

#### **6.4 Alternatives Comments and Responses**

**Comment 6-1: (Letter 10, Itzik Gold, Monroe, June 12, 2015):** The 'No Action' scenario. It must be noted in the DGEIS that 'no action' means a decision of action by the Town and Village boards to reject the annexation. And it must also recognize that such an action to reject the annexation may be illegal, particularly in this case. Because since the intention to annex these lands are partially because cultural and religious needs such a rejection will be a possible indirect violation of the general rule of the "RLUIPA" (Religious Land Use And Institutionalized Persons Act) that says; "No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government can demonstrate that imposition of the burden on that person, assembly or institution

A) is in furtherance of a compelling governmental interest; and

B) is the least restrictive means of furthering that compelling governmental interest."

The 'No Action' scenario also fails to review the possible negative consequences from such an action on the culture, society and lifestyle from the community at-large.

***Response 6-1:** Comment noted. A legal discussion or analysis of RLUIPA is beyond the scope of this FGEIS.*

**Comment 6-2: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** Alternatives. The DGEIS fails to acknowledge the extensive landholdings that have been purchased in the vicinity of the Village that could accommodate growth within the region, consistent with each municipal zoning regulation. The Village of Kiryas Joel commissioned preparation of the map illustrated here:

<http://www.recordonline.com/article/20140207/news/402070360>.

It is evident that there is significantly more land controlled by members of the Village of Kiryas Joel and the Hasidic community that could accommodate growth than that included in the immediate annexation area. The DGEIS would lead one to believe that there are limited options to accommodate growth. This is inconsistent with the potential build out that could be accommodated on the parcels shown on the subject map referenced in the above link. The Petitioners are primarily a collection of developers, evidenced by the significant number of Petitioners which are LLCs, realty companies, and incorporated businesses, who seek to increase their profit by developing at a higher density than presently allowed in accordance with existing municipal zoning. The DGEIS already states that the growth can be accommodated without the annexation. Thus, there is no compelling reason to annex lands into the Village, except to allow a higher density and thus greater profit margin, than allowed under current zoning.

***Response 6-2:** The petition before the Town and Village is solely for the annexation of the identified properties in the Town of Monroe. SEQRA requires that an EIS contain a description and evaluation of the range of reasonable alternatives to the proposed action which are feasible considering the objectives and capabilities of the project sponsor. It does not require that every conceivable alternative be considered or that the lead agency develop entirely hypothetical scenarios. Here, the Village is one of two government entities with the ability to consider the proposed annexation. It is not the project sponsor. Rather, the project sponsor is the group of private property owners that*

*filed the annexation petition. The objectives of the petitioners are to have their properties included within the municipal boundaries of the Village of Kiryas Joel where future residents may benefit of the services and infrastructure and enjoy the cultural, religious and lifestyle experiences that are more readily available to Village residents.*

*The suggested alternative of the consideration of where else future development might occur to accommodate population growth does not fall within this requirement. Such alternative is not feasible in that no petition by residents or private property owners in these other areas has been presented to the Village. Further, annexation and/or development of other areas in the vicinity of the Village does not appear to meet the objectives or capabilities of the project sponsor.*

**Comment 6-3: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** Transfer of Development Rights (TDR) is a potential alternative which the DGEIS fails to examine. The development rights from lands within the R-1.0 and R-3.0 could be transferred to the UR-M properties, and a conservation easement implemented on the R-1.0 and R-3.0 lands to preserve them as undeveloped open space in perpetuity. This would have two benefits- preserving open space consistent with the Town of Monroe Comprehensive Plan, and placing development within closer proximity to the VKJ on UR-M properties which would be less costly to extend services to. Until such time that real alternatives are examined, the Monroe Town Board should not approve any such annexation, which is inconsistent with the Town of Monroe Comprehensive Plan and zoning.

***Response 6-3:*** *SEQRA requires that an EIS contain a description and evaluation of the range of reasonable alternatives to the proposed action which are feasible considering the objectives and capabilities of the project sponsor. It does not require that every conceivable alternative be considered or that the lead agency develop entirely hypothetical scenarios. Here, the Village is one of two government entities with the ability to consider the proposed annexation. It is not the project sponsor. Rather, the project sponsor is the group of private property owners that filed the annexation petition. The objectives of the petitioners are to have their properties included within the municipal boundaries of the Village of Kiryas Joel where future residents may benefit of the services and infrastructure and enjoy the cultural, religious and lifestyle experiences that are more readily available to Village residents.*

*Transfer of development rights does not fall within this requirement. Such alternative is not feasible in that such law does not currently exist within the Town and the Village has no ability to enact such legislation in the Town. Further, transfer of development rights does not appear to meet the objectives or capabilities of the project sponsor.*

**Comment 6-4: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** The DGEIS fails to provide a rational set of assumptions for establishing the build out under the two hypothetical alternatives. The DGEIS assumes that the same type of housing units and market values are applicable under the "with annexation" ("WA") or "without annexation" ("WOA") alternatives and that the only difference will be in the distribution of those units. This is not supported by the zoning regulations or real development patterns. For example, the "without annexation" alternative includes, in its yield, accessory apartments which cannot even be assigned a separate market value, as they are incorporated into preexisting dwellings. Yet, these accessory apartments are assigned the same average market value as if they were standalone single family dwelling units accessory apartments would not even be built

in a real "with annexation" alternative. The existing VKJ housing is overwhelmingly multifamily residential dwellings and the same would occur under a proposed annexation- the majority would be rental dwellings and would not have the same value as ownership dwelling units on fee simple lots as in the WOA. The comparison of alternative build outs is meaningless and does not provide any real analysis.

**Response 6-4:** *The DGEIS does not assume the same type of housing units and market values are applicable under the With Annexation scenario compared to the Without Annexation scenario. The projected With Annexation assessed values are based upon large townhouse units in condominium ownership and the Without Annexation assessed values are based upon large single family houses that include an accessory apartment and are calculated based on the market value of these units. The assessed value of the accessory apartment is included in the overall assessed value of the single family house. Actual assessed values can only be determined by the assessor at the time of construction, but the projections are a reasoned estimation.*

*The DGEIS is a generic one, and the guidelines provide for the evaluation of the proposed action at a level of detail consistent with the overall action. The comparison of alternatives in the DGEIS provides a sufficient level of detail to make a reasoned comparison of the benefits and costs between the two.*

**Comment 6-5: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** The DGEIS lacks real, substantive analysis in comparing alternatives. What is the likelihood that the Village would extend sewer service to an area zoned for 3 acres under the WOA. The extent to which public sewers is likely to be provided should be analyzed based on valid with annexation and without annexation alternatives.

**Response 6-5:** *The anticipated increases in wastewater infrastructure are related to population growth, not to annexation. Population growth is not caused by or an impact of annexation. Generally, the extension of sewer service is a function of costs versus benefits. In the no action alternative, if portions of the annexation lands were developed under zoning that required a 3.0 acre parcel size, there would be a reduced need for public waste water infrastructure. However, current history indicates that development in this area, specifically the Vintage Vista and Forest Edge development projects, will likely be at a higher density which will require public waste water service with or without annexation. Further, a majority if not all of the annexation lands currently lie within the Orange County Sewer District # 1 and therefore are entitled to public waste water service.*

**Comment 6-6: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** The WAA requires that the Village create a backup supply equal to the amount of water it will take from the Catskill Reservoir system. What would have been the requirement for water demand for the WOA. Does the WAA option require that a larger volume of water be committed to serve the Village as a result of the full backup requirement?

**Response 6-6:** *The annexation action does not require the Village to create a backup supply of water equal to the amount of water it will take from the Catskill Reservoir system. Such requirement is entirely separate and not related to the annexation action or to the analysis of the two alternatives, with and without annexation. To the extent the comment is referring to the Village's obligation once it connects to the New York City Aqueduct that its water supply will be able to sustain a shutdown of the Aqueduct for*

*extended periods of time, this obligation will be the same under either alternative scenario. Further, as noted in the DGEIS related to water supply, the annexation action will not cause a greater demand in water supply than has already been forecast for that separate project.*

**Comment 6-7: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** The WA alternative grossly underestimates the demand for water, as it only considers the impacts associated with an arbitrary 2025 build out.

***Response 6-7:** Refer to Response 3.2.10-1. There is greater statistical accuracy with a projection that extends over ten years versus a twenty five year projection. There are a significant number of unknown factors that can alter the results of a projection over a 25 year time frame.*

*The timeframe analyzed was a ten year estimate for population growth that is projected to occur with or without annexation. The demand for water, which in the DGEIS was predicated on a reliable per capita factor, is reasonable and accurate given historic water use in the community and is consistent with figures projected in the Village EIS for the Aqueduct Connection project. It is noted that if the population continues to grow beyond 2025, which is likely, water demand may also be expected to grow accordingly.*

**Comment 6-8: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015):** The analyses are deeply flawed to assume the exact same population numbers, based on very different housing units, can be accommodated under either scenario. The WOA assumes a large number of dwelling units will be accessory apartments, which can be constructed with two bedrooms only. This unit type cannot accommodate the same number of persons as the dwellings that are being built in the VKJ, which have substantially more bedrooms. The population from a WA and WOA cannot be the same with different mixes of housing.

***Response 6-8:** The projections took into account the limitations imposed by the two bedroom units. As shown in DGEIS Table 3.2-8, the anticipated housing in the Town of Monroe without Annexation is a Single Family w/ accessory apartment unit. The 5.9 persons would be accommodated in the entire Single Family House including the accessory apartment, not in just the apartment.*

**Comment 6-9: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015):** The DGEIS provides a discussion on only two alternatives – the less 165+/- acre annexation proposal or No Action. This Department believes there are other reasonable alternatives that can be defined and analyzed that would provide important guidance in determining potential adverse impacts and identifying actions to avoid or mitigate such impacts. For instance, alternatives should be defined according to alternative annexation arrangements, no annexation but development options with rezoning within one or more adjoining municipalities, and/or no annexation and development consistent current zoning and land use regulations. Additionally, an alternative should be analyzed that keys the pace, scale and pattern of growth, development and land uses to available infrastructure – with zoning as exists now in the adjoining Towns versus with zoning similar to that currently in the Village. Our concern is that adverse effects to areas including potable water, sewer treatment capacity, transportation, and transit facilities have gone largely unexamined.

**Response 6-9:** *SEQRA requires that an EIS contain a description and evaluation of the range of reasonable alternatives to the proposed action which are feasible considering the objectives and capabilities of the project sponsor. It does not require that every conceivable alternative be considered or that the lead agency develop entirely hypothetical scenarios. Here, the Village is one of two government entities with the ability to consider the proposed annexation. It is not the project sponsor. Rather, the project sponsor is the group of private property owners that filed the annexation petition. The objectives of the petitioners are to have their properties included within the municipal boundaries of the Village of Kiryas Joel where future residents may enjoy the cultural, religious and lifestyle experiences that are more readily available to Village residents.*

*The suggested alternatives do not fall within this requirement. As noted elsewhere, the annexation petition was not presented with any development proposal and has no ability to include conditions on approval of the petition to accommodate any of the suggested alternatives. For an annexation action as the one proposed, the only feasible alternatives that can be considered are the evaluation of the proposed petition and the no action alternative. These are the two alternatives presented in the scoping document. In addition, here, the Village and Town were presented with a unique circumstance where a second annexation petition was presented which encompasses a smaller scale annexation within the larger annexation territory but a number of the same petitioners. While both petitions remain pending before the Town and Village, this unique circumstance presents the Village, as lead agency, with another alternative (smaller scale/magnitude) that would seem feasible solely by virtue of it having been presented at the same time.*

**Comment 6-10: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015):** the DGEIS makes no attempt to determine and analyze viable alternatives that would minimize or avoid significant impacts to the environment, water, wastewater and transportation systems. If annexation does not occur, those who may move into the annexed territory may choose to live in the adjoining or nearby municipalities where current community members own land and/or reside such as Chester, Woodbury or South Blooming Grove. This alternative may assist in mitigating impacts on water, wastewater and the transportation system. This alternative was not analyzed to any extent in the DGEIS.

**Response 6-10:** *See response to comments 6-2 and 6-9.*

*If annexation does occur or does not occur, people culturally affiliated with the Kiryas Joel community may still very well choose to live in Chester, Woodbury or South Blooming Grove. However, the petitioners who own land near the Village of Kiryas Joel are seeking municipal services that are not generally available in the Town of Monroe or in those other communities.*

**Comment 6-11: (Letter 61, Denis E. A. Lynch, Feerick, Lynch, MacCarthy, PLLC, June 22, 2015):** The practice and pattern of relocating into other communities to accommodate a growing population was completely ignored as an alternative in studying the impacts of the proposed Annexation.

**Response 6-11:** *See Responses to Comments 6-2, 6-9 and 6-10.*

**Comment 6-12: (Letter 61, Denis E. A. Lynch, Feerick, Lynch, MacCarthy, PLLC, June 22, 2015):** Failure to analyze the build-out that can reasonably be anticipated based upon the KJ history of development is improper segmentation under SEQRA. Without the impacts being so identified, mitigation measures cannot be properly proposed.

*Response 6-12: Build-out associated with historic growth in the Village has been properly considered over a ten year planning horizon.*

**Comment 6-13: (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015):** The SGEIS should address how the natural growth of the Satmar and/or other Hasidic communities can be accommodated under the existing zoning in the area. The Map, entitled "Map of Hasidic Jewish Land Owners Surrounding Kiryas Joel, shows that there are Hasidic-owned properties outside Kiryas Joel totaling approximately 900 acres in Monroe, 1,100 acres in Woodbury and 1,300 acres in Blooming Grove. (See Map, annexed hereto as Exhibit "N".) The DGEIS fails to assess whether the Hasidic community's natural growth in the area could not be accommodated in these areas under existing zoning.

*Response 6-13: See response to Comments 6-2, 6-9 and 6-10. The DGEIS goes to great length to discuss how growth may take place without annexation, including an analysis of zoning and development potential in the annexation territory under existing Town of Monroe zoning. See the project description chapter of the DGEIS and land use and zoning chapter as well.*