

CONSERVATION COMMISSION
JOHN EBERT, CHAIRMAN



11 STAGE ROAD
MONROE, NEW YORK 10950

www.monroeny.org
845-783-1900
FAX 845-782-5597

MEMBERS:
Brian Bezkorowajny
Robert O'Neill
Sandra Dunlap
Bonnie Franson
Ward Brower
Jerry Meade
Nina Petito (Secretary)

September 29, 2014

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

**RE: Comment Letter – Annexation of Land/163.8 Acres
Generic Environmental Impact Statement
Town of Monroe to Village of Kiryas Joel**

To Whom It Concerns:

Petitioner, Monroe KJ Consulting LLC, purportedly representing owners of seventy-one (71) parcels, submitted on August 20, 2014 to the Town of Monroe Town Clerk a request to annex 163.8 acres of land (“Annexation Request No. 2”) from the unincorporated Town of Monroe to the Village of Kiryas Joel. Parcel owners also submitted on December 27, 2013 to the Monroe Town Clerk a request to annex a larger amount of land totaling one hundred seventy seven (177) parcels within the unincorporated Town of Monroe into the Village of Kiryas Joel. The property acreage associated with the larger petition for annexation is estimated to total five hundred seven (507) acres of land (“Annexation Request No. 1”); or 4.86% of the ten thousand two hundred seventy eight (10,278) total acres within the unincorporated Town of Monroe.

Either annexation request will require governing body approval from the Monroe Town Board and the Board of Trustees of the Village of Kiryas Joel; actions which are subject to compliance with the New York State Environmental Quality Review Act; and there will be cultural, social, or health impacts to the Town of Monroe including noise, agricultural, economic, environmental, ecological, archeological, historic or aesthetic significance, 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, one 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 Requests represents 18.26% and 5.91% respectively of the upper limit of potentially developable land in the Town of Monroe.

MCC-final scope
September 29, 2014

There will be significant impacts to the existing community or neighborhood character should either Annexation Request No. 1 or Annexation Request No. 2 receive governing board approval. Lead agency status has not been resolved concerning Annexation Request No. 1; and, as the Village of Kiryas Joel proceeds to develop a Final Scope for the evaluation of Annexation Request No. 2, the Monroe Conservation Commission requests that this environmental impact statement incorporates responses to the following items:

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 to Village of Kiryas Joel Draft Generic Environmental Impact Statement, Village of Kiryas Joel & Town of Monroe, Orange County New York”, preliminary draft dated September 5, 2014. Given Monroe Conservation Commission's role in evaluating actions that may affect the Town of Monroe's environment, **we hereby request that the Monroe Conservation Commission be identified as an “interested agency” for this SEQRA action.**

Site Visit

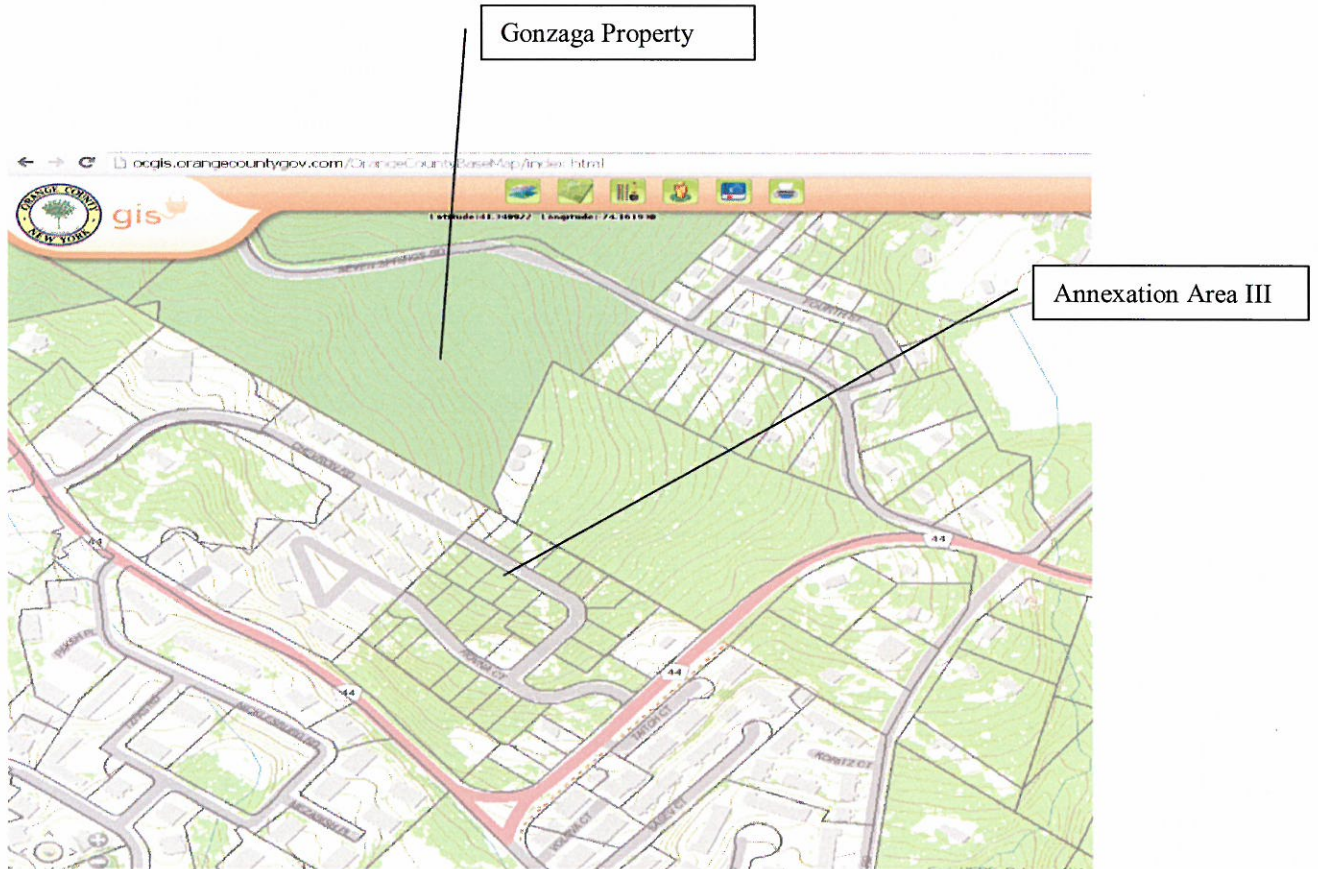
The Monroe Conservation Commission routinely walks properties that are the subject of an application before the Town's boards. The Monroe Conservation Commission respectfully requests that the commission be given the authority to walk the annexation area for purposes of observing environmental conditions 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. A Type I action is an action that is more likely to have a significant adverse impact on the environment than other actions. In addition, any of the actions listed as an “Unlisted action” under SEQRA that exceeds 25 percent of any threshold values listed in section 617.4 of SEQR Regulations, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, are also Type I actions.

The Notice of Lead Agency Intent form on the Town website indicates that the action is a Type I action. However, the preliminary Scoping Document states that action is Unlisted. Below is a screen shot of the boundary of Gonzaga County Park which adjoins Annexation Area III (41.6 acres), as per the petition map on the Town website. Although not an extensive area, the Gonzaga property touches and adjoins the annexation area – the threshold for a Type I action is reduced to 25 acres. The Annexation Area III is 41.6 acres. Therefore, the action is a Type I action.

MCC-final scope
September 29, 2014



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.

Segmentation

The Commission is aware that the applicant previously submitted a petition to annex 507 acres from the Town of Monroe into the Village of Kiryas Joel. That petition is the subject of a lead agency dispute which was being reviewed by the NYSDEC. The NYSDEC has yet to respond to the dispute. In the midst of the dispute, the applicant submitted a new Lead Agency request for the proposed annexation of 164 acres. The Commission is unaware as to whether the petitioner has withdrawn the 507-acre petition. Reference is made to that 507-acre petition in the alternatives section of the scoping outline.

MCC-final scope
September 29, 2014

Has the 507-acre petition been withdrawn? If not, it would appear that the 164 acres is but one phase of a larger 507-acre petition. It is inappropriate to evaluate the 164 acres on its own as it would represent SEQRA segmentation. The 507-acre petition must be formally withdrawn.

In addition, in no way should the 507 acre alternative be allowed to evolve and become the principal proposed action as part of the SEQRA process, given the lead agency dispute which still exists and has not been resolved.

Involved and Interested Agencies List

The Scoping Outline must identify the various involved and interested agencies associated with the action.

Agencies to be included would be:

- NYSDEC, Region 3 - interested
- Orange County DPW (roads), Planning (MS4) - interested
- Town of Monroe Town Board – involved
- Monroe Planning Board - interested
- Monroe Conservation Commission – interested
- Orange County Sewer District No. 1& Moodna Basin Sewer – interested
- Monroe-Woodbury School District – interested
- Monroe Fire District & Ambulance District – interested
- Moodna Creek Watershed Intermunicipal Council – interested
- Ramapo River Watershed Intermunicipal Council – interested

Each agency should receive all notices and copies of the Draft Generic Environmental Impact Statement (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....”*

MCC-final scope
September 29, 2014

With that as background, the DGEIS must specifically calculate and evaluate both the potential build out and resulting development from a project that would comply with the Town of Monroe zoning, and 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 facilitate consideration of 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 DGEIS 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. Scope for natural resources wholly inadequate. While the scoping document 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.

The whole 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 considerations, 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.

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).
- c. The following plans should be specifically referenced in the Scoping Outline and reviewed for consistency: Town of Monroe Comprehensive Plan; Orange County Comprehensive Plan; Orange County Greenway Compact; Orange County Open Space Plan; Mid-Hudson Region Sustainability Plan; Ramapo River Watershed Management Plan.

MCC-final scope
September 29, 2014

- 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 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.

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 163.8 acres into 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
 - 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.

MCC-final scope
September 29, 2014

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” where traffic 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 and comparison purposes;
- p. Conduct quantitative analysis of at least two intersections 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 in the DGEIS to analyze these resources.
- r. Identify and characterize bedrock geology, including depth from ground surface to bedrock surface, and potential need to blast bedrock to accommodate structures. Map surficial and bedrock geology in study area. Characterize/map depth to groundwater (water table depth) in the 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, and provide mitigation measures.

Ecology

- v. Provide separate section in DGEIS 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. 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).
- cc. Evaluate impacts based on conceptual mapping for various development scenarios, and provide mitigation measures.

Stormwater Management

- dd. Provide separate section in DGEIS addressing stormwater management.

MCC-final scope
September 29, 2014

- 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 and findings provided therein.
- hh. Describe potential receiving streams, and quantity/quality impacts to same.

Historic and Archaeological Resources

- hh. Provide separate section in DGEIS 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

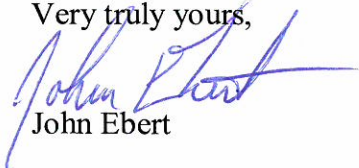
- mm. Add a section in DGEIS on visual resources.
- nn. Identify historic properties, scenic vantage points, scenic viewing points from area roads, parks, and trails from which the annexation areas may be visible.
- oo. Address potential impacts on view sheds from scenic resources. Provide a view shed 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 163.8 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