

**NEGATIVE DECLARATION**  
**Village of Montgomery Planning Board**

**ROUTE 211 OWNER, LLC**

**SITE PLAN**

**Determination:** In accordance with the provisions of 6 NYCRR Part 617.7, the Village of Montgomery Planning Board, after circulation of a notice of intent to become lead agency under SEQRA to all Involved and numerous Interested Agencies, assumed Lead Agency Status and acted as Lead Agency for this Type 1 Action. After performing SEQR review, including the review and analysis of a Full Environmental Assessment Form (FEAF) with supporting environmental data, reports, studies, analysis and responses to comments from the planning board members, its consultants and the public and after review of the proposed site plan and related drawings for the proposed property and its use, the Planning Board has determined that the action as set forth below will not have a significant adverse impact on the environment and hereby adopts this Negative Declaration.

**Name of Action:** KSH Route 211 Development - Site Plan

**Lead Agency:** Village of Montgomery Planning Board, Orange County, New York

**Contact Person:** Amy Frisbie, Chairwoman  
Village of Montgomery Planning Board  
Email: tina.deputyclerk@villageofmontgomery.org

**Location:** The Project is located on NYS Route 211 (Union Street)  
Village of Montgomery, Orange County, New York

**Tax Map Parcel:** Section 211, Block 1, Lot 29.22  
Village of Montgomery, Orange County, New York

**Property Owner:** Route 211 Owner, LLC

**Zone:** I – 1 Industrial

**SEQRA Status:** Type 1

**Proposed Action:**

On or about September 14<sup>th</sup>, 2018, KSH Route 211 Development, LLC (the “Applicant”) filed a site plan application for the premises situated at Section 211, Block 1, Lot 29.22 in the Village of Montgomery, said lot also being located on Union Street opposite Chandler Lane (the “Property”). This submission was followed by submission to the Planning Board on or about October 12, 2018. These submissions included 290,000 s.f. of warehouse space in two buildings and 80 senior housing units. In December of 2018 the Village of Montgomery amended their

zoning law to remove senior housing as a permissible use for this property. The application was then revised to include 300,000 s.f. of warehouse in two buildings and a total of 9,880 s.f. of office space in two buildings and resubmitted to the Village on January 11, 2019, February 15, 2019, September 13, 2019, October 2, 2019, November 8, 2019, January 10, 2020, February 14, 2020 and May 15, 2020. At that time, the Village of Montgomery declared a moratorium on development to consider further zoning law amendments. In July of 2021, the Village adopted a new zoning law and the moratorium was lifted. Among other changes, the amended zoning required that the maximum building size for development in the I-1 zone was 80,000 s.f. and additional setbacks to residentially zoned properties were added. The application again amended its application to include two 80,000 s.f. buildings of 45 ft maximum height and two 60,000 s.f. buildings with a maximum height of 35 ft with all buildings complying to the newly adopted setbacks. This amended plan was submitted to the Village for review on July 15, 2021, September 10, 2021, December 10, 2021, January 14, 2022, March 11, 2022, May 13, 2022, June 10, 2022, September 16, 2022, December 2, 2022, January 26, 2023, March 10, 2023, April 19, 2023, May 12, 2023, June 16, 2023, October 13, 2023, January 12, 2024, April 15, 2024, November 13, 2024 and December xxxx, 2024. With the exception of building height for the two 80,000 s.f. buildings, for which an area variance has been applied, the project is permitted as of right by special permit in the village's I-1 Zoning District.

### **Plans, Documentation and Review.**

The plans and documents reviewed and that are subject of this Negative Declaration are as follows:

1. Site Plan Application Form filed September, 2018 and amended for new ownership and resubmitted in May of, 2022,
2. Full Environmental Assessment form Part 1, 2 and 3 prepared by Engineering & Surveying Properties last revised December 6, 2024,
3. Stormwater Pollution Prevention Plan ("SWPPP") prepared by Engineering and Surveying Properties last revised September 2022,
4. Sound Measurements and Impact Review prepared by B. Laing Associates last revised November 2024,
5. Aquifer Review Report prepared by Sterling Environmental dated June 16, 2023,
6. Traffic Impact Study prepared by Creighton Manning Engineering, LLP dated October 13, 2022,
7. Conceptual building plans and elevations prepared by Anderson Design Group last revised December 2, 2022,
8. Wetlands delineation and request for Jurisdictional Determination prepared by Peter D.

Torgersen Environmental Sciences dated August 11, 2019,

9. Endangered Species Assessment prepared by Peter D. Torgersen Environmental Sciences dated August 8, 2019,
10. Phase 1 Archaeological Investigation prepared by Alfred G. Cammisa, M.A. dated June 2019,
11. Federal Aviation Administration determination of No Hazard dated September 12, 2022,
12. Water System Engineering Report prepared by Engineering & Surveying Properties dated September 2019,
13. Sewer System Engineering Report prepared by Engineering & Surveying Properties dated September 2019,
14. Response to public hearing comments and comments of the Board included in the various submissions referenced above.

**Background and Reasons Supporting the Negative Declaration:**

Based upon review of submitted plans and materials, comments by the Board’s professionals, input from various involved and interested agencies, public comments made in the course of the public hearing process, a review of the Full EAF and a review of supplementary materials provided to the Planning Board, it has determined that the Proposed Action will not result in any significant adverse environmental impacts. The following shall serve as the Planning Board’s evaluation of potential environmental concerns:

**Impacts on Land**

The total ground disturbance is projected to be approximately +/- 21 acres. A Stormwater Pollution Prevention Plan (SWPPP) and an erosion and sediment control plan were required for the Project. Both documents were prepared in accordance with NYSDEC Standards and were submitted by the Applicant and were reviewed by the Planning Board’s consulting engineers. The SWPPP documents that the project will not increase the peak rate of runoff and therefore will not increase erosion potential.

Based upon the scope of the project and the implementation of the mitigation measures provided in the SWPPP and erosion and sediment control plan, the Board finds no significant impacts will occur on land that have not been mitigated by the project as designed.

## **Impacts on Water (includes Surface Water/Wetlands, Groundwater and Floodplains)**

### Surface Water

The Proposed Action includes 4.279 acres of federal wetlands. The extent of these wetlands was confirmed by the Army Corps of Engineers on December 16, 2019

The Project Applicant has proposed to disturb 0.238 acres of wetlands for construction of the driveway, emergency access drive and parking lot for building 2. To mitigate the impact, the applicant is proposing to construct approximately 0.5 acres of wetlands mitigation adjacent to the existing wetlands on the north side of the site. This wetlands disturbance and mitigation will be permitted by the Army Corps of Engineers under their nationwide permit system. No other protected surface water features are present on the Project Site.

A Stormwater Pollution Prevention Plan (SWPPP) and a erosion end sediment control plan were required for the Project. Both documents were prepared in accordance with NYSDEC Standards and were submitted by the Applicant and were reviewed by the Planning Board's consulting engineers. The SWPPP documents that the project will not increase the peak rate of runoff and provides water the required quality treatment.

The Project is not expected to generate any liquid waste, with the exception of wastewater, which will be directly discharged into the onsite municipal sewer treatment system. The sewer main does not have an easement of record and the Applicant has gratuitously offered a 30 ft wide sewer easement to the Village for the purpose of maintaining this sewer main. In addition, the site will not generate, treat, store or dispose of hazardous wastes, and no pesticides will be used on site.

### Ground Water

The Proposed Action will use ground water supplied by the Village and is located over a principal aquifer. With respect to new or additional use of ground water a water system engineer's report has been prepared and it is estimated that the Project will generate the demand for 4,900 gallons per day of water. While the Village is in a water moratorium, a new well has been drilled and the capacity of the system, once the well is online and the moratorium is lifted, will be sufficient to service the site. In regard to aquifer impacts, an Aquifer Review Report was prepared by the applicant's hydrogeologist. This report, which was reviewed by the hydrogeologist hired by the planning board, confirmed that the development is in compliance with NYSDEC, NYSDOH and Village regulations pertaining to aquifer protection. However, in recognition of the importance of aquifer protection the planning board has directed its hydrogeologist to perform an independent analysis. Any recommendations for additional mitigation measures, to further protect the well field, will be incorporated into the project as conditions on any special permit and site plan approval granted for this project.

### Flooding

The Proposed Action is not anticipated to have a significant adverse environmental impact with respect to drainage or the development of lands subject to flooding as the project is not located within the 100-year floodplain.

Based on the above, and the implementation of the mitigation measures proposed by the applicant in consultation with the Planning Board's consultants the Proposed Action will not have an adverse environmental impact on surface water, groundwater, floodplains and/or wetlands that have not been mitigated by the project as designed.

### **Impacts on Plants and Animals**

A habitat assessment has been prepared by the Applicant and reviewed by the planning board and its consultants. Based on this assessment, the Project Site is located in an area known to contain suitable habitat for the Indiana Bat and Northern Long Eared Bat. While the Proposed Action will result in tree removal, a substantial vegetative buffer will remain on the project site. Also the applicant will comply with NYSDEC time of year tree clearing restrictions in effect at the time of construction. In addition, to protect existing wildlife, the applicant has offered a conservation easement that will provide approximately 13.4 acres of habitat in perpetuity. This easement area will be bordered by a fence that will shield headlights and workers from entering into the conservation area and further protect wildlife. Based on the above, the Proposed Action will not have a significant adverse impact on plant and animal species.

### **Impact on Historic and Archaeological Resources.**

Due to the potential for prehistoric resources, the Planning Board was concerned with potential adverse environmental impacts the Project could have on these resources, if present, and a Phase 1 Archaeological Survey was prepared. This survey found no prehistoric sites. In addition, the project is not adjacent to any historic buildings or historic districts. The comments of the State Historic Preservation Office (SHPO) were solicited and in a letter dated August 25, 2022 SHPO confirmed that in their opinion no Properties, including archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places, will be impacted by this project.

### **Impact on Transportation and Parking**

#### Transportation

A Traffic Impact Study has been prepared and was found to be acceptable to the NYS Department of Transportation by letter dated March 13, 2023 and was further reviewed by the Village's traffic consultant Collier's. As a result of this study the applicant is proposing:

1. To align the proposed driveway with Chandler Lane
2. Construct a left turn lane on NYS Route 211 at the intersection of the site driveway and Chandler Lane.
3. Construct Sidewalks along NYS Route 211 as shown on the plans.
4. The Applicant has committed to prohibiting truck traffic from exiting left from the proposed entry into and through the village and has proposed the appropriate signage. This prohibition will be enforceable by the Village by grant of enforcement rights to the Village as allowed under New York State Vehicle and Traffic laws.

5. The Applicant has agreed to a condition of the special use permit that a liaison will be provided and that in the event trucks turn left, the Village can contact the liaison to rectify the situation.
6. The site owner will include language in the lease to each tenant that they will direct all trucks to enter and exit the site from the southwest and not go through the Village.
7. Signage and clearing will be provided in the vicinity of the school as approved by the NYSDOT.

With these proposed improvements, the Proposed Action will not have a significant adverse environmental impact on existing traffic or transportation systems.

### Truck Parking

The Proposed Action will create sufficient off-street truck parking. Based on the Village Code, and the applicants' experience, sufficient truck parking is available on the site. Per Village of Montgomery Code, the required number of truck loading spaces is 2 spaces per 40,000 square feet of gross floor area and therefore a total of only 12 spaces are required for all four buildings. In considering industry standards a Class A warehouse should provide 1 loading space per 5,000 square gross floor area which would equate to 56 loading spaces. The applicant is proposing 94 spaces for loading/parking and has defined 8 additional spaces for truck parking for an ability to load/park 102 trucks. Considering the above, a range of from 46 to 90 locations for trucks to park are expected to be available. Signs will be provided prohibiting truck parking on access roads or in car parking areas. In addition, the Applicant has agreed to a condition of the special use permit that a liaison will be provided and that in the event trucks visiting the site, park outside of designated areas on the site, the Village can contact the liaison to rectify the situation. Also, if the condition continues the Village may fine the property owner and commence proceedings to revoke the special permit in the event of continuation of the violation.

### **Impacts on Agriculture**

The Project Site is not located in an Agricultural District and is not currently used for Agricultural purposes. Based on the foregoing, the Proposed Action is not anticipated to result in any significant adverse impacts to agricultural resources.

### **Impact on Aesthetics -**

Consistent with the Village 1997 Zoning Law, 2008 and 2016 comprehensive plans, the site has been planned for industrial development and consistent with this plan larger industrial buildings have been expected. Even with this expectation, development of the Project will permanently alter the natural visual appearance of the Site and therefore the Planning Board required the Applicant prepare building renderings and viewshed analysis of the site. Based on these analyses, it is determined that the architectural style, colors and construction materials of the buildings are designed to complement the visual character of the Project Site. To mitigate building height as proposed, architectural elements to minimize the scale of the buildings are incorporated and were study in the Part 3 EAF and reviewed by the Villages historic architect. Also, by increasing the

building height for buildings #3 and #4 the applicant was able to reduce the size of building #1 and #2 and preserve 13.4 acres of the site. This mature vegetation buffer along NYS Route 211 and Weaver Street will provide natural screening of the facility. To supplement the natural screening, landscaping with both deciduous and evergreen plant materials will be installed as per the landscaping plan and sound walls will be installed on the Weaver Street and NYS Route 211 sides of the project to enhance year-round screening and buffering of the Site. A lighting plan with full cut off lighting has been prepared to mitigate impacts from site lighting. Lastly if emergency power generators are required, they will be shielded from public views.

With the above proposed design elements, the Project is not expected to have a negative impact on Aesthetic resources.

### Impacts on Noise

During construction, the Proposed Action may produce noise that will exceed existing ambient noise levels. Construction noise is temporary in nature and construction activities will be undertaken in accordance with Chapter 77 of the Village Code.

During operation of the facility, noise will be generated by vehicle traffic, loading and unloading of trucks and other onsite equipment. To evaluate the potential impacts from sound generated by the project, an initial Noise Assessment was prepared and submitted by Tim Miller Associates, Inc. in March of 2023. Upon review of this document, the Village requested a more detailed evaluation, and a Sound Measurements and Impact Review was prepared by B. Laing Associates in April of 2023. Initially, the Village retained Philip Grealy, PhD of Collier's to review the document and with additional modifications the study was found to be acceptable. After further review and comment, the Village retained a second consultant, The Noise Consultancy, to perform an additional review of the report. This report has been reviewed and revised through **November 2024**. Based on these analyses, including several iterations of local monitoring and computer modeling efforts, the following mitigation measures have been included in the project scope to ensure noise generated by the project complies with the applicable regulations

1. The hours of operation for buildings #1 and #2 will be limited to between 6 am and 9 pm.
2. Sound walls, as depicted on the site plan, will be constructed along the edge of the parking lots facing Weaver Street (10 ft high), along the driveway running roughly parallel to NYS Route 211 (16 ft high) and between buildings #1 and #2 (16 ft high).
3. HVAC equipment will be located as shown on the site plan (or further from the residential zone) and will be fully screened with 60-inch-high sound wall.
4. Any generators will be located between the buildings and behind the sound wall as shown on the site plan.
5. Tractor-trailer truck traffic will not be allowed into the driveways and car parking area northeast of the entrances to the loading area. Signage will be provided, and height guard clearance bars (by Post Guard or similar) will be set restricting access to vehicles 12.5 ft or less (typical semi-truck height is 13.5 ft. Typical fire truck height 10ft to 12 ft).
6. Parking of Tractor-trailer trucks will be limited to the loading area between the buildings. Signage will be provided prohibiting truck parking.
7. Dock door seals will be provided on the loading dock entrances.
8. The exterior walls of all buildings will have a textured/roughened finish.

9. The site owner will maintain a liaison with the Village responsible for receiving complaints and bringing the site and tenants into compliance with any conditions of the approval.
10. As permitted by OSHA all onsite equipment will be outfitted with “white noise” alarms in lieu of tonal alarms.
11. Refrigerated warehousing equipment will not be permitted unless further noise analysis is performed.
12. The final phasing plan will demonstrate that the site will be developed in a manner that incorporates sound mitigation measures to ensure that the noise impacts are appropriately mitigated throughout the development process.

### **Consistency with Community Plans**

All potential impacts regarding the consistency with community plans for the construction of the Proposed Action have been carefully considered and analyzed as outlined in the Part 3 EAF. The application complies with these special permit conditions. As the project complies with zoning and the special permit conditions outlined by the Village, no significant unfavorable consequences with respect to community plans have been identified. Therefore, the Proposed Action will comply with and be consistent with community plans and no mitigation measures are necessary.

**Other Impacts.** The Planning Board has reviewed all other potential environmental impacts associated with this project as discussed in the PART 2 and 3 of the FULL EAF prepared by the applicant and reviewed by this board and its consultants and determines that such impacts are not significant and have been mitigated by the project as designed

### **Summary:**

Based on the foregoing SEQRA evaluation, the Planning Board finds that the proposed project will not result in a significant adverse impact, and the Board hereby adopts this Negative Declaration.

**Date of Action:** December 18, 2024