

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
COMMISSIONER'S DETERMINATION  
OF  
LEAD AGENCY UNDER ARTICLE 8  
OF THE  
ENVIRONMENTAL CONSERVATION LAW**

**Project:** Zoning Change and Collector Road for Glass Estate  
and American Ultramar Property-Mt. Kisco, NY

1. Pursuant to the provisions of Article 8 of the ECL, subdivision 6 Section 8-0111:

"When an action is to be carried out or approved by two or more agencies, the determination of whether the action may have a significant effect on the environment shall be made by the lead agency having principal responsibility for carrying out or approving such action and such agency shall prepare, or cause to be prepared by contract or otherwise, the environmental impact statement for the action if such a statement is required by this article. In the event that there is a question as to which is the lead agency, any agency may submit the question to the Commissioner and the Commissioner shall designate the lead agency, giving due consideration to the capacity of such agency to fulfill adequately the requirements of this article."

and pursuant to the provisions of 6 NYCRR 617, subdivision (c)(1) of Section 617.6.

"Actions for which lead agency cannot be designated by agreement.

(1) If within the 30-day period allotted for designation of lead agency the involved agencies are unable to agree upon which agency shall be the lead agency, any involved agency or the applicant may write to the Commissioner requesting that a lead agency be designated. Simultaneously, copies of the request shall be mailed to all involved agencies and the applicant."

2. In a letter dated August 12, 1981 (Attachment A), the Village of Mount Kisco requested the Commissioner to designate a lead agency for the subject proposed action. The request is based on the following:
  - a. The involved agencies in the action include Mount Kisco Village Board (hereafter "Mount Kisco"), New York State Department of Transportation, Westchester County Department of Planning, and the Town of Bedford (hereafter "Bedford").

- b. The involved agencies, with the exception of Bedford, have indicated no objection to Mount Kisco as lead agency for the subject action, according to Mount Kisco.
  - c. The entire project is located within the Village of Mount Kisco, with the exception of a portion of the proposed collector road to be connected to Route 172 in Bedford. Bedford would potentially have site plan review authority over this portion of the collector road.
  - d. According to Mount Kisco, Bedford has indicated having no objection to Mount Kisco being the lead agency for the zoning change and that portion of the collector road in Mount Kisco. However, Bedford requests lead agency status for that portion of the road in the Town of Bedford.
3. Based on the information received (Attachment B), Bedford qualifies as an involved agency as defined in 6 NYCRR 617, subdivision (p) of Section 617.2.
4. Pursuant to 6NYCRR 617, subdivision (b) of Section 617-11, the subject action:

"shall be deemed to include other simultaneous or subsequent actions which are:

- (1) included in any long-range plan of which the action under consideration is a part;
- (2) likely to be undertaken as a result thereof; or
- (3) dependent thereon."

The overall subject action includes that portion of the collector road within the Town of Bedford. Therefore, this road section may not be segmented from the overall action for the purpose of Bedford's request for a separate lead agency designation and environmental review.

5. Pursuant to 6 NYCRR 617, subdivision (d)(1)(i) of Section 617.6, the most important criterion for determining lead agency designation particularly in the case where two local agencies are in disagreement, is as follows:

“(I) ...i.e., if such impacts are of primarily local significance, all other considerations being equal, the local agency involved shall be the lead agency.”

It is recognized that the adjacent community of Bedford may be affected by the potential housing development and collector road along its Town boundary. However, the entire proposed action, with the exception of part of the collector road, is located within and primarily affects Mount Kisco.

6. Subdivision (d)(I)(ii) of 617.6 states as a lead agency criterion:

“(ii) which agency has the broadest governmental powers for investigation into the impacts of the proposed action;”

Clearly, Mount Kisco has much broader powers and jurisdiction over the project than Bedford in rezoning approval and site plan review, since the proposal is almost entirely located within the boundaries of Mount Kisco. While this criterion is of lesser importance than that which is stated in item 5 above, it does contribute to this determination.

7. With respect to the last criterion for lead agency designation, pursuant to subdivision (d)(1)(iii) of Section 617 .6, there does not appear to be sufficient difference in capability for environmental assessment between Mount Kisco and Bedford to act as a determining factor in this determination. Also, as stated previously, the other involved state and county agencies have agreed to Mount Kisco as lead agency.

Therefore, the Village of Mount Kisco is hereby designated as lead agency for the subject project. Mount Kisco as lead agency must solicit and incorporate the environmental concerns of the Town of Bedford and other involved agencies in both the scoping process and public comment procedures for the Generic Environmental Impact Statement being prepared for the project. This also applies for any supplemental site-specific EIS required by Mount Kisco during subsequent site plan review.

In this way, all involved agencies will be able to make their own findings on the basis of a comprehensive environmental record, and apply these findings to their own approval authority in the action.

Dated: August 28, 1981  
Albany, New York

/s/

Robert F. Flacke Commissioner  
by M. P. Lanahan First Deputy Commissioner

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VILLAGE OF MOUNT KISCO  
WESTCHESTER COUNTY, NEW YORK  
104 Main Street  
Mount Kisco, New York 10549

Office of the  
VILLAGE MANAGER

Telephone  
(914) 241-0500

August 12, 1981

Robert F. Flacke, Commissioner  
New York State Department of  
Environmental Conservation  
50 Wolf Road  
Albany, New York 12233

Dear Mr. Flacke:

Pursuant to Section 617.6(e) of the State Environmental Quality Review regulations, the Village of Mount Kisco is requesting the Department of Environmental Conservation to designate a lead agency for a proposed project involving a zoning change and the construction of a collector road. The involved agencies for this action include the Mount Kisco Village Board, the Town of Bedford, the New York State Department of Transportation, and the Westchester County Department of Planning. The Town of Bedford has indicated that they have no objection to Mount Kisco being the lead agency for the zoning change and the portion of the road in Mount Kisco, but Bedford requests that they be the lead agency for the portion of the road in their Town. Therefore, we request that DEC study this matter and designate a lead agency.

The enclosed project description (taken from the DEIS which is currently being prepared) fully outlines the proposed zoning change and collector road. In addition, a site location map has been provided to show the location of the collector road in relation to the Village of Mount Kisco and the Town of Bedford.

Sincerely yours,

/s/

John N. Crary  
Village Manager

JNC/acd  
encls.

cc: Town of Bedford  
NYS Department of Transportation  
Westchester County Department of Planning

## ATTACHMENT A

### I. INTRODUCTION AND SUMMARY

This document is a draft Generic Environmental Impact Statement prepared for the Village of Mount Kisco, New York, relative to (a) the proposed adoption of a change in the Village Zoning ordinance text and map to permit clustered housing to be built at the density of four units to the acre in the R-0 zone, and (b) the proposed building of a collector road through two large adjacent parcels from the vicinity of the intersection of Barker Road and North Bedford Road (Route 117) in the Village of Mount Kisco to South Bedford Road (Route 172) in the Town of Bedford.

This statement is prepared in compliance with Section 8-019 of the New York State Environmental Quality Review Act (SEQR).

The proposed zoning action, which is described in the subsequent section of this document, is considered a Type I action since it involves "the granting of a zoning change at the request of an applicant for an action that meets or exceeds" a threshold of significance. In this case, the zoning desired would permit, but not directly cause, the development of more than 250 residential units which would be connected to community utilities.

The major portion of the proposed collector road would be constructed with the development of the cluster housing. As a result, a detailed engineering design has not yet been completed for the collector but will be completed as part of site plan submissions for the housing development.

The construction of a collector road could also be considered a Type I action since it has been estimated that this road could be an action "which involves the physical alteration of 10 acres."

Because the actions involve a change in the community land use and consideration of the road as a conceptual, schematic plan not as an engineering design, it has been determined that a "generic" environmental impact statement would be prepared. In accordance with the provision of Section 617.15 of SEQR, generic or generalized impact analyses can be utilized for actions which may share common geography and may involve a sequence of actions contemplated by a single agency.

Site-specific impact statements containing supplemental information may be prepared in the course of site plan review relative to specific impacts caused by the particular placement of roads and buildings.

The purpose of this statement is to analyze the possible impacts of the zoning change and the collector road on various aspects of the environment, and on the social and economic aspects of the community. This statement describes the physical environment and community setting as they exist now, and it systematically considers the beneficial and adverse impacts that might be encountered as a result of development under the proposed zoning change and with construction of a collector road. The statement provides a discussion of mitigating measures to be considered for actions taken, and it considers alternative actions to the proposed zoning change and the building of a collector road.

## II. PROPOSED CHANGES

### A. Zoning Change

The R-0 Research Office Zone and RRR Single-Family Residential Zones in Mount Kisco include about 95 acres of land located northeast and east of the central business district. This land is currently divided into two parcels: the Glass Estate with  $\pm 71$  acres and the American Ultramar Property with about  $\pm 24$  acres.

As a result of discussions with Village officials over the building of a collector road to transverse the Glass and Ultramar properties, the developer of the Glass Estate has requested a change in the Research Office zoning requirements to allow increased density on this parcel. The request would also encompass rezoning of that portion of the parcel currently zoned RRR to R-0.

The current R-0 Research Office zoning (see appendix section for copy of ordinance) provides for four alternate types of uses on lots of no less than 25 acres of contiguous land, with a minimum of 22½ acres situated within the boundaries of Mount Kisco.

- (1) Any use permitted in RRR - one-family residence district. This allows a gross density of 3.48 dwelling units to the acre.
- (2) Research and Development Laboratories for research and development of processes and products directly related to the business of the owners at a floor area ratio of \_\_\_\_.\*
- (3) Business and professional offices or office complexes, with or without product-related development, but excluding offices attended regularly by the general public such as banking and medical offices.
- (4) Accessory uses related to the principal use; e.g., storage facilities and off-street parking for automobiles.

The Village Board has, in addition, passed a resolution under Section 281 of the Town Law (\_\_\_\_ of Village law) to allow cluster residential development on the Glass property, at current development densities.

The proposed amendment, entitled Planned Residential Development (see appendix Section \_\_\_\_), for an additional permitted use in the "R-0" Research-Office District would directly affect the Glass property. The revised minimum lot size is 50 acres for the zone: the Glass property is  $\pm 71$  acres and American Ultramar parcel is  $\pm 24$  acres. The amendment for a Planned Residential Development would allow four dwelling units to the acre calculated on the gross site area. Further, the amendment to the R-0 zone states that maximum coverage by buildings shall not be more than 20 percent and a minimum of 30 percent of the total acreage of the site shall be either landscaped open spaces or open areas left substantially in their natural state." It provides for a 100' buffer where property abuts residential areas and a 50' buffer adjacent to non-residential areas.

\*Site area times floor area ratio equals amount of development permitted.

Other sections of the amended ordinances provide for permanent designation of open space areas with scenic, ecological and/or recreational areas.

While the proposed zoning amendment would not affect the Ultramar property, at present, since the parcel does not meet the minimum lot size requirement of 50 acres, it is possible that the cluster provisions would apply, if that property were sold to the developer of the Glass property, whereby a combined site area of approximately 95 acres would result.

B. Schematic Plan for Construction of a Collector Road

The Village of Mount Kisco is considering a proposal to construct a road extending from the vicinity of the intersection of Route 117 North Bedford Road and Barker Street in Mount Kisco to Route 172 South Bedford Road between Route 117 and McLain Street in the Town of Bedford. This road, generally called the Easterly Collector, would traverse the Glass and Ultramar properties. No exact location has yet been determined, but a schematic design has been presented to the Village Board for their consideration. See following map.

The concept of a collector road on the two parcels has been recommended in the Village Comprehensive Development Plan, and updates of the plan prepared over the past several decades. The current proposal came as a result of a recently completed Capacity Plan for the Village of Mount Kisco, which included a number of specific land use, public facility and road improvement proposals designed to address anticipated growth and development in the Village over the next ten years.

Two of the high priority proposals of the Plan were the provision of a 12" water main loop in the eastern portion of the Village, and the development of a new collector street in the same portion of the community. Improvements to these two elements of the Village infrastructure were recommended to service both existing and future needs. The water line was determined to be critically needed to help assure adequate water supply and pressure for improvement of all over system reliability, and for fire protection purposes and to help to accommodate traffic from future development. The road proposed was recommended as part of a series of proposals to help relieve traffic problems on East Main Street and elsewhere in eastern portions of the community.

As the Capacity Plan studies progressed, it was determined that both the collector road and the water line should pass directly through the Glass property and American Ultramar property, both of which were prime for residential and office development. Moreover, it was possible that the road and water line should be designed and built as part of the Glass and Ultramar developments. Not to do so, and to allow the development to proceed on these properties, would practically eliminate the realization of the two infrastructure proposals.

The Easterly Collector, as proposed, would be a road with one moving lane in each direction. Its design could either be that of a conventional two-lane roadway, or it could take the form of a divided parkway-type boulevard, which is currently being considered as the optimal design, with a planted median strip separating north and southbound traffic. The Easterly Collector would directly serve the two parcels that it traverses; i.e., the Glass and American Ultramar properties. Moreover, as conceived, it would provide an important connection between two major streets, Routes 172 and 117, and thus would serve as a relief route for some of the future

traffic that would utilize East Main Street (Route 117). However, the Easterly Collector would not be designed to allow through truck traffic. (East Main Street would still have to accommodate these commercial vehicles.) Since the easterly collector would pass directly through two sites that are prime for development, it would be crucial that this road be designed to minimize any adverse effects on these developments, while simultaneously providing an overall village wide circulation improvement and a right-of-way for the proposed 12" water main.

The road at this point is at the conceptual stage: its impacts will be considered from a general point of view and the two properties as a whole will be analyzed for possible effects rather than a definite impact of specific building and road locations on the properties.

**TOWN  
OF  
BEDFORD**

**Westchester County**

**Town House  
Bedford Hills  
New York 10507**

*Town Engineer*  
Donald M. Crotty, P.E.  
(914) 666-5149

August 21, 1981

Commissioner Robert F. Flacke  
Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233

Dear Mr. Flacke:

By letter dated August 12, 1981, Mount Kisco Village Manager John N. Crary requested DEC designation of a lead agency in the matter of a rezoning and construction of a collector road by Mount Kisco. By telephone today, Jeffrey Sama of DEC requested a statement detailing any Town of Bedford jurisdiction in the matter.

The extreme southerly end of the proposed road is in the Town of Bedford. The length of road in Bedford is approximately one hundred feet, including an intersection with State Route No. 172, South Bedford Road. My understanding of the matter is that the Town of Bedford portion of the proposed collector road requires Town of Bedford approval as follows:

1. The property is Zoned Planned Business - Office. Under the Bedford Zoning ordinance, any non-residential use of property requires Planning Board approval of a detailed Site Plan.
2. For the portion of the Bedford property other than the proposed road, usage of the property is detailed for the present Planned Business - Office Zoning. Proposed use of the property must be consistent with the present zoning or with a variance granted by the Bedford Zoning Board of Appeals or as rezoned by the Bedford Town Board.
3. Any public road to be constructed requires acceptance by the Bedford Town Board.

The above items pertain to direct jurisdiction by the Town of Bedford. The remainder of the road is outside Bedford but is adjacent to the Bedford - Mount Kisco border for its entire length, as is the area for which rezoning is proposed.

Very truly yours,

/s/

Donald M. Crotty, P.E.  
Town Engineer

DMC:ih

pc: John N. Crary  
Jeffrey Sama  
Jeffrey Osterman

ATTACHMENT B