

CONSERVATION COMMISSION  
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March 6, 2015

Mr. Gedalye Szegedin, Village Administrator  
Village of Kiryas Joel Board of Trustees  
51 Forest Road  
PO Box 566  
Monroe, New York 10949

**RE: Comment Letter – Annexation of Land/507.4 Acres  
Scoping Outline – February 6, 2015  
Draft Generic Environmental Impact Statement  
Town of Monroe to Village of Kiryas Joel**

Dear Mr. Szegedin and Honorable Trustees:

Petitioner, Monroe KJ Consulting LLC, purportedly representing owners of one hundred seventy-seven (177) parcels, submitted on December 27, 2013 to the Town of Monroe Town Clerk a request to annex 507.4 acres of land from the unincorporated Town of Monroe to the Village of Kiryas Joel. The annexed property acreage is estimated to total five hundred seven (507.4) acres of land or 4.86% of the ten thousand two hundred seventy eight (10,278) total acres within the unincorporated Town of Monroe.

Citizens of the Town of Monroe have a long tradition of protection of the natural resources important to the public health and safety of residents and enacted through zoning and land use ordinances numerous laws governing their well being and protection. The proposed annexation, which is subject to compliance with the New York State Environmental Quality Review Act, will cause environmental impacts to the Town of Monroe involving noise, agricultural, ecological, archeological, historic or aesthetic significance, and existing patterns of population concentration, distribution or growth. The Town of Monroe Comprehensive Plan Update – Adopted May 19, 2008, estimates the upper limit of potentially developable land to total two thousand seven hundred seventy seven (2,777) acres based on the conclusions of two build out analyses submitted to the Town of Monroe, on in 1989 by Saccardi & Schiff as part of work done by the 1990 Master Plan Update, and the other in 2002 authored by then-Town Engineer Ron Rothenberg and Town Planner Leslie Dotson. You may be aware; estimates of land for development can be further diminished by such variables as steep slopes, wetlands, etc. The annexation of 507.4 acres of land represents 18.26% of the upper limit of potentially developable land in the Town of Monroe.

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There could be significant impacts to the existing community or neighborhood character should the request for annexation receive governing board approval. Imperative to a full and complete evaluation and discussion of the request is analysis of land use protection removals resulting from annexation including such aspects as deforestation and the loss of wetland protections as provided in the Town of Monroe. The Monroe Conservation Commission is hopeful your analysis and assessment of environmental impacts results in a comprehensive statement and requests your consideration the following comments respecting the final scope:

### **Interested Agency Status**

As per Chapter 3 of the Town of Monroe Code which established the Monroe Conservation Commission, it is a power and duty of the Commission to:

*“To advise the Town Board on matters affecting the preservation, development and use of the natural and man-made features and conditions of the Town of Monroe insofar as quality, biologic integrity, beauty and other environmental factors are concerned; in the case of man's activities and developments, to advise on any major threats posed to environmental quality, so as to enhance the long-range value of the environment to the people of the Town of Monroe.”*

This comment letter provides the Monroe Conservation Commission’s comments on the “Scoping Outline for Proposed Annexation of 507.4 acres to Village of Kiryas Joel Draft Generic Environmental Impact Statement, Village of Kiryas Joel & Town of Monroe, Orange County New York” pursuant to the petition submitted to the Town of Monroe on December 27, 2013.

Given Monroe Conservation Commission’s role in evaluating actions that may affect the Town of Monroe’s environment, **we acknowledge your recognition of the Monroe Conservation Commission as an “interested agency” for this SEQRA action.**

### **Site Visit**

The Monroe Conservation Commission routinely walks properties that are the subject of an application before the town’s boards. The Monroe Conservation Commission respectfully requests that the commission be given the authority to walk the annexation area for purposes of observing environmental conditions as per of the SEQRA review of the annexation.

### **Type of Action**

As per the regulations implementing SEQRA, annexations of 100 more contiguous acres or more are considered Type I Actions. In addition, any “Unlisted” action, that exceeds 25 percent of any threshold in this section occurring wholly or partially within or substantially contiguous to publicly owned or operated parkland is also a Type I action, we acknowledge classification of this Action as a Type I Action.

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### **Petitioner**

The Scoping Outline indicates that the “Petitioner” is Monroe KJ Consulting LLC. There is no such entity listed among the land owners who have been identified as petitioners. What is the relationship of Monroe KJ Consulting LLC to the petitioners? Has Town legal counsel vetted what entities make up this LLC, to ensure there is no potential conflict of interest? The Commission is not requiring that the LLC information be provided to it, but raises the question in the interest of ensuring an objective SEQRA review.

### **Involved and Interested Agencies List**

The Scoping Outline identifies various involved and interested Agencies associated with the Action. The Commission recommends the following additional Agencies to be included:

- NYSDEC, Region 3 - interested
- Orange County DPW (roads) - interested
- Monroe Planning Board - interested
- Monroe Conservation Commission – interested
- Orange County Sewer District No. 1& Moodna Basin Sewer – interested
- Orange County Chamber of Commerce – interested
- Monroe Volunteer Ambulance Corp – interested
- Moodna Creek Watershed Intermunicipal Council – interested
- Ramapo River Watershed Intermunicipal Council – interested

Each agency should receive all notices and copies of the DGEIS when available. These are in addition to any that the Village of Kiryas Joel or other agencies may specify during the SEQRA process.

### **Site-Specific Projects**

The Scoping Outline indicates that there are no site specific projects presently in the project area. The DGEIS should specifically provide the status of the Forest Edge subdivision, located at the corner of Forest Road and Mountain Road, and Vintage Vista, located on CR 44. Both of those projects are located in the annexation area. The DGEIS should indicate whether any of the parcels have developments which have been previously approved by the Town of Monroe Planning Board, and indicate whether the proposed projects would be amended as part of the annexation.

### **Build Out Analysis**

In the SEQRA Handbook, the following is stated with regard to generic EIS content (see <http://www.dec.ny.gov/permits/56701.html>) :

#### ***9. Should generic EISs include elements not typically found in a site or project specific EIS?***

*Yes. Consideration of three additional factors may be appropriate when preparing a generic EIS. These additional factors are:*

- *Hypothetical scenarios as alternatives that could occur under the proposed generic action, including evaluation of all reasonable alternatives that could achieve the objectives of the project sponsor....”*

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With that as background, the GEIS must specifically calculate and evaluate the potential build out and resulting development from a project that would comply with the Town of Monroe zoning, to the potential development that would occur once incorporated into the Village of Kiryas Joel – these are the hypothetical scenarios associated with this annexation action. The Description of the Project section of the DGEIS must specifically set forth all assumptions used, based on applicable land use regulations in the Town and Village, to derive the build out in each scenario.

In addition, the build out scenario should show conceptually the land area on which the development could be placed, to consider impacts to wetlands, streams, water bodies, steep slopes, and other on-site natural features. If the applicant desires to establish thresholds for future development, the GEIS should indicate where on a site development could occur, and impacts to natural resources, to establish those thresholds.

### **Environmental Setting, Anticipated Impacts, and Proposed Mitigation Measures**

#### **Natural Resources**

- a. The scope for natural resources is inadequate. While the Draft Scoping Outline provides a full explanation of how Land Use and Zoning, Demographics and Economics, Community Services and Facilities, Traffic and Transportation, Community Sewer and Water will be evaluated, it provides an unacceptable level of detail with regard to how natural resources will be evaluated. Unlike other sections, resources which are customarily evaluated under stand alone DGEIS sections are lumped into a single Section F. While the applicant may argue that there are no site-specific development applications before it which may be why the scope is limited, the same holds true for the other sections for which the applicant has provided a more thorough and elaborate outline. The Town of Monroe cannot rely on this inadequate scope to sign off on potential natural resource impacts, which it may no longer have any review authority subsequent to an annexation. For example, pursuant to Chapter 57, Article XX developers are required to ensure that the greatest number of trees possible is preserved and left standing before, during and after subdivision, site plan and construction process. It is therefore incumbent on the DGEIS to include a tree inventory and evaluation of the impact of deforestation resulting from development in accordance with Village of Kiryas Joel zoning ordinance.  
The purpose of SEQRA is to balance is that the environment be considered in public agency decision making processed, along with social and economic considerations. Here the scope is focusing on social and economic, and not the environment. SEQRA defines “environment” as “the physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.” Environment, has not been given appropriate focus in this Scoping Outline nor has a protocol standard been identified for conducting the environmental assessments. The MCC recommends at minimum adoption of ASTM E1527-13 and E2247 Practices for Environmental Site Assessments: Phase I ESA Process and ESA Process for Forestland or Rural Areas.

#### **Land Use and Zoning**

- b. In addition to existing “zoning”, all regulations that apply to land development should be identified, described, and evaluated for each municipality. In the Town, these additional regulations would include: Chapter 22, Blasting; Chapter 32, Lakefront Lands; Chapter 33, Storm sewers; Chapter 33 A, Noise; Chapter 44, Soil Erosion and Sediment Control; Chapter 46, Stormwater Soil Erosion and Sediment Control; Chapter 56, Wetlands; Chapter 57, Zoning (which includes site plan and subdivision review process).

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- c. The following Plans should also be specifically referenced in the Scoping Outline and reviewed for consistency: Town of Monroe Comprehensive Plan; Orange County Greenway Compact; Orange County Open Space Plan; Mid-Hudson Region Sustainability Plan; Ramapo River Watershed Management Plan.
- d. Recreation fees. Address policies related to the Village and Town collection of recreation fees in lieu of parkland, or provision of parkland as part of development review process.
- e. Potential Impacts. As mentioned previously, build out scenarios for each community must be calculated and evaluated – “discuss” is vague. The overall population density of the unincorporated Town of Monroe equals 150/sq.ml. compared to 18,000/sq.ml. in the Village of Kiryas Joel; therefore the DGEIS must calculate the build out of Kiryas Joel including properties that are already located within the Village of Kiryas Joel to consider the cumulative impact of the annexation.
- f. In addition to removal of approximately 184 acres of UR-M zoned land from the Town, also include the effect of removing the Light Industrial zoned land from the Town of Monroe.

#### **Demographics and Economics**

- f. Demographics, Fiscal Impact Analysis, and Community Services should be separate chapters in the DGEIS. The topics are mixed together and confusing. The fiscal impact analysis should specifically set forth the fiscal impact methodology to be used (e.g., Burchell and Listokin) in quantifying the fiscal impacts of the annexation.
- g. Provide existing information on the population and housing within the Town of Monroe, on annexation lands and lands adjoining same in the Town of Monroe.
- h. Provide existing household size, existing types of households, existing household income (average and median), for both the Town of Monroe and Village of Kiryas Joel.
- i. With regard to budgets, use the most recently adopted budget for all servicing districts. Provide budgets for the Town of Monroe Fire District and the Orange County Sewer District No. 1. Provide all data related to agreements, revenues and costs for Town of Monroe services provided to the Village of Kiryas Joel, e.g., highway maintenance agreement.
- j. Provide market values and assessed values for representative taxing jurisdictions. Calculate Town and Village budgets, and property tax rates based on change in real property base, after annexation of 507.4 acres into the Village.

#### **Community Services**

- k. The DGEIS appendices must include letters addressed to the respective agencies that currently serve, and are proposed to serve, the annexed lands. In the absence of a letter, provide the name of the individual interviewed to obtain data. For each agency, specifically provide:
  - personnel (paid or volunteer) number;
  - if paid, costs including benefits;
  - equipment;
  - Service area and population served;
  - limitations to service (e.g., KJ Fire Department ability to address interior fires);
  - need for mutual aid to provide adequate service;
  - projected demand.
- l. Address recreation demand by:
  - Provide a description, by acreage, of all recreational facilities available to residents in the Town of Monroe and Village of Monroe

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- Under impacts, provide an analysis of recreation demand placed on recreational uses from annexed land population.
  - Under mitigation, address where the Village will provide additional recreational lands for increased land, if an impact is identified.
- m. The Scoping Outline must include ambulance service as an additional service to be provided.

#### **Traffic and Transportation**

- n. The traffic analysis should consider key intersections that would be affected by traffic. The language is vague in terms of indicating “locations” will be analyzed. Traffic counts should be conducted at the nearest locations identified. Key intersections outside Village, which may be heavily impacted by traffic and which should also be evaluated include:
- Schunnemunk Road at Forest Avenue before bridge over Route 17;
  - Schunnemunk Road at Route 208;
  - Mountain Road at Route 208.
- o. Data from previous traffic impact studies conducted for the area should be provided for informational purposes;
- p. At least two intersections should be quantitatively analyzed which will experience highest traffic levels based on contribution of development from annexation, including those which may be outside the Village of Kiryas Joel or annexation area.

#### **Geology, Soils and Topography**

- q. Provide a separate section to analyze these resources.
- r. Identify bedrock geology, and potential need to blast to accommodate structures. Map geology in study area.
- s. Identify all soil types, including hydric soils. Discuss soil capabilities. Map soil mapping units in study area.
- t. Identify slope ranges, using Orange County’s GIS data (two foot contours available). Use slope ranges that may be required by Town regulations. Otherwise, provide ranges of 0-10%, 10-15%, 15-25%, greater than 25 percent. Map slopes.
- u. Evaluate impacts based on conceptual mapping for various development scenarios, provide mitigation measures and calculate the limitations on septic and wells.

#### **Ecology**

- v. Provide separate section addressing ecology.
- w. Provide list of species present on sites, or likely to be present. Summarize data determined in previous EIS studies.
- x. Contact USFWS and NYSDEC Natural Heritage Program to obtain data on potential species and habitat to be present.
- y. Identify locations of wetland, stream and water body habitats and flora and fauna that would be present.
- z. Indicate the location and water quality classifications of all watercourses and water bodies, and relevant local and state regulations applicable to same. Specifically address Coronet Lake, Forest Road Lake, Highland Brook, Forest Brook and Highland Brook. Map these resources.
- aa. Describe any municipal regulations which regulate activities adjacent to sensitive natural habitat, e.g, Monroe Wetland Law.
- bb. Provide ecological habitat map using NYS Natural Heritage Program “Draft Ecological Communities of New York State (Edinger et al).

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- cc. Evaluate impacts based on conceptual mapping for various development scenarios, and provide mitigation measures.

**Stormwater Management**

- dd. Provide separate section addressing ecology.
- ee. Describe current stormwater management regulations in both municipalities.
- ff. Address whether municipalities are MS4 communities.
- gg. Describe stormwater annual reports, if applicable, and data provided therein.
- hh. Describe potential receiving streams, and quantity/quality impacts to same.

**Historic and Archaeological Resources**

- hh. Provide separate GEIS section regarding historic and archaeological resources.
- ii. Identify local, county, state or national historic sites within proximity to the annexation area.
- jj. Identify known archaeological resources within one-mile radius of annexation areas.
- kk. Identify likely potential using appropriate NYSOPRHP methodology for archaeological resources to be present.
- ll. Address potential impact on archaeological resources. Address when archaeological investigations, i.e., Phase IA and IB, at a minimum, will be performed.

**Visual Resources**

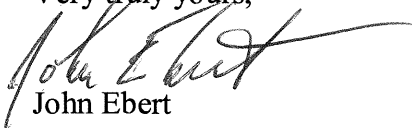
- mm. Add a section on visual resources.
- nn. Identify historic properties, scenic vantage points, scenic viewing points from area roads, parks, and trails from which the annexation areas may be visible.
- oo. Address potential impacts on view sheds from scenic resources. Provide a view shed map which illustrates locations from which the annexation parcels and potential development would be visible, based on likely building heights. Map view shed and scenic vistas within 1, 2 and 5 mile radius.
- pp. Provide mitigation measures, e.g., restrictions on clear cutting, limitations on density, requirements for landscaping, maximum impervious surface limitations, etc., to mitigate against impacts.

**Growth-Inducing Aspects**

- qq. The proposed annexation lands are zoned URM, and are intended to meet the Town's obligation to provide a diverse mix of housing. Growth-inducing aspects should indicate the impact to the Town of Monroe as to whether it will be induced to rezone additional lands to URM to continue to provide this diversity.

The Town of Monroe Conservation Commission is deeply concerned that development of 507.4 acres of land through its annexation from the unincorporated Town of Monroe to the Village of Kiryas Joes annihilates years of land use planning, research and implementation of local land use ordinances for development and growth by residents of a duly constituted New York State municipal jurisdiction and poses grave implications for future planning decisions.

Very truly yours,



John Ebert

- cc. Harley Doles III, Supervisor  
Town of Monroe Town Board  
Town of Monroe Planning Board  
Joseph Martens, Commissioner, NYSDEC