

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

ONE NORTH BROADWAY, SUITE 701
WHITE PLAINS, NEW YORK 10601-2319

GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN

NOELLE CRISALLI WOLFSON

TEL: (914) 421-1800
FAX: (914) 421-1856
WEB: WWW.HTWLEGAL.COM

HENRY M. HOCHERMAN
RETIRED

March 9, 2015

Via Federal Express - A.M. Delivery

Timothy Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516

*RE: Comment on the Draft Scoping Outline, dated February 6, 2015 for the
Proposed 507-Acre Annexation of Land from the
Town of Monroe into the Village of Kiryas Joel*

Dear Mr. Miller:

We are counsel to the Town Board of the Town of Blooming Grove. On behalf of our client, we submit these written comments on the *Draft Scoping Outline for Proposed 507-Acre Annexation to Village of Kiryas Joel*, dated February 6, 2015, prepared pursuant to the New York State Environmental Quality Review Act ("SEQRA" collectively referring to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617) (the "Draft Scope") for the annexation of approximately 507-acres of land from the Town of Monroe into the Village of Kiryas Joel (the "Action").

1. INTERESTED AGENCY STATUS

The Blooming Grove Town Board wishes to be considered as an "Interested Agency" (6 N.Y.C.R.R. 617.2(t)) during the review of the Action pursuant to SEQRA. As required pursuant to 6 N.Y.C.R.R. 617.12(b)(1)(iv), please forward copies of all documents prepared and notices given during the SEQRA review, as well as any communications related to this matter, to Hon. Robert A. Fromaget, Town Supervisor, Town of Blooming Grove, 6 Horton Road, Blooming Grove, New York 10914.

2. PROJECT PURPOSE, NEED AND BENEFITS

The Draft Scope provides that "No development proposals, rezonings, subdivision, or site plans have been proposed by any of the property owners proposing annexation" Draft Scope, p. 5. However, the stated reason annexation is being sought is to provide various

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municipal services to the area to be annexed. *See* Draft Scope, p. 3. Since a large portion of the area to be annexed is comprised of vacant land,¹ and there are no development proposals, rezonings, subdivision, or site plans currently proposed for the area to be annexed, at present such area requires few of the amenities annexation into the Village of Kiryas Joel (“Kiryas Joel”) proposes to provide. Accordingly, it is unclear why the project sponsors are seeking annexation at this time. The Draft Generic Environmental Impact Statement (the “DGEIS”) should explain why the project sponsors are pursuing annexation now, rather than waiting to pursue annexation until such time as a plan for development of the area to be annexed has been prepared so that the annexation and development of the area to be annexed could be studied as a part of one, project specific environmental review process.

3. LAND USE AND ZONING

A portion of the proposed area to be annexed is adjacent to the Village of South Blooming Grove and Town of Blooming Grove. Accordingly, land use impacts on adjacent parcels within the Village of South Blooming Grove and Town of Blooming Grove should be studied in addition to the land use impacts on adjacent parcels in the Towns of Monroe and Woodbury.

Although the Draft Scope ostensibly indicates that there is no proposed zoning or development plan for the area to be annexed, based on a review of public documents, such as the Draft Scope, the Village’s Zoning Ordinance, and the New York State Department of Environmental Conservation’s determination regarding which agency should serve as the lead agency in the SEQRA review of the Action, the inescapable conclusion is that the most likely development scenario for the property to be annexed is high-density, multifamily residences and related uses consistent with the pattern of development and zoning currently prevailing in Kiryas Joel. Accordingly, the DGEIS must consider the potential impacts of a total build-out of the area to be annexed based on the most dense configuration of such property under Kiryas Joel’s existing zoning ordinance. *See* SEQRA Handbook, p. 53-54 (“If later phases [of an Action] are uncertain as to design or timing, their likely environmental significance can still be examined as part of the whole action by considering the potential impacts of total build-out (for example, based on sketch plans or existing zoning).”)

Based on a review of the 2014 Final Assessment Roll for the Town of Monroe, at least one of the parcels within the territory to be annexed (Tax Lot 1-3-40; 22 acres of land with a Property Type Classification Code of 105 (Agricultural Vacant Land, productive)) appears to be farmland subject to an agricultural assessment under the New York State Tax Law and New York State Agriculture and Markets Law. The DGEIS should confirm whether this parcel is currently land engaged in agricultural production, and, if it is, it should specifically describe whether this property will remain in agricultural production should annexation be approved.

¹ For example, tax lots 1-1-25.4 (64 acres), 1-2-8.21 (24 acres), 1-1-23 (30 acres), 2-1-1 (16 acres), and 1-1-46 (35 acres) all have a Property Type Classification Code indicating that such parcels are vacant on the 2014 Final Assessment Roll for the Town of Monroe.

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4. TRAFFIC AND TRANSPORTATION

In addition to the locations described in the Draft Scope, impacts on the entrance and exit ramps to Route 17 at Exit 130 should be analyzed.

5. DEMOGRAPHICS AND FISCAL RESOURCES

The Draft Scope provides that population statistics will be calculated by updating a 2009 demographic study using an unspecified methodology based on the number of new families that are created by the recently graduated females from the Kiryas Joel schools (it is unclear if this is a reference to graduates of schools in the Kiryas Joel Union Free School District, or of all schools located within Kiryas Joel) as supplemented by recent rates of in-migration and out-migration of men into and out of the community. Draft Scope, p. 5. It is unclear how this information will be obtained, whether it will portray a comprehensive and accurate account of the population, or how its accuracy can be verified. It is respectfully submitted that this is not a valid way to calculate population for the purposes of studying demographics, fiscal resources and future need for governmental services (including utilities) in the DGEIS. Rather the DGEIS should utilize conventional statistical data to analyze the existing population and projected population growth. Because the Action seeks the addition of land into Kiryas Joel with the ultimate goal of providing additional housing units to accommodate its burgeoning population, population growth should be calculated using United States Census population data *and* housing unit growth data. To the extent that the project sponsor or lead agency believe that conventional sources of demographic data do not accurately represent the rate of growth of the community in light of the unusual demographics of and the historic rapid population increases in Kiryas Joel, then such data should be supplemented with empirical evidence demonstrating an accurate rate of growth.

The technical appendices to the DGEIS must provide the empirical data, precise methodology, and mathematical calculations employed by the project sponsor and lead agency to project population and housing unit growth (and the concomitant need for governmental services, most notably water and sewer services) so that members of the public can understand and verify the basis and accuracy of such projections.

6. COMMUNITY WATER AND SEWER

The Draft Scope provides that if the proposed annexation were approved, Kiryas Joel would seek to provide the area to be annexed with public water and sewer services. *See* Draft Scope, p. 10. Accordingly, the DGEIS should study in detail:

- (i) The capacity of existing infrastructure to provide water and sewer services to the area to be annexed. When undertaking this analysis, the project sponsor and lead agency should use the demographic data discussed above to anticipate population and housing unit growth. This analysis should also consider other projects throughout Orange

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County that will require access to the same public water and sewer infrastructure that would serve the area to be annexed;

- (ii) The cost to extend water and sewer services to the area to be annexed and to otherwise make required improvements to water and sewer infrastructure, and who will bear those costs; and
- (iii) The time frame for providing the area to be annexed with public water and sewer services.

7. ALTERNATIVES

Because the environmental review of this action is in the generic form, a broad range of alternatives to the proposed action should be studied to ensure that the review of the proposed environmental impacts of annexation are robust, full and deal with all issues of potential environmental concern. As you are likely aware, on or around December 30, 2014, various resident-voters of the Town of Monroe submitted petitions to annex approximately 336 acres of land from the Town of Monroe into the Town of Blooming Grove and the Village of South Blooming Grove (the "Blooming Grove Petitions"). A portion of the acreage included in the Blooming Grove Petitions is also included in the Action. The DGEIS should study the annexation of the land covered in the Blooming Grove Petitions into the Village of South Blooming Grove and the Town of Blooming Grove as an alternative to the proposed action.

8. GROWTH INDUCING ASPECTS AND CUMULATIVE IMPACTS

Section VII[2] of the Draft Scope provides that the DGEIS will study "Cumulative environmental impacts related to the development of the annexed land *as well as an expanded annexation* will be identified and assessed." Draft Scope, p. 13 (*emphasis added*). It is not clear from the Draft Scope what is meant by an "expanded annexation." The DGEIS should clarify this statement and describe in as much detail as is currently available any long range plans for the expansion of the physical boundaries of Kiryas Joel. The DGEIS should explicitly state whether the Kiryas Joel's future expansion plans extend beyond the borders of the Town of Monroe and into the Town of Blooming Grove.

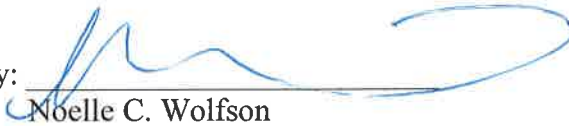
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Thank you for your consideration of the issues and concerns explained in this letter. Please feel free to contact the undersigned if you have any questions.

Respectfully submitted,

Hocherman Tortorella & Wekstein, LLP

By: 
Noelle C. Wolfson

cc: Town Board of the Town of Blooming Grove
Board of Trustees of the Village of Kiryas Joel
Town Board of the Town of Monroe
Adam L. Wekstein. Esq.