any particular comprehensive plan. Indeed sound planning inherently calls for recognition of the dynamics of change." [NYS DOS 2015. Pages 7 and 8.]*

Comment 3.1-46 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): It is noteworthy that the DGEIS omits all the purposes set forth in the zoning. According to the zoning, the purposes also include:

This chapter and plan have the following purposes:

- (1) Guide the future growth and development of the Village in accordance with a comprehensive plan that represents the most beneficial and convenient relationships among the areas within the Village, considering the suitability of the various uses in each area and the potential for such uses as indicated by existing conditions, having regard for conditions and trends both within the Village and in relation to adjoining areas.
- (2) Provide adequate light, air and privacy; secure safety from fire, flood and other danger and prevent overcrowding of the land and undue congestion of population.
- (3) Protect the character and the social and economic stability of all parts of the Village and ensure that all development shall be orderly and beneficial.
- (4) Protect and conserve the value of buildings in the various districts established by this chapter.
- (5) Bring about the gradual conformity of the uses of land and buildings throughout the Village to the comprehensive plan set forth in this chapter, and minimize conflicts among the uses of land and buildings.
- (6) Promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Village, having particular regard to the avoidance of

congestion in the streets and the provision of safe and convenient traffic access appropriate to the various uses of land and buildings throughout the Village.

(7) Serve as a guide for public policy and action in the efficient provision of public facilities and services, and for private building development and other activity relating to uses of land and buildings throughout the Village.

(8) Assure that public service providers will provide the necessary public facilities and service needed for anticipated and needed new development.

(9) Prevent the pollution of waters, ponds and streams; safeguard water resources and encourage the wise use and sound management of natural resources throughout the Village in order to preserve the integrity, stability and beauty of the community and the value of the land.

Much of the development in the Village has been inconsistent with the purposes of its own zoning, particularly the purpose set forth in "9" above [§155-2.B.(9)]. In pursuing a development pattern which is almost exclusively high density multifamily development, the natural environment has been clear cut, except for those areas which cannot be developed, e.g., one State wetland which cannot be developed.

***Response 3.1-46:** This comment is not directed to the DGEIS. However, FGEIS section 3.6 includes responses to specific comments regarding water resources and other natural resources of the study area. Please refer to responses to comments 3.6-3, -16, -22, -23, 27, and -53. Also refer to responses to comments 3.7-8 and -25.*

Comment 3.1-47 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The Village does not promote ownership opportunities - this is inconsistent with its "comprehensive plan" as embodied in the zoning. According to the Census ACS data for 2011-2013, 67.7 percent of all housing units are renter-occupied. And this percentage is increasing, as the percent renter occupancy was less in the preceding 3-year period, or 36.1 percent.

***Response 3.1-47:** Village zoning does not dictate ownership requirements for land use activities. Zoning laws and zoning decisions run with the land, not the owner of the land. Accordingly, there is no inconsistency with a renter dominated population and the Village's zoning code.*

Comment 3.1-48 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The Orange County Comprehensive Plan has no standing in the Town of Monroe. It is also inconsistent with the Town of Monroe Comprehensive Plan, to the extent that the priority growth area includes sensitive environmental features and lands which are zoned for low-density residential and open space purposes.

***Response 3.1-48:** Comment noted. It is not unusual for conflicts to occur between regional and local plans and even internally within such plans. Such conflicts do not render the plans any less meaningful or valuable as a planning tool.*

Comment 3.1-49 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Here, the DGEIS states the actual density of two developments proposed within the UR-M zoning district. Regardless, it incorrectly estimates a significantly higher yield (8.712 dwelling units per acre) on UR-M parcels than can be accommodated based on real life examples for the without annexation alternative.

Response 3.1-49: *The ultimate density of any development project will be shaped by the land itself, its size, grades, and property shape which invariable results in a development density that is lower than the theoretical maximum. The projections provided for in the DGEIS are for SEQRA analytical purposes only and do not purport to be concrete figures applicable to all lots.*

Comment 3.1-50 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Note that Forest Edge and Vintage Vista have been constructed in a manner which integrates sidewalks and sidewalk connections to the VKJ. The Village has also extended sewer and water to the developments. Thus, incorporation into the Village is not necessary to have the same amenities that are within the Village. More importantly, these two developments introduce a housing type that is lacking in the Village -- single-family detached dwelling units with the potential for accessory apartments, providing housing choice and diversity which is not available in the VKJ.

Response 3.1-50: *Those housing types will continue to exist in the area with or without annexation, providing for the diversity of housing the writer claims is lacking in the Village.*

This comment appears directed more to the annexation determination than to the DGEIS. However, as noted elsewhere, the annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. In considering the annexation petition, the Village and Town need to consider, among other things, the benefits or detriments of the annexation to those within the annexation territory. Services available in the Village that are not freely available in the Town include more than sidewalks, sewer and water and include such things as access to social facilities, the health center, emergency service providers who speak Yiddish, and the Kinder Park, that are unique to the Village community.

Comment 3.1-51 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): In addition, the DGEIS provides real world examples of the typical and expected development pattern for the annexation lands if approved to enter the Village -- 12.1 to 19.3 dwelling units per acre. Yet, the DGEIS fails to calculate the "real" build out of the annexation lands if incorporated into the VKJ. The real build out could be 6,134 to 9,684 dwelling units, based on recent developments within the Village.

Response 3.1-51: *The DGEIS provides a rational and reasonable projection of potential development to accommodate the projected population under the with and without annexation scenarios and assesses the potential adverse environmental impacts that could result. The ultimate or "real" buildout as suggested by the comment cannot be known short of a zoning plan and site specific development proposals. Zoning decisions have not yet occurred and are unlikely to occur until the annexation petition is acted upon. Nevertheless, any future action relating to a comprehensive plan or zoning decision for the annexation territory is subject to State and local laws, including SEQRA, and that process will take place in accordance with all local, state and federal regulations. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws.*

Comment 3.1-52 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The statement regarding the build out under single family versus multiple family

residences is incorrect. The DGEIS significantly overestimates the number of dwelling units that can be developed in the UR-M district -- real examples of yield result in yields close to 4-5 dwelling units per acre. Even after presenting the two developments, Forest Edge and Vintage Vista, the DGEIS wrongly overestimates the yield for single family dwellings with accessory apartments in the UR-M zone.

Response 3.1-52: Comment noted. The yield estimates set forth in the DGEIS are rational and reasonable based on the available data. It provides a "level of magnitude" foundation for reviewing annexation versus no annexation scenarios.

Comment 3.1-53 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): It is evident that the Petitioners are speculative developers. Why would one demolish a single family dwelling to accommodate 3.714 dwelling units per acre unless for that purpose? This is evidence that the annexation is not for purposes of enabling existing residents to access the uses within the Village proper, but to allow speculators to reduce existing single family, owner-occupied neighborhoods to multifamily rental enclaves, reducing housing opportunities and ownership opportunities, inconsistent with the purported objective of the VKJ zoning law.

Response 3.1-53: This comment does not appear directed at the analysis contained in the DGEIS. Nevertheless, the petitioners appear to be a mixed group of residents and property owners who are entitled to petition the Town and Village for annexation.

Comment 3.1-54 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS states that under the without annexation alternative (WOA), most parcels do not have feasible access to public water. Given that statement, the build out scenario for the WOA is overestimated as the alternative relies entirely on the assumption that public water will be provided to each parcel. The density expressed in Appendix E cannot be achieved using individual wells.

Response 3.1-54: Based on the recent approvals of the Vintage Vista and Forest Edge subdivisions in the annexation territory which both have agreements for access to central water, the DGEIS anticipated that a public water supply could be made available to outside users by the Village of Kiryas Joel, especially once the Village completes its connection to the Catskill Aqueduct. In the event a public water supply is not available, obviously development densities would be reduced from the numbers projected.

Comment 3.1-55 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The residential density of 6.6 units per acre is fiction- once annexed, multifamily residences will be constructed as reported in the same paragraph. The density will be significantly higher.

Response 3.1-55: Comment noted. Forces in the free market will play a role in the development density that is ultimately constructed. Site specific densities cannot be determined at this time, but population growth can be readily projected based on the number of young women in the Village and environs as set forth in the DGEIS.

Comment 3.1-56 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Please identify the average amount of "open space" provided in recent multifamily developments in the VKJ. The statement "the current mix of uses including open

space" is misleading, since almost all developments in the Village have not preserved any open space, unless a DEC designated resource is present which cannot be fully disturbed.

Response 3.1-56: Open space exists in many locations in the Village. It is estimated that 30 percent of the Village's area is open, that is, not encumbered by building or pavement.

Comment 3.1-57 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS fails to address the annexation's impact on the reduction of UR-M lands available for multifamily residential development. The UR-M provides the Town with a location to meet its fair share of affordable and diverse housing.

Response 3.1-57: The Village of Kiryas Joel will continue to be part of the Town of Monroe, whether or not the annexation occurs. Higher density housing likely to be developed in the annexation lands will satisfy local and regional demands for diversified and affordable housing that is not accommodated in many other suburban areas of the County.

Should the Town choose, it may modify its comprehensive plan and zoning code to make further provisions for such housing in the town at large.

Comment 3.1-58 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS completely fails to discuss the annexation's compatibility with the Town of Monroe Comprehensive Plan and zoning. It relies solely on the Orange County Comprehensive Plan, a Plan with no official status in the Town, to support the annexation by stating that the annexation area is in a "Priority Growth Area". The DGEIS must specifically state and address whether the annexation, and significant increase in density, is consistent with the Town of Monroe Comprehensive Plan.

Response 3.1-58: Annexation is not a zoning action that requires consistency with a comprehensive plan. Annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken. Practically, it would be a rare occurrence for an annexation to be strictly consistent with the comprehensive plan of the municipality from which such territory has been taken. The County's Comprehensive Plan reference to the area in the vicinity of the Village as being a Priority Growth Area is identified in the DGEIS as an example of how the County has promoted the concentration of future growth and development proximate to areas of existing higher densities rather than promoting sprawl, which is consistent with the proposed annexation.

Comment 3.1-59 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): On this page, the DGEIS specifically acknowledges that the new residential density would be 12-20 dwelling units per acre under annexation, but then fails to examine the full impact of the build out at that density on the 507 acres.

Response 3.1-59: Build out at 12 dwelling units (du) per acre would result in some 5000 new housing units. At 20 du per acre, 10,000. However, this is not an impact of annexation. It is a result of population growth and future development to accommodate that growth. This land has not yet been master planned and zoned and it is expected

that when zoning decisions are made, there will be a better capability to ascertain the actual carrying capacity of the land. Further, any future action relating to a comprehensive plan or zoning decision for the annexation territory is subject to State and local laws, including SEQRA. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws.

Comment 3.1-60 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS incorrectly states the maximum density yield under the WOA -- the R- 3.0 zoned lands cannot be developed at 5 dwelling units per acre.

***Response 3.1-60:** According to the Town code, the RR-3 district requires a minimum lot size of three acres. The DGEIS thus used a maximum density multiplier of 0.667 dwelling units per acre.*

The development scenarios presented in the DGEIS for evaluation are intended to illustrate the greater extent of possible development. The scenarios therefore include the stated assumptions, such as with central sewer and water which is generally required for higher density development, and accessory apartments where they are allowed, but exclude known development constraints such as wetlands. Yield was calculated applying the calculated maximum density multiplier to the net lot area (after reducing the lot area by its constraints).

Comment 3.1-61 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Development of a master plan committee is speculative at best, and not a mitigation. The Village has failed to master plan in the past- the DGEIS notes that the only "plan" is the zoning. This mitigation is self-serving, without any merit, and should be deleted.

***Response 3.1-61:** See Response 3.1-31. As noted elsewhere, the annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. The petition was not accompanied by a development plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village zoning code, and SEQRA.*

Comment 3.1-62 (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): What is the impact of the annexation on Orange and Rockland Utility property located in the annexation area? What zoning would be applied to this public service use?

***Response 3.1-62:** The Orange and Rockland property is not, in fact, located in the proposed annexation territory. Regardless, annexation will not affect current ownership or uses of any property. As noted elsewhere, no zoning decisions have yet been made. It is therefore premature to consider uses for particular properties though it is likely that any existing utility easements or other essential service uses would not be affected by the annexation.*

Comment 3.1-63 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): The DGEIS indicates that the Village has "comprehensive zoning regulations" adopted in 2007 that serve as the Village's comprehensive plan. The regulatory or policy status of this document is not well understood. Furthermore, The

Village of Kiryas Joel also apparently adopted a Comprehensive Plan in 1999. Unfortunately, there is no record of such adoption.

Response 3.1-63: Refer to response to Comment 3.1-45.

Comment 3.1-64 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): There are a number of instances in which the DGEIS selectively cites a reference or concept (e.g., Monroe Comprehensive Plan) without providing the full citation or context of the document's recommendation. This has a tendency to skew the reader's understanding of the citation. For instance, p3.1-7 the DGEIS cites that Monroe's plan supports the use of density bonuses, clustered housing, and extension of sewers to provide for high density housing in the annexation territory. While there is a discussion of these tools, the Plan also cautions that these tools be carefully examined and that "under current market conditions in our area, new affordable housing units have not been generated simply as a result of making unrestricted density bonuses available." (p 73 Monroe Comprehensive Plan)

Response 3.1-64: Comment noted. The full text of the Town's Comprehensive Plan is available at FGEIS Appendix K. It would be expected that all land use and regulatory tools be carefully examined as to their application in meeting the goals of a community. While the Town of Monroe is fully aware of the growth dynamics within the Village, the Town has yet to address these dynamics in an updated comprehensive plan or zoning code. In fact, in the early 2000's the Town changed the RR-1.5 zoning to RR-3.0 and eliminated multiple dwelling groups which itself was actually inconsistent with both Monroe's 1998 Master Plan and 2008 Master Plan (see page 3.1-3 of DGEIS).

Comment 3.1-65 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): The methodology for calculating the development potential of the annexation territory with and without annexation is not described. The reader is referred to a spreadsheet in Appendix E. The methodology notes that any assumptions should be described. The development potential of the lands in the annexation territory may be restricted by site characteristics including topography, slopes, soils/bedrock, wetlands, and other environmental features. It is not clear which of these resources will be impacted or to what extent. It is not clear that the development potential without annexation can be achieved given that the lands may require the use of on-site well and septic.

Response 3.1-65: The methodology for estimating growth if the annexation is approved was straightforward and based on inevitable birth rates and marriages as was clearly stated in the project description of the DGEIS. The only question is - where and how will that growth be housed? If annexation occurs, it makes sense that much of that growth will be accommodated in the annexation land where substantial vacant, developable land can be found in comparison to the existing Village.

The methodology without annexation has been clearly described. The existing zoning in the annexation land was used to ascertain a potential housing yield. It was reviewed on a parcel by parcel basis to estimate potential yields based on parcel size and shape.

Whether or not those numbers will be reached cannot be known based on field conditions. But the approach to this yield is reasonable and rational. As noted in the DGEIS, future plans and applications for site specific development will be subject to further SEQRA review as well as all other applicable federal, State and local laws.

Comment 3.1-66 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): There is no discussion of non-residential land uses that may occur under the annexation scenario. The Villages PUD provision permits all forms of uses. The Town's current zoning does not permit commercial uses. How will non-residential land uses impact the health, safety, and general welfare of adjacent properties? The DGEIS should include an analysis of the resultant traffic, demand for water and sewer services, and any resultant impact on community services.

***Response 3.1-66:** It was assumed that any non-residential uses within the expanded village, will primarily serve village residents and have little likelihood to attract outside users. Thus, the per capita demand of the existing Village is a reasonable indicator of future demand as it takes into consideration all land uses.*

As noted elsewhere, the annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. The petition was not accompanied by a development plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village zoning code, and SEQRA.

Comment 3.1-67 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): The assumption that water service is not available to lands in the annexation territory (under the no Annexation alternative) is not supported by the record. The most recent Forest Edge and Vintage Village projects are served by central water and sewer.

***Response 3.1-67:** Comment noted. While water service indeed may be extended to outside of Village users, it is not guaranteed in the way it would be if the lands were within the Village bounds.*

Comment 3.1-68 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): The annexation proposal is inconsistent with Town of Monroe's Comprehensive Plan. The annexation territory is comprised of lands currently zoned by the Town of Monroe as Rural Residential (RR-1 and RR-3) as well as smaller areas zoned as Urban Residential Multi Family (URM) units. The Town of Monroe Comprehensive Plan references these zoning areas, and while it acknowledges some of the Rural Residential Areas that may be located in close proximity to the Village, these lands are not identified for increases in development density. The Town of Monroe recommends the use of clustering, limiting tree clearing, avoidance of siting development on ridges, and use low impact development techniques due to development constraints and sensitive characteristics of the lands. Annexation will permit the Village (as described in the DGEIS) to rezone the lands PUD and permit development densities inconsistent with the Town's vision (and public interest).

***Response 3.1-68:** Annexation is not a zoning action that requires consistency with a comprehensive plan. Annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken. Practically, it would be a rare occurrence for an annexation to be strictly consistent with the comprehensive plan of the municipality from which such territory has been taken. Nevertheless, the DGEIS does indeed consider the*

Town's comprehensive plan. The Town's comprehensive plan appears inconsistent with the housing demands and growth taking place that affects a substantial population of the Town. Although that growth has been recognized for many years, action on the part of the Town has been to reduce development density and eliminate multifamily development in certain zones and that action has been non-responsive and incongruous to the growth that is taking place in the Village. By comparison, the County Comprehensive Plan's reference to the area in the vicinity of the Village as being a Priority Growth Area is identified in the DGEIS as an example of how the County has promoted the concentration of future growth and development proximate to areas of existing higher densities rather than promoting sprawl, which is consistent with the proposed annexation.

Comment 3.1-69 (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): Any future impacts to the Gonzaga Park as a result of annexation into the Village of Kiryas Joel must be evaluated within the context of the anticipated scale and intensity of development that will likely occur at neighboring properties, as well as an increase of patronage from nearby Village residents and additional needs for particular amenities or services. Preservation of the aforementioned hiking trails must also be ensured in the future, as such trails are characterized by undeveloped, natural landscapes and dramatic scenic views of Orange County; as such, any new development on the annexation territory will have the potential to negatively impact the natural qualities of these regionally-significant hiking trails.

Response 3.1-69: *Given the location of the Gonzaga Park relative to the existing Village of Kiryas Joel, there is no reason to believe the annexation action will adversely affect the use of the park. The County manages the park. That portion of the park in the annexation territory is presently used for passive recreation (trails) and has no active facilities.*

With or without annexation, the County is well aware of the likely growth of population in the vicinity of the park and it is hoped will take that into consideration as part of its service to Orange County taxpayers and citizens as it plans for future improvements to its system.

The Village fully anticipates that the development of the annexation lands will honor and respect all public lands, including the County park and any existing trails and easements related thereto and anticipates working with the County as development eventually occurs to assure the compatibility of uses. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws. Accordingly, while this DGEIS cannot identify how lands within the vicinity of the park may be developed in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals to consider the open space needs of its residents and to be carefully cognizant of existing important environmental assets of the annexation territory including the areas near the County's Gonzaga Park.

Comment 3.1-70 (Letter 55, Sheila Conroy, June 22, 2015): Page 3.-1-2, Paragraph 2. Under the discussion of the PUD districts, the DGEIS states that "...there is no maximum density (units per acre) in the code. Since this has been applied as an overlay district which can be approved anywhere in the Village, there should be further analysis of how many PUD districts currently exist and what the maximum density is in each. This gives at least an historic perspective on

how future development could occur in the existing Village or in future annexed land. This is important because over the years, densities per acre have clearly increased with the building of more storied residences. Since the PUD district has no maximum density or specific location in the codes, historic analysis is the only way to evaluate how often this overly district has been used and the range of densities with the district.

Response 3.1-70: *For purposes of the analysis in the DGEIS, it was not necessary to rely on historical conditions to ascertain future densities in the annexation area. As used in the DGEIS, projections of population growth are actually much more reliable and there is ample data available to allow projections of growth to aid in the assessment of potential future densities.*

Comment 3.1-71 (Letter 55, Sheila Conroy, June 22, 2015): Although the DGEIS repeatedly suggests that no specific development plans exist for the proposed annexed lands, it would appear that these lands would be expected to develop at much higher densities than any other place in the County, given past history. There is no discussion of why those parcels in the Town of Monroe that allow higher densities could not remain in the Town unless the desire is to go to much higher densities. In Project Description section, P. 2.0-5, it states that: "A recent estimate of housing density is (in the Village) approximately 5.84 du/ac in 2014" so the Town of Monroe's density of 8.7du/ac is very favorable without annexation.

Response 3.1-71: *This comment appears directed more to the annexation determination than to the DGEIS. However, as noted elsewhere, the annexation petition being considered here by the Town and Village governments was filed by a group of private property owners in the Town. In considering the annexation petition, the Village and Town need to consider, among other things, the benefits or detriments of the annexation to those within the annexation territory. The Town's density for URM lands only applies to a relatively small area of the annexation territory. However, the Town does not provide the water and sewer services needed for more dense development. Services available in the Village that are not freely available in the Town include sidewalks, sewer and water and other such things as access to social facilities, the health center, emergency service providers who speak Yiddish, and the Kinder Park, that are unique to the Village community.*

Comment 3.1-72 (Letter 55, Sheila Conroy, June 22, 2015): Agreements to provide additional desired services for Kiryas Joel residents living on lands in the Town of Monroe can easily be worked out without the need to annex land into the Village. It would appear that one of the main annexation motivations is to have the much higher densities prevalent within the existing Village. Why cannot the higher density properties in the Town of Monroe remain where they are and service agreements with residents be worked out? People who purchase a home in an area without these services should not expect that municipal boundaries will be moved to accommodate their desires for more services or a specific religious/cultural lifestyle.

Response 3.1-72: *See Response 3.1-71.*

Contrary to the comment, annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution. The provision and receipt of public services such as those identified is a primary purpose historically accepted for such annexations.

Comment 3.1-73 (Letter 55, Sheila Conroy, June 22, 2015): Another thing that exists in Monroe's Plan, and that Smart Growth supports, is encouraging cluster development whereby homes are built on smaller lots within a subdivision in order to leave undisturbed green space in order to preserve open spaces and natural resources. Kiryas Joel development style does not provide for this aspect of Smart Growth at all. In contrast their development style is clear cutting, high density housing on every buildable piece of land, minimum separation of buildings, almost no yards or green space and repetitive housing design styles. Instead of preserving open space or protecting ridgelines, Kiryas Joel builds massive retaining walls with high rise buildings perched on top which can be seen from long distances in the surrounding area. Monroe's Master Plan with the positive aspects of Smart Growth, i.e., preservation of open spaces and natural resources, would be gutted by annexation as would its desire for affordable housing for its own residents in this area since annexation would only allow the Satmar sect to live there. How does annexation benefit Monroe? In fact, all the surrounding communities have within their Master Plans, cluster development (some with density bonuses related how open space is preserved) and/or ridge preservation. These desirable zoning tools do not exist in Kiryas Joel's Master Plan and would be lost with annexation.

Response 3.1-73: *This comment appears directed more to the annexation determination than to the DGEIS. Annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken. Accordingly, the decision-makers will be required to not only consider the benefits or detriments of annexation to the Town but also to the property owners within the annexation territory and to the Village.*

Nevertheless, in response to the comment, it should be noted that there are locations where high density development makes good planning sense. Cities and Villages are two of those places. In suburban towns where sprawl generally occurs (as in many other areas in Orange County), master planning often promotes cluster development as smart growth. However, such development consumes substantial areas of land to support very small populations. The smartest growth where there are concentrations of people occurs in vertical settings with substantial density. This is also often the most affordable form of housing.

In fact, this type of development was lauded by the Commissioner of the NYSDEC in his January 28, 2015 lead agency decision for this action where he stated that compact, high density development (as anticipated if annexation is approved) "is more likely to result in a community that is more walk-able, bike-able and more conducive to mass transit while reducing vehicle miles traveled and generation of greenhouse gas emissions from combustion. As a general rule, high density development, appropriately sited, is considered more environmentally sustainable and conserves open space."

It should also be noted that areas in the vicinity of the Village, including the annexation territory, have been identified by the Orange County Comprehensive Plan as priority growth areas to avoid the effects of sprawl.

Comment 3.1-74 (Letter 55, Sheila Conroy, June 22, 2015): Both the County Master Plan and the Open Space Plan talk about balancing growth. Kiryas Joel development model incorporates the high density aspects of these plans such as sidewalks and bus service while totally ignoring the balancing aspects such as preserving open space, landforms and landscapes, etc. You

must incorporate the entire concept, not pick and choose some components while totally ignoring the others. That is not Smart Growth.

Response 3.1-74: See response to comment 3.1-73.

Comment 3.1-75 (Letter 55, Sheila Conroy, June 22, 2015): Page #3.1-10 Describes how the Open Space Plan talks about “The major resources areas considered are water resources, agriculture, recreation, landforms and landscapes and biological diversity ...as relates to the social, environmental and economic benefits of open space, of the social, environmental and economic benefits.”

Page #3.1-11 “The (Open Space) Plan recommends that County government continue to monitor land use trends and assist municipalities in open space protection measures, protection of water resources, farmland protection, expansion of recreation resources, and protection of plants, animals and their habitats (biodiversity). “ Where do any of these exist in the Village of Kiryas Joel or in its Master Plan? One cannot only quote those portions of the County’s Master Plan and Open Space Plan that it likes and ignore the rest. As far as anyone knows there are no existing open spaces or plans for any to be preserved in the existing Village or in the proposed annexation areas, if it follows the development pattern of previous annexations and of the existing land use. What mitigations are planned to incorporate these other aspects of Smart Growth that are intended to balance high densities.

Response 3.1-75: *Approximately 30 percent of the existing Village of Kiryas Joel is open space and there is substantial open space in the areas surrounding the Village and in the County at large.*

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Nevertheless, any future action relating to a comprehensive plan or zoning decision for the annexation territory is subject to State and local laws, including SEQRA, and that process will take place in accordance with all local, state and federal regulations. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws. Accordingly, while this DGEIS cannot identify which lots will include open space or how much, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory including the areas near regulated wetlands and protected wildlife areas.

Comment 3.1-76 (Letter 55, Sheila Conroy, June 22, 2015): In its discussions of the various regional plans, including the Orange County Greenway Compact, the Mid-Hudson Regional Sustainability Plan and others, there is an emphasis on those points that fit the high density development pattern but that ignore the balancing points which are missing from the existing Village:

- 1) Creating a range of housing opportunities and choices
- 2) Preserving open space, farmland, natural beauty, and critical environmental areas (while farmland is gone, the other 3 items should be considered)
- 3) Encouraging community and stakeholder collaboration in development decisions.

If these aspects of Smart Growth which balance other aspects such as high density housing do exist, please elaborate on how they are met and where. As a mitigation, how will these aspects of Smart Growth be addressed?

Response 3.1-76: *Every community becomes balanced when it has areas of high, medium and low residential density, a commercial and employment base, agricultural land and open space and natural resources. The plans identified by the comment pertain to a regional community view and cannot be applied solely to a single developed area such as the Village.*

A review of zoning codes in the majority of towns in the County will reveal an inordinately small amount of land targeted for high or medium density development, compared to the amount of land targeted for large lot single family development.

The lack of land devoted to high and medium density development in the County has been found by NY Courts to be exclusionary. Such suburban sprawl development patterns result in high cost homes and high property taxes. Medium and high density development, as in Kiryas Joel, (1) brings balance that is lacking in the region and creates a range of housing opportunities and choices. Moreover, accommodating the growing population of the Village with higher density housing at a location proximate to existing infrastructure and services (2) preserves open space, farmland, natural resources in the broader region. Finally, with regard to (3) community and stakeholder collaboration in development decision, it must be noted that the primary stakeholders in the proposed annexation action have collaborated in filing the petition resulting in the proposed annexation action for the purpose of seeking better services, such as sewer and water, that are not readily available in the Town.

The Village anticipates continued collaboration with stakeholders subsequent to an annexation decision for purposes of obtaining input on master planning the future zoning and development of the annexation lands.

Comment 3.1-77 (Letter 61, Dennis E. A. Lynch, Feerick, Lynch, MacCarthy, PLLC, June 22, 2015): It appears that the analysis without annexation gives consideration to the allowable density based on the subject properties as based on current Town of Monroe Zoning requirements. However, the analysis with annexation only evaluates a potential density which is based on the growth projections provided. The current zoning code in Kiryas Joel has no limitation on the number of units per acre. In consideration of this, the development potential is significantly greater than the analysis suggests.

Response 3.1-77: *A reasonable and rational analysis of potential density under the "with annexation" scenario has been provided in the DGEIS. This analysis does take into consideration the existing zoning code and development patterns within the Village as well as the projected population to be accommodated.*

Comment 3.1-78 (Letter 61, Dennis E. A. Lynch, Feerick, Lynch, MacCarthy, PLLC, June 22, 2015): Table 1-2, indicates that without annexation, there is expected to be an increase within Kiryas Joel of 2,394 units on undeveloped property (and an addition of 12,307 people). With annexation, these properties are not shown to have an increase, on the basis that "the proposed action is specific to annexation lands." This approach should be examined with respect for the potential for the claim of segmentation, by excluding this growth potential. The

DGEIS has many examples of the effect of impacts without annexation on the lands outside the current Village boundaries.

Response 3.1-78: *As clearly stated in the DGEIS, the annexation action will not cause or induce the projected population growth; rather such growth will occur with or without annexation. The DGEIS reasonably projects that with annexation, the expected population will be more easily accommodated in the annexation territory, therefore reducing the potential increase in density within the Village that was projected in the without annexation scenario.*

Comment 3.1-79 (Letter 62, Judith Cerlin Mayle, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, June 22, 2015): The statement that the Town zoning in the annexed area does not allow for commercial development is incorrect.

Response 3.1-79: *There are no principal or accessory commercial uses permitted by right under Monroe town zoning in the annexation area. Certain very limited commercial uses may be applied for by special exemption permits.*

Comment 3.1-80 (Letter 62, Judith Cerlin Mayle, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, June 22, 2015): As MWCSO previously commented, the population of Kiryas Joel will continue to exceed the housing stock and continue to overflow its borders. The only real check on this growth is the land use zoning of the neighboring communities limiting the density of units per acre and the control of water and sewer usage. Currently, as admitted in the DGEIS, the Village zoning does not limit the number of units per acre. Without some control in growth, the impact to the District and surrounding communities will increase dramatically.

The DGEIS incorrectly calculates the projection of potential housing units with and without annexation. Under both scenarios, the projection fails to take into account potential limitations on development, including, but not limited to storm water management, wetlands, steep slopes, ponds, lakes, drainage basins, endangered species or fauna, historical sites, and sanitary sewer capacity topography. It is a glaring oversight that while the DGEIS includes various maps that depict the zoning, it fails to include readily available overlays for wetlands, slopes or endangered species.

Response 3.1-80: *Zoning is a tool intended to accommodate growth and development in an orderly manner. It is not to be used as a “check,” shield or other social engineering tool to preclude the viable natural growth of particular communities. In fact, NY Courts have condemned such use of zoning as impermissibly exclusionary.*

As noted in the DGEIS, the projected growth can be accommodated with and without annexation given the general topographic and natural features of the annexation lands.

The housing unit projections provided are not absolute but presented as generic information to ascertain a conservative ten year growth scenario for purposes of the DGEIS. Whether or not the potential housing numbers will be reached cannot be determined with any specific accuracy. As noted in the DGEIS, future plans and applications for site specific development will be subject to further SEQRA review as well as all other applicable federal, State and local laws. Studies connected with future land development will be accompanied by detailed topographic maps, drainage studies, engineering and infrastructure studies, wetland maps, etc., assuring that all local, state and federal rules are fully adhered to and addressing the physical carrying capabilities of

the landscape. It is known, however, that the land in the annexation area is readily developable, does not contain substantial wetlands and does not support a plethora of rare or endangered species.

Comment 3.1-81 (Letter 62, Judith Cerlin Mayle, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, June 22, 2015): It is especially disconcerting that the calculation of development without annexation relies solely on the Town zoning, that allows in a single family home, the construction of an accessory apartment or in some instances in the DGEIS, what is inaccurately referred to as a condominium. Such representation is disingenuous and ignores the significant restrictions on the approval of accessory apartments in the Town. The Town of Monroe Code specifically limits "the specific purpose and intent of this section to allow an accessory apartment within one family detached residential structures in all one-family residence districts in order to provide the opportunity and encouragement for the development of small rental housing units designed, in particular, to meet the special housing needs of single persons and couples." [Town of Monroe Zoning Code, Section 57-21]. Furthermore, accessory apartments are specifically limited in size to two bedrooms." [Town of Monroe Zoning Code Section 57-21(H)]. It is noted that the two developments Forest Edge and Vintage Vista located on the land proposed to be annexed, are touted in the DGEIS as ripe for accessory apartments. However, such representation appears to be poised to flaunt the Town Law given the very specific purpose and restriction on accessory apartment use. As repeatedly asserted, Hasidic families have on average 6 children. Accessory apartments in single family homes cannot accommodate nor are they intended to accommodate families let alone 8 people.

Response 3.1-81: *Comment noted.*

Comment 3.1-82 (Letter 62, Judith Cerlin Mayle, Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, June 22, 2015): It is also significant that the Village has not adopted a comprehensive plan whereas the Town has implemented such a plan. The DGEIS must include a discussion and analysis of the impact of the Village's lack of planning.

Response 3.1-82: *See response to Comment 3.1-45.*

Comment 3.1-83 (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015): Rational analysis must be premised on a "reasonable worst-case scenario" for development under the Annexation. The DGEIS is flawed because it fails to consider the level of development foreseeable with the Proposed Annexation.

The DGEIS states that if the Proposed Annexation proceeds, "theoretical maximum residential development density on the annexation land" would change to allow up to twenty (20) dwelling units per acre." (DGEIS at 3.1-18.) First, the SGEIS should explain how this statement correlates to the statement on the first page of the DGEIS that "[t]here is no maximum density (units per acre) provision in the [Village] code."

Response 3.1-83: *The DGEIS contains a generic evaluation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence. It is based on reasonable conceptual projections of both population growth and the development necessary to accommodate such growth under both the with and without annexation scenarios.*

Contrary to the comment, a discussion of a theoretical maximum development density for evaluative purposes does not conflict with a statement of fact that there is no

maximum density provision in the Village code. Nevertheless, while there may not be a maximum density provision in the Village code, this does not require an analysis any differently than what was done in the DGEIS. The DGEIS analysis considered a density calculation based on the reasonable and rational population projections for the future ten year term of the analysis and the level of development that would be needed to accommodate such a population.

Comment 3.1-84 (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015): Even accepting a maximum residential development of twenty (20) dwelling units per acre, extrapolating from this, the DGEIS indicates that over 10,000 dwelling units could be built in the territories proposed for annexation. Multiplied by the stated average family size of 5.9 persons, this would suggest that up to nearly 60,000 people could be placed in housing in the territories at issue. Development at this level under the Annexation is foreseeable, and must be considered as a reasonable worst case scenario. The SGEIS should assess the environmental impacts of this level of development, and propose appropriate mitigation measures to prevent critical thresholds from being surpassed.

The Kiryas Joel Comprehensive Plan states that, at the time of its writing, "[t]here are eight major vacant parcels suitable for residential development totaling 185 acres." (Comprehensive Plan for the Village of Kiryas Joel, Summary of Findings and Proposals, at ~ 11.) It adds that "[a]t the current type and density of development in the Village, between 1,400 and 1,800 dwelling units could be built on these parcels." Extrapolating from this, the Village's Comprehensive Plan suggests that almost 5,000 dwelling units could be built in the territories proposed for annexation. Multiplied by the stated average family size of 5.9 persons, (see DGEIS at 3.2-3 & 3.2-4), this would suggest that up to nearly 30,000 people could be placed in housing in the territories at issue. The SGEIS should assess the environmental impacts of this level of development, and propose appropriate mitigation measures and thresholds for further environmental review.

Response 3.1-84: *The SEQRA action being assessed in the DGEIS is the annexation petition filed by a group of private property owners in the Town. The DGEIS assesses the reasonable level of impacts that such an annexation of land to the Village could entail. As a component of that analysis, the DGEIS projects the naturally expected growth of Village population over a ten year horizon in order to consider the level of impact in accommodating such growth in the proposed expanded Village including the annexation territory. It was never intended to be a SEQRA analysis of the full build-out of the Village and annexation territory under an unreasonable worst case development density scenario. SEQRA suggests that a Generic EIS only present and analyze hypothetical scenarios that could and are likely to occur. The DGEIS does just that in a rational and reasonable way.*

As clearly stated in the DGEIS, the annexation action will not cause the projected population growth; rather such growth will occur with or without annexation. Therefore, while the implications of that population growth requires good planning, population growth itself is not an impact of annexation requiring the encyclopedic level of analysis suggested by the comment.

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including SEQRA and the Village zoning code.

Comment 3.1-85 (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015):

Consideration of growth inducing impacts is critical here. The DGEIS's assumption that demographic growth would be the same with or without Annexation conflicts with past patterns of development in the Village.

The DGEIS states that "in-migration [to the Village] in the early years was high," but fails to explore the reasons for this. The SGEIS should discuss why in-migration was much higher in the early years of the Village. It should consider, for example, whether the reason in-migration was high in the Village's early years was the fact that land was available for unregulated development. The SGEIS should also consider whether in-migration would increase again if, as the result of the Proposed Annexation, substantially more land became available for unregulated development.

***Response 3.1-85:** As described in detail in the AKRF report prepared for the Aqueduct project AFEIS, in-migration was higher in the early years because the foundation for a village was being established and attracted a base community who wished to reside there. That event has passed and population growth by in-migration has leveled off to an inconsequential level notwithstanding there being remaining developable available land in the Village. [AKRF, Inc., "Growth Study for Village of Kiryas Joel Amended FEIS for the Proposed Connection to the New York City Catskill Aqueduct", January 2009. Included as DGEIS Appendix H2.]*

Comment 3.1-86 (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015):

The DGEIS acknowledges that the Proposed Annexation would result in the loss of "approximately 53 percent of the total area of UR-M district lands now in the Town." (DGEIS at 3.1-17.) Other than to recognize this loss, however, the DGEIS contains no analysis of how this loss would impact the remaining area of the Town. Would this loss, for example, affect the Town's ability to provide a reasonable mix of housing opportunities to Town residents, including affordable housing?

***Response 3.1-86:** The Village of Kiryas Joel will continue to be part of the Town of Monroe, whether or not the annexation occurs. Higher density housing likely to be developed in the annexation lands will satisfy local and regional demands for diversified and affordable housing that is not accommodated in many other suburban areas of the County.*

Should the Town choose, it may modify its comprehensive plan and zoning code to make further provisions for such housing in the town at large.

Comment 3.1-87 (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015):

The DGEIS is inherently flawed by virtue of its use of an arbitrary 2025 outside date for analysis, its failure to consider a reasonable worst case for density projections. The SGEIS must consider the significant adverse environmental impacts posed by a reasonable worst case development scenario, and use 2045 as an outside date for analysis, and propose concrete, enforceable mitigation measures to prevent the area from reaching an ecological point of no return.

***Response 3.1-87:** This has been addressed by previous responses. See Responses 3.1-6, 3.1-36, 3.1-83 and 3.1-84.*

Comment 3.1-88 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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 ($\pm 1,207$ 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.

Response 3.1-88: The writer has misread the text of the DGEIS. The number of people spread out over the $\pm 1,207$ acres will be the same with or without annexation, based on the projections provided in the DGEIS. That being the case, mathematically, of course, the overall density will be exactly the same under either scenario.

Comment 3.1-89 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): Acreage 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.

Response 3.1-89: The acreage numbers in Table E-2 are taken from the County's real property records and for the purposes of the DGEIS analysis, these numbers prevail.

Comment 3.1-90 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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. 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.

Response 3.1-90: The information presented is taken from County land records. Lot 94 on Figure 2-3, part of Ace Farm, is the only land in the annexation territory that is a designated agricultural district.¹

Comment 3.1-91 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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

¹ Part of designated Agricultural District ORAN001 per NYS Ag and Markets Law Art 25-AA §§303-4.

area of proposed annexation is shown extending all the way to the municipal boundary of the Village of South Blooming Grove in that location. 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.

Response 3.1-91: *The northerly edge of the proposed annexation area does not coincide with the Town line or western property line of Lots 1 and 2 (tax map numbers 1-1-4.2 and 1-1-4.32). For purposes of the DGEIS analyses, the total area of these lots is included in the calculation of development yield. The variation is inconsequential for the purposes of the DGEIS evaluations.*

No change in the existing driveway access to Lot 2 is anticipated in relation to the annexation action. Decisions about individual lot access drives is beyond the scope of the DGEIS.

Comment 3.1-92 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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. 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.

Response 3.1-92: *Portions of Lot 21 fall within Annexation Area VIII (C) and Annexation Area VIII (D) -- see Annexation Map, Figure 2-3. For purposes of density calculations in the DGEIS, the total acreage of Lot 21 was counted in its entirety, the small area of the lot on the west side of Seven Springs Road and the large portion on the east side, in Annexation Area VIII (D) in Table E-2 which calculates development yield.*

Based on the annexation petition as presented to the Town and Village and shown on Figure 2-3, the westerly edge of the proposed annexation area does not coincide with the Town line or western property line of Lot 27 (tax map number 1-1-39). For purposes of the DGEIS analyses, the total area of Lot 27 is included in the calculation of development yield. The variation is inconsequential for the purposes of the DGEIS evaluations.

No change in the access to this lot is anticipated in relation to the annexation action. Decisions about individual lot access drives is beyond the scope of the DGEIS.

Comment 3.1-93 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): According to 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. Figure 3.1-4 should also be updated to identify zoning district designations in adjacent portions of the Town of Blooming Grove.

***Response 3.1-93:** The Village of South Blooming Grove is located within the Town of Blooming Grove and therefore, the Village and Town boundaries are coincident with portions of the north and west boundaries of the Town of Monroe. However, the Village of South Blooming Grove zoning regulations and comprehensive plan apply to the land adjacent to the proposed annexation area, not the Town of Blooming Grove regulations and plan. Thus, the discussion of the Village of South Blooming Grove zoning on DGEIS page 3.1-3 addresses the Scope.*

Comment 3.1-94 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): Page 3.1-2 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.

***Response 3.1-94:** The cited sentence refers to the three districts of the annexation territory and the range of densities cited is clearly shown in Table 3.1-1 opposite the applicable district (first column and last column).*

Comment 3.1-95 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): According to 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.

***Response 3.1-95:** The Village of South Blooming Grove is located within the Town of Blooming Grove and therefore, the Village and Town boundaries are coincident with portions of the north and west boundaries of the Town of Monroe. However, the Village of South Blooming Grove zoning regulations and comprehensive plan apply to the land adjacent to the proposed annexation area, not the Town of Blooming Grove regulations and plan. Thus, the discussion of the Village of South Blooming Grove Comprehensive Plan on DGEIS pages 3.1-8 and -9 addresses the Scope.*

Comment 3.1-96 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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.

***Response 3.1-96:** The four overlay districts that have been designated for the land adjacent to the annexation territory in the Village of South Blooming Grove are described in § 235-5.B(2) of the Village Zoning Law as follows:*

(b) Scenic Viewshed Overlay District. The purpose of this overlay district is to protect areas of scenic importance. This district serves to provide additional protection to ensure the preservation of scenic qualities, which include landscaping and site design, the preservation of native vegetation, and the design of buildings and structures.

(c) Ridgeline Overlay District. The purpose of this overlay district is to protect the ridgelines and hillsides in order to preserve this scenic resource, help protect people and property from potentially hazardous conditions particular to hillsides, and require all practical innovative design solutions.

(e) Surface Water Overlay District. The purpose of this overlay district is to protect the scenic character and water resource values of the surface water bodies in the Village, including any stream, lake, pond or other water body (including wetlands).

(f) Significant Biological Overlay District. The purpose of this district is to protect and preserve threatened and endangered species of flora and fauna, as well as recognizing the community of species necessary to support their presence and survival.

Comment 3.1-97 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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. 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.

Response 3.1-97: *The development scenarios presented in the DGEIS for evaluation of potential environmental effects are intended to illustrate the greater extent of possible development rather than a range (such as lowest and highest). The scenarios therefore include the stated assumptions, such as with central sewer and water which is generally required for higher density development, and accessory apartments where they are allowed, as well as exclude known development constraints such as wetlands. Clearly, development on any parcel in any district can be somewhere between zero and the projected maximum. Developing a low density scenario serves no purpose in the evaluation of impacts of development potential. Again, potential density starts at zero.*

In point of fact, the EISs prepared and reviewed for two recent projects in the Town of Monroe, Vintage Vista and Forest Edge subdivisions which are within the proposed annexation territory, evaluated just such a full build scenario -- five bedroom primary residence plus 2 bedroom apartment,² and six bedroom primary residence plus 2 bedroom apartment,³ respectively -- though actual initial construction was planned to include just the single family houses.

Comment 3.1-98 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): Table 3.1-1- Zoning Data: 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 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 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.

² Saccardi & Schiff, Inc., "Vintage Vista Final Environmental Impact Statement." Accepted September 11, 2007. Page III.B-1.

³ VHB/Saccardi & Schiff, "Forest Edge Supplemental Draft Environmental Impact Statement." dated July 2011. Page III.E-2.

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.

Response 3.1-98: See Response 3.1-97. DGEIS Table 3.1-1 is amended at the end of this section in response to commenter's items a., b. and c. (see footnotes). It is noted that the table is intended to summarize in a comparative format otherwise complicated nuances of the various codes; the reader is advised to refer to the appropriate code(s) cited for specific information.

d. To represent a maximum development scenario, the DGEIS uses density multipliers that apply to lots served by central sewer, a stated assumption in the DGEIS. The range of development alternatives begins at a density of zero. A No Annexation alternative with no development is an unrealistic expectation when there is land in private ownership with development rights. Regardless, the DGEIS clearly states that with the impending growth of the local population there is no reasonable expectation that the subject lands will remain entirely undeveloped.

e. Multiple dwelling groups in the UR-M district are required to meet the following standards [§57-13.N.(1)]:

(a) The maximum density in dwelling units per acre for multiple dwelling groups shall be 12 for efficiencies, 10 for one-bedroom units, eight for two-bedroom units and five for two-bedroom-and-den or three-or-more-bedroom units.

(b) For senior citizen multiple dwelling groups, the densities in dwelling units per acre shall be 14 for efficiencies, 12 for one-bedroom and 10 for two-bedroom units.

(c) All units in excess of two bedrooms shall be limited to five dwellings per acre.

f. The table does not include zoning data for the Town of Blooming Grove since the Village of South Blooming Grove zoning regulations and comprehensive plan prevail for the land adjacent to the proposed annexation area. The zoning regulations of the Town of Blooming Grove do not apply to land adjacent to or even near the study area. Refer to response to Comment 3.1-93.

Comment 3.1-99 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): The DGEIS does not contain a sufficient explanation of the methodology that was used to generate Table E-2, either in the column headings or notes at the end of the table itself or in the narrative included in Section 3.1.3.

Response 3.1-99: As further clarification, development yield listed in Table E-2 was calculated with the following methodology. Based on the lot area (taken from the tax rolls), potential development constraints calculated for each lot (as explained in Response 3.1-102) were subtracted to yield the net developable area ("Developable (Ac)" column). The number of units permitted per acre was calculated for the "As of right / Build per zoning density (DU/Ac)" column for each zoning designation:

- *RR-3AC district with 3-acre minimum lot size and assuming an accessory apartment: $43560/(3*43560)*2 = 0.667$*
- *RR-1.0AC district with 25,000 sf minimum lot size and assuming an accessory apartment: $43560/25000*2 = 3.485$*
- *UR-M district with 10,000 sf minimum lot size and assuming an accessory apartment: $43560/10000*2 = 8.712$*
- *UR-M district parcels of 5 acres or more: = 10.000*

For the “As of right / Build per zoning (# DU)” column, the previous column was multiplied by the “Lot Area Acres” column, in some cases was then adjusted to account for additional yield possible by combining adjoining lots (calculated manually), and rounded down to an integer. Other assumptions applied were: adjoining lots would be combined to maximize yield; existing farmland would be developed in residential use; approved Vintage Vista project would include accessory apartments; number of occupants in a bedroom was not considered.

The total of the last column, 1,431 units, is the calculated, theoretical yield for the annexation territory under existing Town zoning, for the purposes of the DGEIS study.

Comment 3.1-100 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): Table E-2. Under the column heading labeled "Land Use from 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.

Response 3.1-100: “Res.Vac.” property classification in the assessment roll typically refers to vacant land zoned for residential use (located in a residential zoning district). The assessment roll used for several columns of information in Table E-2 was for 2014 (January 1 through December 31, 2014). The listed land uses in the 5th column were also checked using aerial photographs and local knowledge of the Village.

Comment 3.1-101 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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

Response 3.1-101: Comment noted. These discrepancies do not substantively change the resulting yield or the results of the DGEIS evaluations. Also see Response 3.1-104. The changes discussed in Comments 3.1-101 and -104, together, calculate to an inconsequential one more unit.

Comment 3.1-102 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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.

Response 3.1-102: *Land development constraints accounted for in Table E-2 column 8 include: mapped wetlands and waterbodies, existing use, use recently approved, and further reduction by 15 percent for lots over two acres assumed for roads, etc. Information was obtained from the Orange County GIS, available planning maps and data, evaluation of aerial photographs, and local knowledge of the Village. Possible constraints not accounted for, as the information could not be obtained at a level of detail sufficient for this study, include: steep slopes, shallow rock, soil capability, endangered species habitat, historic resources, irregular lot shape, unknown easements, or other legal constraints. Such unknown subjective constraints would not affect the analysis for purposes of this DGEIS. Obviously, these constraints would indeed be considered by the approving municipal agency at the future time when a development plan is presented.*

Comment 3.1-103 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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 bedrooms and the DGEIS repeatedly asserts that average household size among the Hasidic families in the Village of Kiryas Joel is typically 5.9 persons. 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. Typically, a family with an average size of 5.9 persons could not be accommodated in such small quarters.

Response 3.1-103: *Table E-2 is the DGEIS projection of the total number of units possible on the land, irrespective of unit occupancy. Table E-3 is the DGEIS projection of the population based on current population and unit occupancy. Table E-1 is the DGEIS projection of four possible scenarios for the distribution of the projected units and projected population within the study area. For the purposes of the study, the distribution projections assume all of the population not located in the annexation territory would locate in Kiryas Joel (so noted in Table E-1). As is true today, some dwellings may have fewer than or more than 5.9 persons. The number of possible or probable occupants in a bedroom was not considered in the DGEIS analyses.*

The commenter is correct that nearly every lot in the Annexation Territory would need to be developed with a single family residence and an accessory apartment in the scenarios presented. As pointed out in Response 3.1-97, two recent EISs evaluated just such a full build scenario, with 5- and 6-bedroom homes.

Comment 3.1-104 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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 "Developable (A c.)" 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.

Response 3.1-104: *The tabulation in Table E-2 included manual calculations of yield for a number of lots that abut each other and thus are able to yield slightly more than the individual lots. (The adjacency of lots is illustrated in Figure 2-3.) Overall, these adjustments do not substantively change the resulting yield or the results of the DGEIS evaluations. Also see Response 3.1-101. The changes discussed in Comments 3.1-101 and -104, together, calculate to an inconsequential one more unit.*

The "As of right / Build per zoning (# DU)" column does not represent the net increase but rather presents the calculated yield of each lot, assuming existing developed lots would remain or be redeveloped to yield the maximum number of units feasible. The "Exist density (DU/Ac)" column calculates the actual housing density of each lot for information and is not otherwise used in any calculations.

The overall exercise was intended to provide a general approximation of yield sufficient to support the requirements of the Draft Generic EIS and provide a generalized notion of growth and development yield. Any number of potential scenarios may be possible.

Comment 3.1-105 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): 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/ 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. 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 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.

Response 3.1-105: *This comment is beyond the scope of the DGEIS. The proposed action is annexation, not the naturally occurring growth in population that may occur in or near the Village.*

This comment includes several erroneous assumptions: that Kiryas Joel would develop at 7.2 units per acre; that the existing village could accommodate the projected growth of 3,825 units; that the DGEIS represents that the existing village must accommodate the projected growth of 3,825 units; that development pressure has not already occurred inside and outside of the village.

In fact, two projects discussed in the DGEIS in the village (Atzei Tymurim Gardens and Beirach Moshe Gardens, discussed on DGEIS page 3.1-13) were recently developed at 19.3 and 12.1 units per acre, respectively. Likewise, two projects were approved and are being developed outside the village in the Town of Monroe (Forest Edge and Vintage Vista, also discussed on page 3.1-13). Additionally, the DGEIS projection assumes all of the population not located in the annexation territory would locate in Kiryas Joel, however the two projects cited above show that development pressure is occurring beyond the limits of the village.

Comment 3.1-106 (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): The DGEIS discussion of "Annexation and District Lines" should be expanded to address road maintenance considerations.

Response 3.1-106: *Discussion of road maintenance is provided in DGEIS sections 3.3.2 and 3.3.5, in accordance with the adopted scope.*