

Proposed Town of Palm Tree August 7, 2017
Attachment of Full Environmental Assessment Form (EAF)
Part 3 – Evaluation of the Magnitude and Importance of
Impacts

INTRODUCTION

The Action under review is the proposed division of the Town of Monroe into two (2) Parts, one being the proposed new Town of Palm Tree, and the other being the remainder of the existing Town of Monroe excluding the Village of Kiryas Joel as well as certain lands contiguous to that Village into a new Town all north of NYS Route 17. This is shown on a map submitted by the Petitioners for the Division of the Town of Monroe, and prepared by the Orange County Planning Department (OCPD) at the request of the Petitioners and attached to this EAF.

The proposed division and establishment of the New Town have been submitted by petition of the qualified electors of the Town of Monroe to the County of Orange, under NYS Town Law Article 5. The petition seeks County Legislature determination to grant a petition and provide for the submission of the proposition to the electors of the Town of Monroe (hereinafter called Action). There are no specific, zoning, development plan or plans provided with the petition, nor does the petition involve any physical site or land disturbance. For purposes of this assessment, it is assumed that further environmental review under SEQRA will be required if a new Town is created and subsequent actions subject to SEQRA review – including adoption of comprehensive plan, zoning, and land use codes - are established for this new jurisdiction.

POTENTIAL IMPACTS OF COUNTY CONCERN

Part 1 of the Environmental Assessment Form (EAF) was provided in 2017 by authorized agents for the Petitioners for a prior new Town proposal, and that EAF was revised at the request of the County Legislature with Parts 1, 2 and 3 completed by the Orange County Planning Department.¹ This document provides fuller evaluation by the Orange County Commissioner of Planning as provided under Part 3 of the EAF.

Parts 1 and 2 of the EAF identify a limited number of potential moderate or large impacts notably associated with three (3) specific resources, as well as under the categories of consistency with community plans and community character, notably water and sewer infrastructure. These are explained below.

¹ See, Resolution No. 123 of 2017

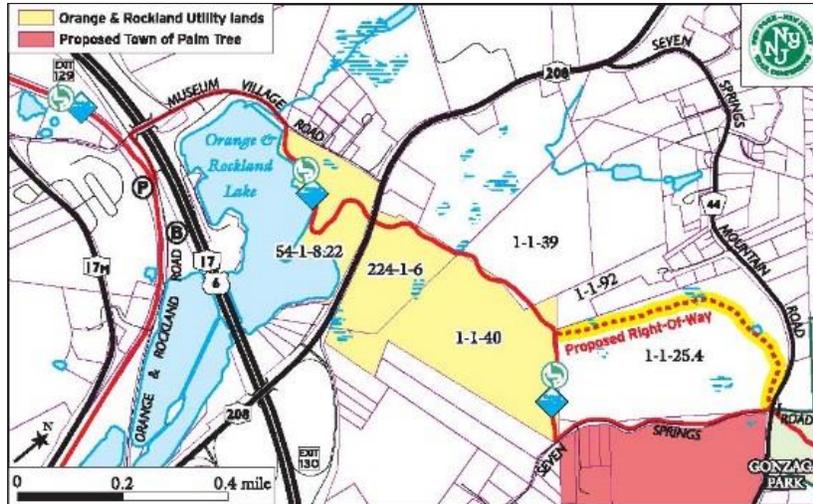
There exist three (3) specific resources of County concern. They are:

- Gonzaga Park – County owned
- The Long Path recreational trail
- Tributary of Ramapo Creek

First, the County-owned and operated Gonzaga Park is contiguous to, but not within the proposed new Town. This park consists of multiple tax parcels which straddle the Village of South Blooming Grove, the Village/Town of Woodbury, and one (1) parcel in the current Town of Monroe on the south side of the Park fronting County Route 44 / Mountain Road. This single parcel was included in an earlier proposal for the Town of North Monroe (to be designated now as the Town of Palm Tree). It remains contiguous to but is not within the petition for establishment of the new Town. There is no expectation that operation of the Park will be impacted dependent by what municipality its lands are located in.

Second, the Long Path / Highlands Trail is an established, and highly important, regional recreational trail. This trail – or specifically two (2) overlapping trails in the vicinity of the proposed Town, is maintained by the NY-NJ Trails Conference and currently follows portions of Seven Springs Road prior to connecting into Gonzaga Park and joining the trail system within that Park connecting into Schunnemunk Mountain State Park to the north. Portions of this Trail follow the western boundary of the proposed new Town or are within the immediate western limits of this new Town. It is important to note that these two, popular, multi-state trails, the Long Path and the Highlands Trail, are co-aligned in the area relevant to this Action. Both trails are featured as in the New York State Open Space Plan.

- The Long Path (LP), 356-miles in length from the George Washington Bridge to the Adirondack high peaks, connects significant cultural and environmental features of New York State. Over the past 30-years, work on the LP has focused on efforts to fully protect the trail corridor and eliminate road walks.
- The Highlands Trail (HT), a multi-state, 200-mile-long route that connects scenic and historic attractions in New York-New Jersey and extends into Pennsylvania and Connecticut. It highlights the natural beauty of the Highlands region and is a cooperative effort of the state and local governments, the Trail Conference and other conservation organizations, and local businesses.



While there is no evidence or documented intent that the new Town might impact the trail use and maintenance, assurances should be provided that trail use and maintenance can continue whatever municipality has jurisdiction. County leadership should also look to facilitate the proposed realignment of this trail as shown in the above map prepared by the NY-NJ Trail Conference.

Third, the unnamed tributary of Ramapo Creek, that drains much of the lands under consideration in this Action, has past and current documented water quality problems that can be linked to development and land uses within this same drainage area serving the proposed Town and existing areas of the Village of Kiryas Joel and the Town of Monroe. This is relevant to Section 3 Impacts on Surface Water of the EAF Part 2. This is discussed further below under CONSISTENCY WITH COMMUNITY PLANS AND CONSISTENCY WITH COMMUNITY CHARACTER.

Section 3 (Impact on Surface Water), Section 4 (Impact on Groundwater), and Section 17 (Consistency with Community Plans), and Section 18 (Consistency with Community Character) of the EAF Part 2 addresses a series of conditions indirectly relevant to the proposed Action, and also directly relevant to any subsequent comprehensive plan, zoning, and/or land development permits should a new Town be established. Specifically, the conditions described in subsections 3i, 4a, 4b, 17b, 17e, and 17f require fuller explanation than can be provided within the limited space on this actual EAF form. As such, this narrative includes the attached summary build out analysis documenting potential growth.

Below, OCPD expands on the questions and responses from Parts 1 and 2 of the EAF. Specific attention is paid to two (2) subsections from Part 2 of the EAF addressing Potential Impacts under Consistency with Community Plans (Subsection 17) and Consistency with Community Character (Subsection 18).

CONSISTENCY WITH COMMUNITY PLANS

17b addresses impacts if permanent population will change more than 5%. The proposed action would create a new Town from an existing Town, therefore reducing permanent population of one by shifting and increasing that population to a new Town. Note should be made that the Village of Kiryas Joel is estimated by the US Census to have an overall population growth of 14.99% from April 1, 2010 to July 1, 2016.² As such it is anticipated that this action could directly or indirectly effect a population change of more than 5%.

IMPACTS TO SURFACE WATER, GROUNDWATER, CONSISTENCY WITH COMMUNITY PLANS, AND CONSISTENCY WITH COMMUNITY CHARACTER.

Subsections 17e, 17f and subsections of 18 address change in development density and supportive infrastructure as well as the demand for community services. Again, while population growth and development in the current Town and within the proposed new Town, along with the current but reduced Town, is robust and expected³ – this growth and its demands on infrastructure are well documented and must be addressed regardless of the municipal boundaries. In 2015, the County of Orange retained the services of consulting firm, CGR, Inc. to analyze demands on infrastructure in connection with two proposed annexations from the Town of Monroe to the Village of Kiryas Joel. The Center for Government Research,

² Census Data for the Village of Kiryas Joel does not include the 2016 annexation of 164 acres of land to the Village of Kiryas Joel. Population growth will also depend on present and future zoning in the Village of Kiryas Joel as well as in the new Town of Palm Tree.

³ See, Petition Exhibit D “Statement of Reasons for Change”:

...

“The vast majority of the residents of the Village of Kiryas Joel and its immediate vicinities are Satmar Chasidic Jews, who choose to reside in and around the Village to be close to family and friends that share their culture and language and to be close to schools that educate their kids and to kosher markets. In addition, most of the community’s residents rely on the infrastructure and services unique to this community and not available in most other parts of the County including, among others, municipal sewer and water systems; local public safety; Yiddish speaking fire and emergency medical services; public and private schools; health services with an emphasis on women’s and children’s health; places of worship; ritual baths; pedestrian friendly neighborhoods with access to sidewalks, street lights, park and ride, and public transportation; and community rooms; parks and play grounds; and multi-family affordable housing to accommodate large families. These public and community facilities and services that support higher density development and the unique cultural needs of the Kiryas Joel community are either provided directly or enabled through amendable zoning only in areas of the Town within the Village.”

...

In sum, the proposed change to separate the Village of Kiryas Joel and its immediate vicinities from the Town of Monroe by establishing a new Town of North Monroe, will allow both communities to separately co-exist while concurrently giving each community its separate character and identity and the chose to grow and develop as it sees fit.”

Inc. (CGR) report commissioned by the County and OCPD summarized below focuses on demands for services.

Consistent with this Action to create the proposed new Town, and as stated in the prior approved Generic Environmental Impact Statement for 507-Acre (and alternative 164-Acre) Annexation of lands from the Town of Monroe to the Village of Kiryas Joel, the environmental impacts of such growth and demands on infrastructure will and must be fully evaluated and mitigated when specific municipal Plans, zoning, and development applications are advanced for the proposed new Town of Palm Tree, as well as for the subsequent, adjusted boundaries of the existing Town of Monroe. Because no comprehensive plan or zoning exists for the proposed new Town, and because both the current Town of Monroe and Village of Kiryas Joel have both a Plan and zoning, these documents, policies and local laws should be amended, updated, or redone if municipal boundaries are significantly adjusted. It is at that time when fuller environmental assessment under SEQRA should be completed to complement known proposed land use plans, policies and law for the new Town and any adjusted municipal jurisdictional borders.

Water is important in the Orange County context as it is a critical regional resource and it is essential to maintain any community and population. Water is also known to be of limited availability within the borders of either the Village of Kiryas Joel or the proposed new Town. This was first documented as County policy within the Orange County Water Master Plan (adopted 2010 as a supplement to the County Comprehensive Plan). As such – and common to public water supply sources in the Orange County region and beyond – the Village of Kiryas Joel, as proposed to be a part of the new Town, has had to supplement supply through emergency trucking of water, and has had to seek supply sources further away given the limited and stressed capacity of groundwater in or near its borders, and given the lack of access to surface water sources. This in turn could have an associated potential impact of stressing nearby groundwater resources outside of existing water districts or the new Town, should they be relied on to supply expected growth and development once any new Town and new comprehensive plan, land use policies, and zoning be established.⁴

Groundwater and surface stream waters (notably within the Ramapo River tributary in and exiting the Village and the new proposed Town), have also shown stress from chlorides (salts). Sources have been traced to either or both road and parking lot runoff as well as discharge from a poultry processing plant – see www.waterauthority.orangecountygov.com/streams. In any event, known water supply quantity and quality realities, matched to expected development build out and growth, must be addressed if and when the Town is incorporated and the necessary comprehensive plan and zoning is established or amended to reflect this new municipality.

Sewer is also important to Orange County, both as a critical shared infrastructure but also because the proposed Action includes lands within Orange County Sewer District No. 1 (OCSD

⁴ It is also noted that The Village of Kiryas Joel is pursuing water connections to the New York City Catskill Aqueduct system and wells in the Town of Cornwall.

No. 1) and served by either the Village of Kiryas Joel STP (operated by Orange County) or by the OCSD No. 1 Harriman STP (owned and operated by Orange County). The entire proposed new Town is located within OCSD No. 1 and guided by the County Sewer Use Law, Local Law No. 4, 2008. Operations and maintenance, as well as access and capacity for service has established protocols on a first-come, first-served basis administered by the County Department of Public Works, Division of Environmental Facilities & Services. In discussions with these administrators, the creation of a new Town unto itself does not impact such operations; however, as noted in the CGR report (summarized below), there will be treatment and conveyance capacity issues going forward that must be addressed.

BUILD OUT ANALYSIS

The OCPD reviewed available analysis found within the aforementioned Annexation GEIS as well as the CGR report. That data contributed to an updating of the analysis as summarized below.

Additionally, OCPD has prepared a set of maps and analysis comparing Kiryas Joel annexation alternatives in order to review environmental resource locations as well as growth and development patterns. This included:

- Existing Town and Village Boundaries.
- Earlier Proposed New Town – now withdrawn - consisting of the Village of Kiryas Joel plus 381.9 acres per petition (acreage includes +/- 164 acres annexed).
- Proposed reduced New Town consisting of the Village of Kiryas Joel plus +/- 220 acres (acreage includes +/- 164 acres annexed).
- Proposed New Town per petition but with a “greenbelt” of protected lands within the existing Town of Monroe.

Build out assumptions

- Acreage of the Village of Kiryas Joel as of this writing: 885.4 acres (Source: OCGIS municipal boundaries and area) (this includes +/- 721.6 acres of original Village plus +/- 164 acre annexation dated 10/11/16))
- Acreage of the proposed new Town: 885.4 acres (village area as of 10/11/16) plus +/- 56 acres acres, per petition = +/- 941.4 acres
- Population of the Village of Kiryas Joel as of July 1, 2016 (estimated): 23,094 (US Census Bureau Population Estimates Program); population estimate based on Village boundary prior to 10/11/16
- Population density as of July 1, 2016: 20,437.17 persons per square mile (calculated from population and area numbers for prior established Village boundaries as shown above)
- Housing units: 4,099 (2011-2015 American Community Survey 5-Year Estimates)
- Housing unit density, prior established Village boundaries: 5.84 du/ac (dwelling units per acre, obtained from annexation GEIS prepared by Tim Miller Associates)

- Household size: 5.62 (2011-2015 American Community Survey 5-Year Estimates)

Using birth and death rates specific to the Village of Kiryas Joel, obtained from the New York State Department of Health, we calculated the likely future populations of the Village of Kiryas Joel and the new Town of Palm Tree. Given the size, acreage and density characteristics expressed and sourced above, we have concluded the following:

The Village, in its current boundaries and current household size and housing unit density, can support a population of 5171 housing units and 29,061 people. The projections show that the Village is likely to reach this threshold in early 2030.

The proposed new Town, assuming a housing unit density consistent with the Village of Kiryas Joel, can support in land area 5,498 housing units and a population of 30,898 people. The new Town is projected to reach this population in late 2030. The Village of Kiryas Joel has undergone an annexation, occurring on or after September 13, 2016 and consisting of +/- 164 acres (included in the proposed new Town boundaries). While the subject of on-going litigation, at this date this acreage is considered annexed to the Village. The Village has also submitted a plan for proposed residential development on a 70-acre parcel that would result in the eventual construction of an additional 1600 units. Assuming the approval and full development of this plan in the next few years, and including the annexation area, that would make the overall housing density of the village 6.44 du/ac. Assuming again that the proposed new Town is developed at a density consistent with the Village of Kiryas Joel, and using this increased density as the basis for this calculation, the proposed new Town would be able to support a population of 6,063 housing units and 34,074 people. The Town is projected to reach this population in early 2035.

Additionally, narrative is provided below as excerpts from two (2) essential supporting and contemporaneous documents. Each of these documents provides important background information and context for this Environmental Assessment Form.

These documents should be considered as a part of any Determination of Significance relevant this Action. Those documents are:

Draft and Final Generic Environmental Impact Statement (GEIS), 507-Acre Annexation (including 164-acre alternative), Village of Kiryas Joel & Town of Monroe, Orange County, New York. Village of Kiryas Joel Board of Trustees, Lead Agency, (September 6) 2015.⁵

⁵ The GEIS is the subject of pending litigation before the New York State Appellate Division, 2nd Department. See, *Village of South Blooming Grove et al. vs. Village of Kiryas Joel Board of Trustees, et al.*, Proceeding No. 1, Supreme Court Index No. 7410/2015, Appellate Division Docket No. 2016-11826 and *Preserve Hudson Valley et. al. vs. Town Board of the Town of Monroe, et. al.* Proceeding No. 2, Supreme Court Index No. 8118/2015, Appellate Division Docket No. 2016-11826.

Kiryas Joel's Proposed Annexation of the Unincorporated Land in the Town of Monroe, An Independent Assessment of the Circumstances Surrounding Annexation. Prepared for Orange County and the Orange County Planning Department. Prepared by CGR Inc., 2015.

SUPPORTING DOCUMENTS

State Environmental Quality Review Act ("SEQRA")

STATEMENT OF FINDINGS

Village of Kiryas Joel Board of Trustees

For

507-Acre Annexation, and 164-Acre Annexation,

Town of Monroe to Village of Kiryas Joel

Adopted: 9/6/15

As noted in the FGEIS, the Village and Town were presented with two annexation petitions, one for +/- 507 acres, and a second for +/- 164 acres which are included wholly within the 507 acres. For purposes of this SEQRA review, the Village has treated the primary action as the 507 acre annexation and considered the 164 acre annexation as an alternative. As such, the Village intends for its Findings Statement to apply to the full 507 acre annexation inclusive of the 164 acres and also to the separate 164 acre alternative.

In reaching these Findings, the Village has concluded that the environmental effects of the annexation petitions themselves are comparatively no greater or lesser as between the 507 acre annexation and the 164 acre annexation. As established by the FGEIS, local population growth in and around the Village will occur at consistent levels with or without either annexation. Both alternatives will require further supplemental review once zoning and project specific development plans materialize. The 164 acre alternative is smaller in size and would eliminate certain isolated parcels surrounded on three sides by the existing Village boundary and the Village/Town of Woodbury on the fourth. It would also accomplish the objectives of the subset of petitioners to create a unified community with the Village and to expand the desired available services in the Village to the annexation territory.

Public Need

The Village of Kiryas Joel was incorporated as a Village in 1977, and expanded by annexation in 1983. In establishing the Village, the future residents sought to establish a community with a character that was tolerant and welcoming, and one that would provide for adequate services and amenities to accommodate their common cultural practices. The Village presently consists of approximately 700 acres of land. The resident population of Kiryas Joel consists predominantly of Orthodox Satmar Jews.

The unique local demographic realities discussed in the FGEIS support the petitioned expansion of the existing Kiryas Joel community jurisdictional boundaries, and have in fact manifested themselves already through an increase in community members seeking to take up residency in communities bordering Kiryas Joel such as the towns of Monroe and Woodbury. The population growth projected in the FGEIS reflects the inevitable growth in the number of families due to the cultural norms of the community, with or without annexation of additional land.

Higher density housing and redevelopment of certain underdeveloped lands will be necessary to accommodate the inevitable growth. At the projected rate, some 3,825 new families are expected to

reside in the local community by 2025. Demographic and growth analyses have shown that internal population growth within Kiryas Joel has not been restricted by the lack of services such as sewer and water, or by available housing.

Ultimately, annexation will provide the residents of the annexation territory with broader public services, more balanced land use, affordable housing and higher levels of public health and safety consistent with opportunities already available within the Village.

Mitigation Measures – Land Use and Zoning

Mitigation of the effects of annexation on land use in the local area would typically be by implementation of zoning density and use regulations that would address growth anticipated to occur. The FGEIS suggests that new zoning may be used to create transition areas between different density uses.

The Village intends to establish a master plan committee to study the opportunities and constraints of the 507 acres as it relates to Village efforts to accommodate its existing and future residents and to make specific recommendations for future land use decisions.

Future zoning decision-makers are advised to consider a number of Smart Growth elements as have been enumerated in the Regional Sustainability Plan and elsewhere: mixing land uses in a community setting, compact building design, walkable neighborhoods, creating a distinctive community with a strong sense of place, preserve critical environmental areas, directing development towards existing communities, providing transportation choices. All of these elements foster improved accessibility, affordability, reduced traffic, consolidated infrastructure, and environmental protection as an alternative to traditional suburban sprawl.

VI. Conclusions

In issuing this SEQRA Findings Statement, the Village of Kiryas Joel Board of Trustees has carefully examined and given due consideration to the Draft Generic Environmental Impact Statement for the 507-Acre Annexation (April 29, 2015); the Final Generic Environmental Impact Statement for the 507-Acre Annexation (August 12, 2015); and public and agency comments on those documents.

The Board is also guided in its determination of Findings by the controlling decisions of the Court of Appeals and Appellate Division (2d Department) related to annexations that do not include officially submitted development plans or zoning proposals that changes the use for which the property may be utilized.

After careful and thorough consideration, the Village Board finds that the proposed annexation of 507 acres of land to the Village, in and of itself, will not have a significant adverse impact on the environment. The Board further finds that any potential environmental effects from future zoning and development of the annexation territory can be avoided or minimized to the maximum extent practicable through required supplemental review pursuant to SEQRA when such plans are officially submitted. Accordingly, when weighed against the social and economic considerations related to the

annexation action, the Board finds that the 507-acre annexation action is the alternative that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

The Board also finds that the environmental effects of the 164-acre annexation alternative itself are comparatively no greater or lesser than the 507-acre annexation. As established by the FGEIS, local population growth in and around the Village will occur with or without either annexation. Both alternatives will require further supplemental review once zoning and project specific development plans materialize. The 164-acre alternative is smaller in size and would accomplish the objectives of the subset of petitioners to create a unified community with the Village and to expand the desired available services in the Village to the 164-acre annexation territory. However, the 507-acre alternative will accomplish the same, while at the same time being consistent with the objectives and capabilities of all of the annexation petitioners as project sponsors. Therefore, while the Board finds that the 507-acre annexation is the preferred alternative, the 164-acre annexation is also a viable alternative, with no significantly different environmental effects, and the Village Board finds that when weighed against the social and economic considerations related to the annexation action, is an alternative that also avoids or minimizes adverse environmental impacts to the maximum extent practicable.

Additional specific conclusions that support these findings include:

- Together with the Town Board of Monroe, the Village Board of Trustees is vested by the NYS Constitution with exclusive jurisdiction to consider and make the determination that the annexation of the proposed territory is in the over-all public interest.
- The proposed annexations will afford residents of the annexation territory those public and community services and other amenities not currently or readily available to them outside of the Village.
- Changes in the existing and projected patterns of local population growth in and around Kiryas Joel are not expected to result from the proposed annexations and would remain the same as under the No Action alternative.
- The majority of potential adverse environmental impacts identified in the FGEIS are related to future development of the proposed annexation territory and will appropriately be considered, avoided and mitigated through supplemental SEQRA review and other government actions as such future development projects are presented.
- The existing physical and social characteristics of the annexation territory reflect a unity of purpose and facilities with the Village to constitute a community.
- Concentration of the inherent local population growth within the priority growth area of an expanded Village supports Smart Growth principles and is an appropriate balance to suburban sprawl that exists elsewhere in the region.
- The proposed annexation will enable increased low to moderate income housing that is needed but not readily available in the region.

Kiryas Joel's Proposed Annexation of Unincorporated Land in the Town of Monroe, An Independent Assessment of the Circumstances Surrounding Annexation

Prepared for Orange County and the Orange County Planning Department
Prepared by CGR, Inc. 2015

Summary (pages ii – ix)

Regulatory Engagement

The Orange County Planning Department is charged with the responsibility of overseeing and coordination actions by municipalities with environmental consequences. A lack of engagement by the Village government with the Planning Department makes it difficult for the County to meet some of its obligations in an efficient and effective manner. We consistently heard from County officials that it is difficult to determine when Village meetings about land use decisions occur or to secure minutes recording decisions made at these meetings. This, in turn, makes it difficult for the county to issue water permits, monitor sewer hookups and/or conduct analyses required under General Municipal Law (GML) §§239-m and 239-n, which is discussed in more detail below.

Limited Resources Strained

Like any urban community, residents of Kiryas Joel require a supporting infrastructure, particularly fresh water and wastewater treatment. The high density development coupled with the very fast pace of growth within the Village places a high premium on careful environmental management. The capacities of the sewer and water infrastructure are at risk as the Village continues to grow, thus threatening to constrain growth elsewhere.

- As of 2014, the Village contributed about 17% of total wastewater flows to the Harriman Wastewater Treatment Facility (WWTF).
- The Kiryas Joel WWTF is expected to reach its capacity in 2020. This plant cannot be easily expanded.
- The Harriman WWTF will reach currently permitted (6.0 mgd) capacity in 2027 at which time the Kiryas Joel contribution to the flow will be about 35%. Once the proposed improvements are made at Harriman, the capacity is planned to increase to 9.0 mgd.
- The financial structure supporting both operating and capital construction is hardly transparent and may be inequitable; some further analysis (and possibly a change in how costs are shared) is warranted.

Fresh water supplies to the Village of Kiryas Joel are also constrained.

- Peak usage in August 2014 exceeded the permitted capacity of the Village wells, with the difference partially made up from five water storage tanks.

- Additional wellfields owned by the Village—but not yet permitted—provide capacity sufficient to supply anticipated demand through 2023; the pipeline to the Catskill Aqueduct is very important beyond this point in time.
- Although the technical and regulatory issues regarding the Village’s pipeline to the Aqueduct are complex and far from settled, the connection is likely to be granted a permit and construction completed. All required approvals have not been secured, however, and questions remain.

Fiscal Impact

The fiscal impact of the Village on other taxpayers is also apparent and a source of conflict between the two cultures.

Two characteristics of the Hasidic faith work together to limit the income of community residents. First, it assigns a far higher priority to religious over secular study, limiting the earning capacity of its adherents. Second, the community disapproves of birth control. As a consequence, large families divide low incomes.

The socioeconomic contrast with surrounding communities is stark. The median age in the Village of Kiryas Joel is 12; in Orange County as a whole it is 37. The Census Bureau estimates that 60% of all Village residents have income below the federal poverty line. In the rest of Orange County, just 9% are in poverty. The list of cultural differences is long.

While some members of the Hasidic community are wealthy, most are not and many qualify for social welfare benefits that are funded by county, state and federal taxpayers. Many county taxpayers conclude that Satmar members are “poor by choice” and rely on others to finance their unique religious observance. This has become another source of resentment and a reason for some to oppose Kiryas Joel’s expansion. The story of Kiryas Joel’s fiscal impact on the larger community is complex.

When considering its fiscal impact on the county, note that the Village of Kiryas Joel’s population is 6% of that of Orange County. Were service utilization equal to 6%, it would imply that the community is consuming exactly its population share. In practice, this would rarely happen as every community is distinct and brings its own set of needs and contributions. Nonetheless, that 6% threshold serves as a starting point for the discussion of relative burden.

Consider:

- Village residents’ share of Medicaid, SNAP (food stamps), Family Health Plus, and the Heating Assistance Program (HEAP) is well above the Village’s 6% share of the population.
- By contrast, Kiryas Joel’s use of Medicaid for the disabled (the largest share of Medicaid spending in Orange County) is half its population share.

- Use of cash assistance programs among the Hasidic community is near zero as adult recipients have a work requirement. Most mothers remain home with their children.
- Although Kiryas Joel's residents are 21% of the county's Medicaid recipients, the age profile of its residents suggests a spending share that is much lower—we estimate about 13%. While still double the population share, this is much lower than Kiryas Joel's share of Medicaid beneficiaries would suggest.
- Village residents are disproportionate users of U.S. Department of Housing and Urban Development (HUD) housing vouchers: 32% of Section 8 vouchers countywide and 38% of Section 8 dollars flowing to Orange County benefit Kiryas Joel residents.
- The Hasidic community's share of the cost of the Early Intervention program (for developmentally delayed children ages birth to 3) share of county cost is 17%.
- By contrast, the share of Pre-K Special Education (ages 3-5) dollars share is 7%, nearly equal to the Village population share. This is consistent with the community's relatively low utilization of special education services among school aged children and with Medicaid Supplemental Security Income enrollment.
- The Kiryas Joel Union Free School District (KJUFSD) is a major recipient of federal Title funds—far higher than in the Monroe Woodbury Central School District (MWCS). Kiryas Joel's district receives nearly \$7 million v. \$1.3 million to MWCS for a student population roughly the same size (measured by school-aged children living within the district).
- Yet if all children living in the Kiryas Joel district attended KJUFSD instead of private yeshivas, KJUFSD would receive upwards of \$100 million in state aid, possibly over \$150 million.
- Kiryas Joel's direct use of many other costly county services—Mental Health and substance abuse services, the Valley View Nursing Home, Orange County Community College and others—is low or zero.

Balance of Interests

State and federal statutes and legal precedents balance the inherent conflict between the rights of property owners to develop their land and the rights of proximate property owners to be protected from disproportionate impacts. This conflict is as old as the institution of private property: The freedom of owners to use property as they choose is not unlimited. Conversely, neighboring property owners are not protected from any change whatsoever to the *status quo*.

The rights of Orthodox Jewish landowners to develop their land in housing are no more nor less than the rights of other landowners. The rest of the county has the right to ensure that this process of development is sustainable and is consistent with community standards, as reflected in environmental and land use law and precedent.

Findings

Disagreements about the facts contribute to the atmosphere of distrust. We have attempted to resolve these disagreements to the best of our abilities, given the information at our disposal. CGR and the Chazen Companies conducted many interviews covering a wide range of opinions and reviewed many documents (listed in the Appendix) to draw these conclusions:

- The likely trajectory of Kiryas Joel population growth is a matter of disagreement. Population growth forecasts for 2025 and beyond differ considerably. Our report reviews these forecasts in great detail and concludes that the estimated compound growth rate employed by Tim Miller Associates in the DGEIS is consistent with previous Village expansion (although slightly higher than the CGR forecast). We have employed the rate of growth implied in the DGEIS to project the Kiryas Joel population through 2040, for a total of about 96,000. This estimate is based principally on the natural growth of the existing population. The community's leadership is committed to enabling new family formation within the Village as young women reach childbearing age.
- The DGEIS forecast assumes modest in-migration. Kiryas Joel opponents correctly observe that in-migration from other Satmar population centers, particularly Williamsburg, Brooklyn, *could* be significant, limited only by housing capacity. It is this potential for explosive growth that feeds much of the fear within neighboring communities. The organic growth of the established residents is already difficult to accommodate and will necessitate access to additional sources of fresh water and expanded wastewater treatment capacity. It seems implausible that the current leadership of the Village would encourage in-migration given the very real challenges to its own organic growth.
- Were the Orthodox Jewish community to build residential housing on all land currently owned by the Village or affiliated owners outside the Village (but without annexation), the carrying capacity of these properties would be about 1,800 units under current zoning, accommodating something less than 6,000 additional residents. This falls short of the demand being generated by the existing population of Kiryas Joel between now and the end of the decade, depending on how much construction continues to occur within the Village proper.
- The annexation would allow Kiryas Joel the ability to "upzone" lands acquired, facilitating residential construction more easily than on properties owned outside the Town of Monroe. Rezoning within the Town of Monroe is more feasible politically as the Village residents are a large share of likely voters in the Town.
- The Hasidic community affirms that it has a religious obligation to provide housing for its organic growth. Yet it has a corresponding obligation to its neighbors to accommodate this growth in a manner that is consistent with the preservation of environmental quality and effectively mitigate the negative spillover consequences.

- Opponents of the annexation have asserted that increasing development density is not the intended purpose of New York’s annexation law. We disagree and find nothing in NYS General Municipal Law Article 17 (Municipal Annexation Law) or precedent to support this position. The only standard is that the annexation be in the “overall public interest.” Commenting on annexation, the National League of Cities notes that
 - *“the urbanized core city may seek to annex . . . the adjacent urbanizing fringe area in order to use resources efficiently, capture growth, gain a tax base or implement a plan across current borders. In some cases, annexation may precede urbanization as a means of capturing anticipated growth.”*
- Annexation provides for orderly urban expansion, facilitating the extension of urban services like water and sewer to the urban fringe, and preventing costly suburban sprawl. Whether clearly acknowledged or not, the Hasidic community seeks to annex unincorporated lands in the Town of Monroe for the purpose of building high density residential development, consistent with densities already found within the Village. This would require rezoning, although the zoning within the land identified as “The Fingers” is already near the density permitted in the Village.
- The key environmental constraints to continued residential growth are water quality and supply and sewage treatment capacity.
 - The current system for allocating costs for wastewater treatment is anything but transparent. Without hard measurement of flows it is difficult to determine who is paying what share of costs, and whether wastewater treatment costs are being fairly shared or not.
 - Kiryas Joel’s privately-owned chicken processing plant and meat market were found in violation of the Clean Water Act. The violations, which include discharging untreated wastewater into storm drains, are acknowledged in a consent decree entered into in 2014 as a result of a suit brought by the U.S. Attorney for the Southern District of New York and the Environmental Protection Agency. The Village leadership and the technical staff at Orange County Sewer District #1 should work together to ensure compliance with the consent decree.
 - Kiryas Joel’s impending water supply constraint is being addressed directly through its ongoing construction of a 24” pipeline connecting Kiryas Joel to the NYC aqueduct system, although Kiryas Joel does not yet have a permit from NYC. The construction of the pipeline has been pursued within the laws and regulations of NYS. Its completion would protect adjacent communities from the consequences of groundwater over-pumping once the pipeline is completed and is in use.
- Kiryas Joel does not comply with a NYS municipality’s obligation to refer a series of land use regulatory actions to the Orange County Planning Department as required under NYS General Municipal Law (GML) §239-m. The purpose of this provision is to, “bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations

to the attention of neighboring municipalities....’ and by so doing to facilitate regional review of land use proposals that may be of regional concern.” The bypassing of these referral requirements and recommendations lends credence to the claim that Kiryas Joel is operating outside the law.

- The Kiryas Joel Union Free School District and the Village of Kiryas Joel are coterminous. While we appreciate the many philosophical and legal questions this raises, the experience of the East Ramapo Central School District is instructive. The coterminous boundary is a practical solution to a very challenging conflict between the unique instruction provided to Hasidic children and the provision of public education services outside the Village.
- Both the Orange County government and the Village of Kiryas Joel have spent substantial taxpayer dollars on outside counsel; \$1.9M for the County (0.05% of budget) and over \$2M for Kiryas Joel (2.5% of budget) over the past five years. These expenditures are consistent with the important and complicated legal context within which the municipalities operate, and the current relationship between Kiryas Joel and its neighbors. However, litigation is a reactive, high-risk/low-reward way for municipalities to practice governance on a regular basis. While all parties here have legitimate interests—supported by substantial bodies of law—there are no guaranteed outcomes through litigation.

Conclusions

Our Task

CGR and the Chazen Companies have devoted the past two months to conducting a wide range of interviews, reviewing many documents and analyzing demographic growth projections, service demand impacts of Kiryas Joel and the physical infrastructure limitations created by the Village of Kiryas Joel as it continues to grow. Our charge was to present the Orange County leadership with an independent assessment of these factors as it plans for the county’s future.

Sustainable Growth is the Goal

Simple demographics, combined with deeply embedded cultural values and practices, suggests that new family formation among members of the Hasidic community will continue at its current rate with or without annexation. Constraints imposed by water supply and wastewater processing capacity, prevailing laws and the annexation decision itself as well as actions of neighboring communities will influence where these new families live.

Our build out analysis presented above assesses the capacity of lands currently under the control of the Village or Orthodox Jewish landowners both inside and outside the Village. Higher densities within the annexation lands would reduce the pressure to increase density within the current Village boundaries or on the land owned by affiliated developers outside the Town of Monroe. Landowners willing to develop or sell land have well-established rights in their property that includes the ability to develop that property for housing—but within established legal limits. In addition, the leadership of the Hasidic community—like all

communities—is entitled to pursue its internal obligation to provide housing for its current and anticipated future residents.

But these rights are not unlimited simply because this is a religious community. While it can choose to be set apart culturally, Kiryas Joel and the larger Orthodox Jewish community still must comply with laws passed by Orange County and the State of New York that are intended to ensure that growth is sustainable and balances the interests of all of the region’s residents.

Embracing Smart Growth

The DGEIS for annexation prepared earlier on behalf of the Village of Kiryas Joel argues that the annexation and the development pattern it reflects is a manifestation of “smart growth.” Yet smart growth is more than the inverse of sprawl. Smart growth embraces regional cooperation and engagement along with full respect for environmental standards. The local control promised by NYS’s Home Rule provisions has limits, particularly when environmental quality is threatened.

Kiryas Joel’s expansion does not occur in a vacuum, nor should it occur without appropriate dialogue among the Village, its neighbors and Orange County. Many of the Village’s neighbors make it abundantly clear that they prefer that the village not grow at all, a position that places them in direct conflict with cultural expectations and the municipality’s plans. Instead of settling these matters in the courts, Orange County leaders would better serve taxpayers by working to establish a climate in which growth can occur with the cooperation of municipal, county, regional and state agencies.