

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Village of Montgomery Court Room, 133 Clinton Street, on Wednesday, June 28, 2023, at 7:30 pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. Steed, Mbr. Meyer, Mbr. Frisbie (absent), Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Ross Winglovitz of Engineering & Surveying Properties, Michael P. Bontje of B. Laing Associates, Ben Gailey of J&G Law, Officer Scherma, Trustee Randi Picarello

**Public Hearing Attendees:** Tim Mahoney, Don Berger, Lisa Rockwood, Gabrielle Anticoli, Gary Roerden, Kristine Wilbur, Robert Reynolds Sr, Cynthia Reynolds, Jeff Van Zandt, Stephen Imbriani, Gary Demaris, Margaret Grasso, John Reale, Bob Williams

**OPEN:** Chrm. Conero opened the meeting with the Pledge of Allegiance.

### **ADJOURNED PUBLIC HEARING**

#### **RE: PATHWAY PLACE MANAGEMENT, LLC 203-1-1**

**Atty. Taylor Palmer** is representing the applicant along with Ross Winglovitz of Engineering Properties. On June 7<sup>th</sup>, they had a meeting with their (Planning Board's) Historic Resource Consultant together with their consultant members that were available for that meeting to discuss a comment letter received by the Board's consultant. They were waiting for some additional comments but they understand no additional comments are forthcoming. With their supplemental submission they were going to provide a response to those comments. They did have a pretty substantial change that they notified the Board of this evening and that is that they are proposing a further reduction of the overall project down from 8 units to a minimum viable alternative of 6 units. What they have here is a markup of the site plan that shows the northernly corner significantly set back from the northernly property line. The Board had made a number of comments and so did it's consultant, in response to making sure there is adequate buffering from Factory Street and to the Crabtree property and of course the northern property line on the site. With that, you're looking at nearly a 25% reduction in the building itself. It moves everything; the retaining walls, a driveway, two of the garages all are being lopped off for the proposal that allows them to add a very substantial, maintained, of course, existing tree coverage in that area and of course, enhance the screening in that area. Losing a driveway, of course, gives a lot of that additional buffering.

**Chrm. Conero** said they never really opened the public hearing.

**A MOTION was made to OPEN THE ADJOUNED PUBLIC HEARING FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 AT 7:31 PM by Chrm. Conero, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**Atty. Palmer** said that adds a significant buffer in that area. Ross will speak briefly, to the extent of the setback that's been enhanced. They hope this is an earnest concession by the applicant. Again, it went from a 20 unit building down to 6. They are really trying to

make this the best product possible. And again, of course hearing the comments, make it in line with those visions.

**Ross Winglovitz** reiterated, as Taylor said, there will be a reduction in units and the reduction is coming from the end. He wants to be clear; they're not taking the 6 units and resetting it on the property. The applicant is proposing to reduce the building by removing two northern units closer to the historic structures. That area will be regraded where at all possible, all existing vegetation will be saved and there will be supplemental landscaping proposed. It's approximately a 38ft reduction of the building length (inaudible).

**Chrm. Conero** replied, okay and asked if any of the other Board members had any questions before they open up to the public.

**Atty. Joseph McKay** said he had one or two comments. So, one of the things they had discussed, was on a prior map there is an easement to the river. We need to do some research to find out, if they could locate that and show that on the map, the Board would be interested in having the easement and potentially note on the map no further subdivision. And some type of cross-easement for parking.

**Atty. Palmer** said yes. And in a condition to that, on any resolution they will provide that it is acceptable to the Village attorney.

**Mbr. Romano** asked, the berm runs the length of the 8 units, right? She remembers the berm.

**Ross Winglovitz** said it runs halfway from the corner, about halfway to the building, so the berm in this location will be retained.

**Mbr. Romano** said, so it will be retained. Okay.

**Atty. Palmer** said one of concerns expressed about the new driveways, here, will be the landscaped area.

**Chrm. Conero** said the easement ran down the property line and to the Wallkill River.

**Atty. Palmer** said they will reach out and see if they have anything.

**Bob Williams** said he wanted to thank all of you for taking the time to come over to the neighborhood and look how this project could impact the neighborhood, so certainly whatever decision you make on this will be an informed one and he is grateful for that. He also wanted to thank them for having Elise-Johnson Schmidt come out to the property. He knows they've used her on other projects here in the Village and he felt it was important to certainly do that here. And thank you again for doing that, Mr. Chairman for coming out and accompanying her. His question is, what was the outcome of the discussion between them and the applicant.

**Chrm. Conero** asked, when?

**Bob Williams** said, with Elise Johnson-Schmidt.

**Atty. Palmer** asked if he could speak for that and thanked the Chairman. The consultant provided her comments in a written submission to the Board. The discussion was about the comments they had hoped to have before writing a written response, so effectively, similar comments were a reduction in the size of the building, which they did through the submission. She indeed nudged them directly to the 6-unit concept so they applied directly, suggesting the recommendations of primarily the Board acting as Lead Agency but they incorporated directly the comments from that admission.

**Chrm. Conero** said it was basically a technical meeting between the Village engineer and the Village Architectural consultant. There was no quorum; all the members were not there. There was clarification just to clarify what her comments were. They didn't take any minutes; there are no minutes.

**Bob Williams** said, his other question is if this has to go before SHPO.

**Atty. Palmer** said, as far as the application is concerned, the acreage is being reduced, so SHPO is not an involved agency, this was done as a courtesy, the referral to SHPO. SHPO already has provided its comments for this Board and indicated that they wouldn't provide additional comments.

**Chrm. Conero** said they will take that into consideration to SHPO. They haven't seen the final plan set, yet.

**Bob Williams** asked Taylor if this would be the same building style?

**Chrm. Conero** said it's the same style building they just lopped off two units off the side.

**Bob Williams** said there had been some discussions over the past number of public forums, was that the nomination of the property was only based on the architectural significance. When he made the nomination for the Crabtree House, he was the Town of Montgomery Historian. He clearly checked the box for gardens for the significance that they provide to the property. Whether the State included it or not at the time, if they didn't, he's sure it was an oversight. He did amend the nomination to the property over the past couple of months so that the gardens are clearly delineated as being key contributing features to the property. That nomination was accepted by the National Park Service last month. Thank you.

**Chrm. Conero** said thank you and asked if anyone else had comments on the Pathway Project on Factory.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 TO JULY 26, 2023, AT 7:30 PM OR THERAFTER, AT 7:38 PM by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**Atty. Palmer** asked if the Board would see fit considering authorizing their attorney to draft resolutions for consideration at the July meeting for SEQRA findings and...

**Atty. McKay** said he can certainly draft them, but you have to see the final plans and consider it. It doesn't tie the Board's hands for the next meeting. You'll have the information and you can take action at that meeting or .....

**A MOTION WAS MADE TO AUTHORIZE ATTORNEY MCKAY TO DRAFT A NEGATIVE DECLARATION FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 AT 7:40 PM by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**A MOTION WAS MADE TO AUTHORIZE ATTORNEY MCKAY TO DRAFT PRELIMINARY SUBDIVISION APPROVAL FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 AT 7:41 PM by Mbr. Frisbie, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

### **OLD BUSINESS**

**RE: 9 BRIDGE STREET 202-2-1 & 202-2-3**

**Ross Winglovitz** is representing the applicant. They are looking for a referral to the AHRB. Marc is finalizing the architecture.

**Chrm. Conero** referred to Scott Sicina, what do they need...procedurally, is there anything that would stop them from referring them to the AHRB?

**Scott Sicina** said, no. The only other thing that they need to do is go to SHPO.

**Ross Winglovitz** said the AHRB needs to review it so they can send it over to SHPO as part of their package, so they can see that the AHRB is on board.

**Scott Sicina** said, the way this will go then, go to AHRB, hopefully get approval for that, then send that to SHPO, SHPO can hopefully send him a signoff, then go to ZBA after this board makes a determination on SEQRA.

**Chrm. Conero** said, once they get that to SHPO and get a no impact letter from SHPO, you've got the referral to AHRB, you'll have approvals of that, and they can issue a negative dec and then they can go to the Zoning Board.

**A MOTION was made to REFER 9 BRIDGE STREET 202-2-1 & 202-2-3 TO THE A.H.R.B. (ARCHITECTURAL HISTORIC REVIEW BOARD) AND AUTHORIZE THE APPLICANT TO SUBMIT TO SHPO AT 7:44 PM by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**RE: ROWLEY – RAILROAD AVENUE – 202-13-1.123, 202-13-5.21, 202-12-5.22**

**Chrm. Conero** said they already preliminary approved this and the Village Board has approved it, and for the record, there has been substantial evidence that there is no easements recorded, so you're looking for our attorney to draft the final approval.

**Ross Winglovitz** replied, yes.

**Mbr. Steed** said, the maps that you provided clearly show there was a right of way all the way out to Railroad Avenue, beyond his wildest footage imagination. But that was all transferred with the turntable, the siderail tracks with the property; basically, they gave them everything.

**Atty. Joseph McKay** said he didn't get to discuss this with all of the Board members. He said Brian sent him a letter. They spent a long-time reviewing maps and surveys and all they ever found was an email saying that there was a potential right of way. They can't find it anywhere...

**Ross Winglovitz** said they solicited Norfolk Southern directly and the map that they came up with was the maps that they got from the county, which showed the property as it appears before you today. Norfolk Southern had transferred all of this property, so he thinks that's where the confusion, they actually sold it in feet to Brescia Lumber many years ago. The rights, title and interest that they had were granted with that deed.

**Chrm. Conero** said he'd like to move to do a conditional final approval with condition of Orange County Department of Health.

**Atty. McKay** said, Orange County Department of Health and for dedication for Village lot line and parking lot, the offer and dedication to the Village.

**Chrm. Conero** said conditional final approval, based on Orange County Department of Health approval and also the dedication of the parking lot.

**Atty. McKay** said Brian said he would provide, on the map, presumably the offer and dedication. He would delineate that area 18 feet from the center line of the track and show where that would be in relation to the boundary line of the property which is being offered to the Village.

**Ross Winglovitz** said the only area that was in question is here (indicates on the map), about 16 point something feet. There was an 18 ft somewhere that nobody could find, it

would encroach 1 ½ ft in this area. There is no proposed improvements there but they are going to show that line.

**Atty. McKay** said basically, so the Board is aware, but he would then advise the Village Board that this is for parking purposes and that no structures are put in that 18 inches. He doesn't think this is an issue. There's an email that raises an issue and he doesn't know if it's an actual legal issue.

**Chrm. Conero** said, having the line to delineate it.

**A MOTION was made to AUTHORIZE ATTY. MCKAY TO DRAFT THE CONDITIONAL FINAL APPROVAL SUBJECT TO THE CONDITIONS THAT THEY RECEIVE ORANGE COUNTY DEPARTMENT OF HEALTH APPROVAL AND THE OFFER AND DEDICATION OF THE VILLAGE LOT LINE AND PARKING LOT TO THE VILLAGE OF MONTGOMERY, FOR ROWLEY – RAILROAD AVENUE – 202-13-1.123, 202-13-5.21, 202-12-5.22 AT 7:49PM by Chrm. Conero, seconded by Mbr. Frisbie and carried 5 Ayes 0 Nays.**

**RE: 77 CLINTON STREET – 202-3-7.2**

**Chrm. Conero** asked if the parking was straightened out in the back.

**Ross Winglovitz** is representing the applicant. He said they went to the AHRB and SHPO and received signoffs, both had been submitted for the record. The lot line change final draft has been prepared and submitted for all parties. They ask for consideration of any approvals that the Board would, obviously with condition upon filing that lot line change map, that allows Marc to build. They are looking for a negative declaration and to authorize conditional site plan approval.

**Scott Sicina** had no additional comments.

**Chrm. Conero** asked the Atty. McKay if they could draft a negative dec for this. They have a letter back from SHPO and a letter back from AHRB.

**Atty. McKay** replied yes, they have the letter from SHPO, the letter of appropriateness from the AHRB. He asked Ross, you said they did a cross easement for parking with the other lot owners.

**Ross Winglovitz** replied, yes that's part of the final agreement.

**Chrm. Conero** said this is the agreement between all of the property owners who are part of the realignment of the parking lot.

**Atty. McKay** said, alright.

**A MOTION was made to DECLARE A NEGATIVE DECLARATION FOR 77 CLINTON STREET – 202-3-7.2 AT 7:52 PM by Mbr. Meyer, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**Atty. McKay** said there was a note from prior counsel that indicated there was discussion about an agreement for parking and snow storage. The parking would be the easement but is there a plan for snow?

**Ross Winglovitz** said yes, the snow will be moved offsite if necessary.

**A MOTION was made to AUTHORIZE ATTORNEY MCKAY TO DRAFT A PRELIMINARY SITE PLAN APPROVAL FOR 77 CLINTON STREET – 202-3-7.2 AT 7:53 PM by Chrm. Conero, seconded by Mbr. Frisbie and carried 5 Ayes 0 Nays.**

**RE: BUTLER CONSTRUCTION – DUNN ROAD – 28-1-13.22**

**Chrm. Conero** said, there are some technical comments from their engineer.

**Ross Winglovitz** said, the new tax lot number has been issued for the property. That has been rectified. It is 213-3-5. They won't issue a new tax map until next year, but they have updated the GIS website. He handed a copy of the GIS page to Ms. Murphy.

**Chrm. Conero** said, this is in the Village now.

**Ross Winglovitz** replied, yes, it's always been in the Village since they made the motion, but the transfer and tax lot have been done at this point. That was Scott's first comment. They did get Scott's technical comments. He'll go through them with Scott. They don't think that any of them are significant or insurmountable in any way.

He wanted to point out to Scott that the fire department was submitted, and they haven't heard anything from them.

**Chrm. Conero** asked him how they submitted to the fire department?

**Ross Winglovitz** said he'd have to go back and look into it.

**Chrm. Conero** said that's been a bit of an issue; where we send the plans, who comments on them. He asked Ms. Murphy asked if the Chief usually gets that.

**Ms. Murphy** said it should go to the Chief or someone representing him.

**Chrm. Conero** asked, the Chief usually does the comments?

**Ms. Murphy** said she thinks so.

**Scott Sicina** said, one thing to bring up is that Dunn Road is a Town of Montgomery Road, so there will be some discussion with the Town regarding access onto their road and for the potential drainage structures that are .....

**Ross Winglovitz** said they are proposing that ...to a long shoulder Dunn Road and goes down the shoulder...

**Chrm. Conero** asked if they need to send this to the Town of Montgomery because it's a town road?

**Scott Sicina** said, yes.

**Ross Winglovitz** said they will meet with them.

**Chrm. Conero** said he wanted to bring up...on the property. There's been some machines on there. He wants to point out that they don't want any environmental issues there because it's not developed yet. He's not the code enforcer but to move this project forward, you really don't want anything to happen.

**Ross Winglovitz** said he would advise his client.

**Atty. McKay** said he had a previous discussion with the Building Inspector because your client showed interest in moving some of his items to the lot. ....go directly to the Building Inspector, if there's something they need a permit for...if they start building anything, speak with the building inspector to make sure it's in the code and if they need a permit then they have to get one.

**Ross Winglovitz** reiterated that he would advise his client.

**Chrm. Conero** said they will need to have their historic architect review the plans and asked if these plans, is there any other supplemental material at all?

**Ross Winglovitz** said it's an industrial area, it's an industrial building.

**Chrm. Conero** asked if it's considered a warehouse or is it considered a garage?

**Ross Winglovitz** said it's a contractor's office. It's a non-nuisance industry.

**Chrm. Conero** said it's up to the member if they feel it should go to their landscaping design person. It does border Dunn Road.

**Mbr. Romano** said she had written it down; it was mentioned last month.

**Scott Sicina** said he had it in his notes, as well.

**Chrm. Conero** asked if the landscaping design was in this plan set.

**Ross Winglovitz** said, no, it hadn't been updated yet. These are their revisions, their client does want to reduce it from (inaudible) with the pond and moving things around.

**Scott Sicina** advised; you may want to wait until it's as close to complete as possible before it's sent to Elise.

**Ross Winglovitz** said they would send the next submission to Elise.

**Chrm. Conero** said he just wanted it to be on his list of things to do.

**Ross Winglovitz** said his client feels this is an industrial area so he feels it shouldn't have that kind of scrutiny or that intense landscaping that's not visible from anywhere. In consideration when reviewing this plan. If it were on 211 and everyone was seeing it.

**Chrm. Conero** asked if they waived the sidewalks.

**Mbr. Romano** said, yes, it says officially waived curbing.

**Chrm. Conero** said curbing is usually required on any project, but the Planning Board has the ability to waive the curbing and since this is not a warehouse; it's a business/garage, he doesn't think having the curbing there is warranted.

**Scott Sicina** said just so they are aware, it is somewhat key to the design that Ross has the stormwater at, right now, if all the water sheet flows to most of his.... putting in curbing is going to concentrate the water more. It could make it a challenge to get the water into...It allows the water to flow over the edge of the road and get caught in a gravel...

The Board agreed to leave the curbing.

**Atty. McKay** asked Scott about his concern for interior curbing, in the truck loading.

**Chrm. Conero** said there is no curbing in the truck area.

**Ross Winglovitz** asked if they are comfortable setting the public hearing at this point. They will submit a copy of the plans to Elise.

**Chrm. Conero** referred back to Scott, if it's complete enough.

**Scott Sicina** said to leave it.

**Ross Winglovitz** said if Scott doesn't have any comments, he would think they would require subsequent changes to the plan. Anybody but Scott or him would actually notice.

**Chrm. Conero** said that's why they want to be sure they have a working plan that's complete enough to go to public hearing.

**A MOTION was made to SCHEDULE A PUBLIC HEARING FOR BUTLER CONSTRUCTION – DUNN ROAD – 28-1-13.22 ON WEDNESDAY, JULY 26, 2023, AT 7:30 PM OR THEREAFTER, AT 8:04 PM by Mbr. Romano, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**RE: 109 UNION STREET 206-6-1.2**

**A MOTION was made to AUTHORIZE THE CHAIRMAN TO SIGN THE FINAL SUBDIVISION APPROVAL FOR 109 UNION STREET 206-6-1.2, SUBJECT TO ALL FEES BEING PAID, AT 8:07 PM by Mbr. Frisbie, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

### **ADJOURNED PUBLIC HEARING**

**RE: KSH ROUTE 211 DEVELOPMENT – 211-1-29.22**

**A MOTION was made to OPEN THE PUBLIC HEARING FOR KSH ROUTE 211 DEVELOPMENT – 211-1-29.22 AT 8:10 PM by Mbr. Steed and seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**Ross Winglovitz** is representing the applicant along with Ben Gailey of J&G Law. At the last meeting the Board made a couple of referrals, specifically to traffic and a sound consultant regarding the sound study that had been provided to the Board. They received comments back from them that they have addressed in their resubmission, including extending the sound walls slightly in the rear and mostly map notes that they provided clarifications regarding the sound study. They've provided to the Board, a detailed; the neighbor across the street regarding potential landscaping/buffering. They understand his concern for immediately turning left out of the site. What they are proposing is a berm and blue spruce trees, which is what the owner wanted on his property. He knows Scott has concerns regarding site distance; they'd be glad to meet out there, take a look at it and adjust it as Scott thinks it's necessary, but they think this will go a long way in helping this gentleman regarding headlights. They showed him where the entrance was going to be as opposed to where it exists and its further west.

In addition, they had a report from Stirling Environmental regarding the aquifer that was brought up by the public. They indicated that they are in compliance with all the requirements of the DEC and DOH and towns as far as the aquifer; this is from the existing wells that the stormwater practices that were proposed will actually protect the groundwater quality of the Village. That was also submitted for the record.

The minor update to the SWPPP was in response to an email that he received from Scott.

And last but not least, a couple of days ago they did submit; John had indicated that they made a lot of commitments. The public was concerned about their commitments, were they tied together, how do they know that these commitments are followed through on, things they say at the meetings. There was a letter that they put together, outlining what had been proposed by the applicant and some that you wish to include into it that could be incorporated into any kind of negative declaration or approval that the Board may consider.

**NOISE:** It may include noise mitigation with sound walls, rooftop mounted HVAC equipment being attenuated by screening, building being constructed with texture finish, backup beepers required by OSHA, provide white noise backup alarms which is permitted, provide block heaters at loading bays, the construction of the sound wall.

**TRAFFIC:** Traffic and parking mitigation measures such as the left turn lane, signs prohibiting access to trucks through to the north side of the site, the fact that they acquired additional property so that they could line up the driveway with Chandler Lane and not across from Tim's property, so it makes a much better intersection.

They'd be willing to provide a letter to the Village authorizing the Village to enforce parking and left turn restrictions that will be on the property. A sidewalk being constructed from the entrance up to the existing sidewalk on 211. They must get permits and approvals from the DOT prior to the C of O. They have reviewed and given them approval on the traffic study.

**VISUAL:** They've committed to loading areas being limited to between the buildings as depicted on the approved site plan. Again, appropriate signs to prevent vehicles and trucks from going around the north side of the building.

Lighting will be night sky friendly. Buildings will be earthtone colors as per the renderings. The detailed landscaping plan that's been provided showing screening, that that be installed. The sound walls will provide not just a significant sound buffer, a sound attenuation, but also headlamp enforcement.

Michael P. Bontje is here for any noise related questions.

The applicant will provide the evergreens across the street that he just spoke about. They are committed to providing those at 243 Union Street.

One of the things that they show and talked about is that the Board has asked for a commitment for an easement. It's noted on his picture as a green area, but John asked that he show the map, so it clearly shows that there is a conservation area or an area with deed restrictions. It's going to be up to your legal counsel how exactly you want to perfect it that would prohibit the development of that area, leaving it forever green. That is a legal document that would be filed and reviewed by the Board and is something they've committed to in writing.

**WETLANDS:** Wetlands have been delineated by a professional. They have been confirmed by the Army Corps of Engineers. There is a mitigation plan that will be reviewed and approved by the Army Corps of Engineers as part of the post-preliminary prior to final approval.

**STORMWATER AND WATERSHED AQUIFER PROTECTION:** A stormwater prevention plan has been prepared. They will have to have coverage under the DEC's permits prior to any site disturbance.

There is concern regarding ponding along 211 from existing stormwater flows. They have committed, that is part of the improvements on 211 for the left turn lane. That ponding would be addressed.

No outside storage materials or goods.

**ENDANGERED SPECIES AND WILDLIFE HABITAT:** They will be limiting tree removal to between November 1<sup>st</sup> and March 31<sup>st</sup> to ensure no impact to the Indian or Long Eared Bat.

The applicant will adhere to the lighting plan which avoids light spillage offsite and will be night sky friendly lighting.

The applicant will install fencing and landscaping as depicted to further minimize the impact to the wildlife.

Conservation easement was discussed.

**SITE MANAGEMENT:** Site management to ensure that the development operates and is maintained in accordance with the approved site plan. The applicant and future property owners will be required to provide the Village Clerk and the Village Building Department with a contact person to be contacted in the event any problems arise.

**Chrm. Conero** asked if any Board members had questions. They have a lot of information in front of them. They have supplemented information that they've asked for; they did ask for the aquifer comments and that's been provided by Stirling. Colliers did comment on the noise study that was prepared and is basically the same. It concurred with everything there. There were some suggestions about making sure that they have the white noise....be considerate of the lighting. Evergreens should be planted in two rows, 6 ft apart. They also mentioned that we want to put a condition in, if it is approved, we want to post opening monitoring study done as well. That was one of the suggestions that we do require that to make sure that, especially at nighttime that things are... (inaudible). They did talk about hours of operation, and we need to, we'd like to see the hours of operation coincide with what the Village noise ordinances are.

**Ross Winglovitz** said they specifically studied the noise in both scenarios, and you have significant restrictions in overnight hours and that was one of the main reasons to do the noise study was to prove that they could comply with the study during all hours of the day that your noise ordinance will allow.

**Chrm. Conero** said some of the comments from the public were the hours of operation, he asked if the Board members thought about it at all but to take that into consideration, you don't have to make a decision on that yet.

**Mbr. Frisbie** said they are opening up a precedence to allow extended or all-night hours of operation when we restrict property owners and people in the Village from a noise perspective. And even though they are within the limit from a noise perspective, she feels like they are opening themselves up to that being something that she could stay home and (inaudible) until 2:00 in the morning.

**Ross Winglovitz** said as long as you comply with noise ordinance at 2:00 am, you're absolutely allowed to do that.

**Chrm. Conero** asked the Board members if they had any other questions for the applicant. He continued, the last time we opened it up to the public, we let everyone go by rows, we had a timer, Tom Steed did the timer for us. This will be our 3<sup>rd</sup> public hearing that we are opening, they've answered a lot of questions already. There's a lot of documentation out on the website for you to gain access to, now. All documents have been put up by Tina, she put them up there so everybody could get that information. We are going to keep it limited, the questioning is going to be very limited this time. He will be more than happy to listen to their comments.

**Tim Mahoney** – Mr. Winglovitz was very helpful to him; he went over to his house, and they had a big discussion. He found him to be a gentleman, actually. He invited him into his home. He showed him his concern. They had a discussion regarding the tree line and his side alignment and everything like that. And then he was just made aware that the Village engineer said something about the tree line disrupting the sight alignment for 211. Is it more important to make a right out of there and be able to see everything or a left out of there.

**Scott Sicina** said it is important for everyone to be able to see.

**Tim Mahoney** asked why they have woods on the Chandler Lane side where you can't see anything...until you come to the end of the stop sign, the end of the stop sign where you can actually finally see the people doing 70 mph to pick up little Johnny from elementary school, are coming into the Village. Is that more important to see left that way or to the right where his tree line may disrupt Karen's route doing 70 mph to pick up little Johnny at elementary school? Do you understand where he's coming from? Okay, so why don't you come to my house, like a gentleman, like Mr. Winglovitz did, have an open discussion with him about what's going to affect him and...at the Village level? Do you understand where he's coming from? Let's have an open discussion at his home when

we're done with this. You're not going to pull the rug out from underneath him and if you've already signed this stipulation agreement unless he can learn how to file a variance where he circumvents a stipulated agreement. Do you understand what he's saying? Somebody needs to go talk to him at his house. Thank you.

**Chrm. Conero** said, the comments in Scott's letter said, the proposed mitigation is in the setback...and that's where the (inaudible)...are.

**Ross Winglovitz** said, when the trees are on the property, Scott is concerned that they should maintain sight distance. He has no problem meeting him out there; he should be able to show him around the trees. He'll make sure he's comfortable if they need to modify it some.

**Scott Sicina** said the concern is it's a proposed item to be placed. Now the gentleman asked before about the area (inaudible). He's happy to meet him out there...(inaudible).

**Tim Mahoney** said he has about 30 pictures of what he's talking about, if you want to come out and speak with him. If you have time.

**Steve Imbriani** – He wants to make a couple of points. The first one is, he pulled up the property (inaudible) resource mapper. What he's concerned about is this is their wetland, they run all the way from there, along there (indicates on plan). This is not the required DEC 100 feet from the wetlands. It's an actual requirement. It may not be 100 feet, he'll hold it up for them, 4-3-8. Strictly enforced NYS DEC requirements to maintain a 100-foot setback between development and adjacent water sources. You're pinching this thing off, this is what he's talking about with the wildlife, to the point where you have this, where do they go? This is a natural path that they follow. That's the whole point of maintaining a conservation. Not because it's some rule he wants them to believe in, its because that's how the animal's travel. First you put a bridge, he doesn't know how many animals you know of are going to walk over a bridge. But you've stopped their access, so they can't get access anymore, then you're pinching in the flow way closer than 100 feet, you've got the water being injected by his 4900 gallons of waste a day. And you're telling him that none of that is going to manage to get that 6 ft that you've got right now into the waterway. At the end, if you look at the nice green national protected wetlands at the end, guess where all this is flowing when it's filled in ...inaudible.

**Chrm. Conero** replied, the Wallkill.

**Steve Imbriani** said, yeah and into Dunn's Pond area and the national wetlands that are at the bottom of that hill. You cannot take this much land raise it up and not change the flow speed of the water that's coming off of it. You're going to wash away everything in there and flood that and you will not be able to ... and then you won't have to worry about wetlands because they'll be destroyed.

He reads their vision statement: the last sentence, “Redevelopment enriches our community aesthetics that is in harmony with the existing fabric of the Village.” That's your mission statement. Your vision.

**Chrm. Conero** asked if anyone else in Steve's row?

**Jeff VanZandt** – So what he said about the mission statement. He cannot fathom how anybody can sit there and think this weaves into the fabric of their village. He just can't, in any way. The other thing that he thought they were going to talk about was having an independent sound analysis, he wasn't sure if that was mentioned yet.

**Chrm. Conero** said they did.

**Jeff VanZandt** said, independently, nobody came out to his property and gave me or anybody else a view of what it sounds like in his backyard for 24 hours. He thinks it's really important for the Board to take into consideration how much this could potentially disrupt their peace and quiet and by setting hours of operation could limit that. It would d be a great thing. The developers might not be too happy about it but then their peace of mind and our ability to enjoy our property is much more important for the Board than the ability for the developer to make a profit. Do we start selling out the residents' ability to enjoy their own properties before there's no more joy? You just can't keep on, and I'm not saying it's the Board's fault full it but seems that every open piece of property is being developed and at some point, it's going to push, not only the wildlife, but they're going to be pushed out. And it's not fair to them.

**Chrm. Conero** asked if anybody else...

**Gabrielle Anticoli** – 212 Union Street – Regarding the noise study and all the mitigation that they're proposing; so, the zoning for what she wants is for a non-nuisance business. So, if this was truly a non-nuisance business and a non-nuisance business seldom interferes with the neighboring properties, the neighborhood. So if this was truly a non-nuisance fitting into our zoning you wouldn't need all of these mitigating factors because by nature it wouldn't interfere but, so every time somebody of resident has a concern will they come back and they said we're going to solve it this way we're going to solve it that way but our zoning is for non-nuisance so you keep throwing all these parts at it and saying well it, this is not going to interfere but you have no guarantee. You have no guarantee that the decimal test that they quoted the last time...on generator when they have 92 proposed tractor trailer bays, so you can't say that that that decibel test is definitive of what that noise on that property on that property is going to be. So, if you cannot guarantee that it's not going to cross the property line like there's almost 60 houses that are directly, like if you count Union Street and Weaver are directly going to be affected by this and then the village at large because of the traffic which is another form of nuisance, excessive traffic which we're already dealing with. If there's no guarantee that these things are not going to interfere with even one person, if even if it's if it's 60 houses and 59 people don't hear it but one person does that it's still a nuisance. That is still a nuisance business and by our zoning laws is not allowed. So, what they're trying to

do is say, and she just heard him say, well we're going to give the village you know the permission to make enforcement ... (flipped tape) She knows that's not their job to solve, but it's something they need to take into consideration. If they can't even enforce our Village law, our speed limit, the state laws, then how is this reasonable to expect them to say, you know put that on this on the residents. Okay, so if it does become a nuisance, which, we already know what's going to be and they know it too, because otherwise they wouldn't be doing all this mitigating. If it does become a nuisance, that's no good at all because it's too late. By then it's too late. We have to go with what the zoning says. The last time we were here you said we have to go by what the laws are, what the laws. So, our law is a non-nuisance business only. So, if this is non-nuisance, we wouldn't have to talk about all these things and all of this noise. And the residents would be well within their rights for mitigation if this is approved. Because this is not in harmony, like they said, in harmony with the village and it doesn't fit in the zoning. Thank you.

**Steve Imbriani** – He pulled into town a couple of weeks ago. At 3:00am a Medline drove right by. They swore they weren't going to go down there. We can't enforce all the time they're not going to do that...to Newburgh to that site without going 5 miles out of your way. You have to go all the way around and they're not going to do that. When they're late, they're going to go right through town.

**Lisa Rockwood** – 239 Union Street – She's been awake at night and trucks are coming through shaking the house and that type of thing, especially her daughter I have to protect her if they're not enforcing that it's easier to ask for forgiveness than permission. I would rather they control this.

**Chrm. Conero** asked if anyone else wanted to speak.

**John Reale** – unless every person in this room of people is satisfied with what these people want to do, they're not doing their job. This is not a majority rules. If one person is emotionally upset, this should not be. Or disturbed in any way, this should not be allowed. Do you understand that? If any one person in this Board is concerned about what's going on in our village, then don't allow it. If any one person here is concerned, don't allow it. Do you understand that? If he doesn't like it, does that make a difference to them? Do you? He better like it and he doesn't. You can't satisfy them all. (To Chrm. Conero), he doesn't want this. You don't know who he is. You don't know who he knows. If you did, you'd say okay, John. Done. Do we understand each other? Don't...your game is over. Your game is over.

**Karina Tipton** – 225 Union Street – She appreciates that the documents were put up online. She didn't know they were online until today and she does have some more specific comments about some of the information that was provided. October 13th, 2022, traffic study, it does conclude that this development level of service will degrade at Route 211 and 416 intersection and then a single signal may be warranted, and I wanted to ask the Planning Board to consider collecting improvement funds, like the town Planning Board does, and place them in an escrow account for any future improvements at that intersection. The Town Planning Board has an escrow account where they've been

collecting money for future improvements for Bracken Road and 208 and for every warehouse that goes in on Bracken Road, they collect a fee from them, and they put it into that bank account. Also, she wants to say, the Planning Board should be speaking to the state DOT especially with the significant level of service degradation from C to a D at 8-hour increments and 4-hour increments. They should be talking to the State DOT about a traffic circle. A lot of these traffic issues people have been talking about, she knows traffic circles are like the 3rd rail if you're in Montgomery. She understands that a lot of people don't like it but engineers probably understanding our best practices, right, they are super calming the traffic they get people to slow down they keep the traffic moving. People aren't just sitting in their cars; they're not idling at the traffic light. Traffic is flowing when you have traffic circles, but it's flowing a little bit slower. So, putting in a traffic circle at 416 and 211 would really help to preserve both quality of life on their end of the village. It would slow down the trucks moving in from Middletown, cut down on that 70 mile an hour going up the hill situation.

She did review the Stirling Environmental aquifer report and it does conclude that the water quality will not be impacted but doesn't discuss the water quantity or the impacts of the warehouses that are cited on this intake aquifer. That's something that was left out. It does state that the wells, the Hoyt and the Jacobson wells do not draw specifically from this aquifer, that is underneath the warehouses, but it doesn't clarify which aquifer they do draw from, so I don't know if it's a totally separate aquifer or if it's drawing from this aquifer but just kind of like through some more layers of earth. So, she thinks that's also important to understand the quantity question as well.

**Atty. McKay** asked Ms. Tipton to start her comment, again.

**Karina Tipton** said, sure. The Stirling Environmental aquifer report concludes that water quality will not be impacted but it doesn't discuss the water quantity and that's where these warehouses and all of the impervious surfaces are going to be cited on top of this intake, this recharge aquifer and the point of the Jacobson wells it's very carefully stated that they are outside of this aquifer that runs underneath these proposed warehouses but it doesn't say what aquifer they are actually drawn from so I don't know if there is an aquifer there or if they're just pooling from this aquifer or through layers of earth just as some additional filtration might but it still gets to that quantity of water question.

**Scott Sicina** asked the Chairman if he could address that.

**Chrm. Conero** said, sure.

**Scott Sicina** said, the DEC has 3 different aquifers: primary, principle and sole source aquifers. Primary aquifers are large underground water supplies that are not utilized by a major system. Principle would be primary actors defined as highly productive aquifers presently utilize the source of water supply by major municipal water system. Principle aquifers are also highly productive but are not being used by major municipal system. The EAF was submitted on September 14, 2018, indicates the site is located on the principal aquifer which is automatically filled out by the EAF packer.

He wanted to clarify that as far as the DEC has in their records, they are not tied into that aquifer. Beyond that being said, the biggest restriction that we have in the state and that he is aware of is sole source aquifers. They are required to have a separation distance of 4 feet from any of the stormwater practices from the bottom stormwater practice to groundwater table. Ross has presented information that shows they meet and exceed the 4-foot separation. He is not aware of any other restrictions that would be on the aquifers.

**Karina Tipton** said, but that restriction is for the water quality and not the water quantity. The restriction was to protect the water quality.

**Scott Sicina** said he is not understanding what the quantity would affect.

**Karina Tipton** said, what she is concerned about is, is because this is a well system that provides a large recharge area for that aquifer, what she's concerned about is being on impervious surfaces they're going to be installed and the rerouting of storm water away from its natural recharge areas may impact the amount of water that is in that aquifer because it's going to be transferring into sheet flow towards the Wallkill River and will not have enough time to recharge the aquifer in question.

**Scott Sicina** said, Ross's design stormwater collection system is meant to infiltrate back into the ground, be treated prior to begin entering back into the water system.

**Karina Tipton** said, she just wants to, she certainly acknowledges that she just wants to point out that those stormwater basins that are shown are not entirely recharged areas. At least half of them are comprised of clay or purpose (inaudible) areas will not provide any recharge, only half of the basins are available for recharge. There's still discharge directly through outlets and the gentleman mentioned previously, those outlets are going directly with the wetlands, but they seem to have a very limited amount of riprap. There isn't a lot of like water control to slow it down if there is a severe storm event like they've been having this week and she thinks they all know that the old idea that 100 year storms is not really accurate anymore, because a 100 year storm is calculated on a 24-hour period of rain and what they're seeing is the same amount of rain in 100 years from hitting them in 15 minutes or an hour, so it doesn't count as a 100 year storm because it's not over a 24-hour period. It's even more aggressive and violent when it hits our ground. It's all tied together in the stormwater system. She also understands that the 4 bays are intended to slow down, provide some kind of settling effect, some kind of cleaning effect but with this number of, this undetermined number of trucks that are going to be using the site, she thinks that some means of mechanical storm water separation would be merited for consideration. Some kind of a small cyclone unit or something like that to separate the oil and grease out, they're saying that there's (inaudible) trucks. The traffic study said 120 something trucks could be leaving the site every morning during peak mornings, right, that's a lot of trucks coming on and off this site every day. Who knows what condition these trucks are going to be in so having some kind of oil and grease separator, or some kind of other mechanical filtration would be even better considering this these stormwater systems are discharging directly into protective wetlands.

**Chrm. Conero** asked Ross if he wanted to say anything about the stormwater mitigation.

Ross Winglovitz said, stormwater infiltration, there is mechanical means of treating it prior to discharge to the pretreatment basins and it's being infiltrated in accordance with the DEC regulations.

**Chrm. Conero** asked, it's all DEC regulated?

**Karina Tipton** said, for the record, the DEC regulations are predicated on the 100-year storm and not actual rainfall patterns, The Village has an opportunity to be more protective. The stormwater quantities are expected to be taken from the 100-year storm.

She continued, she appreciated the letter dated June 27th for the mitigation and approval comments. She would like to note that she just wanted to clarify the term used by the international dark sky association is "dark sky friendly" or "dark sky compliant." and I just want to make sure, she is not a lighting expert, she just wants to make sure that the lighting plans do meet that dark sky friendly and they're not just like kind of nice but they're actually going to be dark sky compliant.

**Scott Sicina** said, (inaudible)...site plan...(inaudible) SLM style produced by LSI Industries for IDA dark sky approved.

**Karina Tipton** said, perfect. Great! That's the one. She did notice on the site plan that took place in 2018 which was 5 years ago, there may be changes, okay. She also does not know; she didn't look at the draft for the final EAF if there was an actual ecological survey performed for other endangered or threatened species. She would suggest there may be certain amphibians in the area; there's a lot of tree frogs back there and also bald eagles along the Wallkill River, which is pretty great. She'd really want the post operative monitoring settings for noise, and she would like you to do that and please don't forget the town of Montgomery has forgotten to do this for many of their developments. It's super important that your code enforcement officer knows that they have to do that and if that needs to be submittal to somebody because after the Planning Board signs off on this, it's in somebody else's hands. So, making sure that somebody knows that important.

**Chrm. Conero** asked, that's for the noise?

**Karing Tipton** said yeah. The noise study also concluded with this statement, "The end user of the warehouse space will really be the determining factor on the number of living spaces in the reserve spaces for extra trailer storage that will be needed. The plan is currently proposed is generally consistent with accepted industry standards." She just wants to ask them; do you want an industry standard warehouse, or do you want something that has a more harmonious and a more or less nuisance use in direct proximity to the residents. You have an opportunity to work in your approvals on the number of truck spaces that are actually allowed, the number of loaded bays that are

actually allowed in these buildings instead of just leaving it up to whatever kind of broad configuration somebody comes up with. You have an opportunity to determine the operating hours and I really appreciate that you're talking about having those be more in compliance with the operating hours that I have to maintain as a resident or other of the other small businesses that are in this town and this village that have to meet. She just cannot stop reinforcing, do you want an industry standard warehouse, or do you want something that is okay for the Village of Montgomery? It's a residential community that surrounds it, it's not an industrial community that surrounds it and that's what industry standard means. You have the opportunity and the responsibility to provide that maximum level of loading docks that are permitted, and you have the opportunity and the responsibility to provide the limits on the times of operation. Thank you.

**Don Berger** – He has a couple 2 or 3 things he wants to talk about, and it goes to the Stirling Study, the aquifer. And then I'm going to talk a little bit about the noise study from Colliers.

He brought you guys last month the aquifer map from Orange County. This is the real deal, right? Everybody looked at what Stirling says the aquifer is, it is in direct contrast to what this document says. Has anybody got that? Okay, this here says, this study here says it's about 800 feet to 1200 feet away from the Hoyt wells; this here says that the aquifer goes down behind Waters Edge to the wells. He would really, really and he will give this to you guys to review it. Give it back to me, if you like, okay. He thinks they really need to look at that and I'm sure you understand. He's sure they've seen that map. That does not, excuse me?

**Scott Sicina** spoke but it was inaudible.

**Don Berger** said, okay, well it's the Orange County map. He got this last meeting that he came to, he brought it here and he received it 2 days prior to coming to that meeting, so it's an up-to-date map. And it's the aquifer. So, he really would like them to review that because when he opened this...when he printed it today and opened this and when he saw this, this here is all the way up on Weaver Street. All the way up on Weaver Street. It's not even near, down in here, where the Hoyt wells are. If you look at that map, you'll see exactly what and where that aquifer sits. He thinks you'll be amazed at that.

Now, the noise study. He pulled this up and again, he's really appreciative that everything with this KSH project is finally online; that's what we need to do more with all our projects that's the way it's got to be. So, I pulled up this noise study and he read it and he read it and he read it and no this is not what they asked for. They didn't ask, he's talking about the residents of the last meeting, they wanted somebody to come in and do their own study, not to make comments about this study. What good is that? And then he realized it really struck him because he said this isn't right. This letter is dated June 2<sup>nd</sup> and the planning board meeting was March 24<sup>th</sup> that we have memorial weekend and that gave him 5 business days to do this review. What they wanted was an independent noise analyst to go out there and take their own readings. The reason that came to pass is because he did a little research, and I think I talked to you Kevin a little bit about it, two

different studies, two different decibel readings, average decibel readings and normal conversation. Normal conversation in both reports is 60 decibels; normal conversation, right. The fellow who came here and did the readings, they were coming up with numbers that was to me was like what? What really got him going was, how can you be so low? You know, it's impossible. And he thinks Jeff brought up the generators and all this and how were they coming up with these readings and I'll read you some more. Thunder, last night we had thunder. That's 120 decibel readings. Readings alright. So, he's going to give this to you, Kevin and you could review it. It has all kinds of stuff like an emergency vehicle, 115 decibels. These guys come in here with decibel readings around 41 to 50. That's where he decided, he really needed to look at this noise thing a little bit more and the residents here have been talking about the noise and I think bewildered and that's where we came up when you guys went and had your private meeting, that I could have sworn is a great thing because we thought that you guys were going to get a company to come in here and actually go in the field and do readings. This report is not that. This is not a valid report. I'm sorry. Alright this is not about you. You got to be kidding me. Let's do the right thing. They promised or you demanded, I think the attorney demanded, that the applicant 's going to have to pay for it. So why are we relying on this, a review, paper review, come on we're better than that. Come on give us everything.

The other thing, he thinks it's the last thing. He just wanted to talk about it. He looked, also, into the documents said Tina put up and he's seen, what concerns him, phase 1 phase 2, phase 3, phase 4. That's right here. Once the construction now, you all might remember you may not remember you weren't here, but when KSH first proposed the buildings, they were going to build one building. One building first, and then they were going to determine later down the road when they're going to put those buildings up. What are the plans for these buildings? Are they going to build one building and then wait a few years and start building the others? Are they going to put these buildings up? Now, as you all know, and he will quote we have a time limit. Okay, his question to Kevin, because he doesn't know the answer, is the time limit for that one building or does that time limit, that's his page right here, also include the other buildings? Are they confined to this rule?

**Chrm. Conero** said, he's referring to their attorney but he's pretty sure that it's 6 months to start any significant, you know, construction.

**Don Berger** said, okay, so they put up one building. The reason I bring this all up is because KSH, one we put up one building and, in the future, we put up the others. If that's the case, these studies mean garbage because the noise will not be protected now, because the noise analysis said we're going to put up the barriers between the buildings. Well, if those buildings aren't there that noise is going to go to all these Weaver Street residents.

**Chrm. Conero** said, he thinks that was brought up in the Collier's report. "If it's possible, it's recommended to the proposed noise barrier on the north side of the site be

installed early in the construction process to provide some attenuation similarly the buildings located on the north side of the property should be constructed first.”

**Don Berger** said he was going to bring that up; both of those buildings should be done first with the barrier in place.

**Chrm. Conero** replied, right, okay.

**Don Berger** said, that would mean both have to be put up immediately. That's one construction site and then when they do the other two, at least they'll have the barriers up. He thinks they have to do that, and he wanted to, briefly on the one subject that brought it up at the last meeting, and that's the hours of service. He's asking this for (inaudible) last time, there should be no work going on in there on Sunday. Absolutely not. On Saturday should be limited hours 8:00 to 2:00, something of that nature but not a full day, that's a relaxation day for these residents. They don't need that crap. He's really in favor that you don't have any work going on Saturday or Sunday and you have a limited hours Monday through Friday, let's say from sorry Gary, 7:00 to 8:00 or something of that nature. They cannot be working there 24 hours during the week. We cannot allow that to happen and based on the information I just gave you on the average decibel readings at night you know it carries and it's not going to be a nice thing. So, I would, you know really, I think when you brought it up earlier Kevin, I think you came way short of what we should have as an operation over there. Again, you are the party that is going to determine that, not the applicant. You determine that and I think every single person in the audience here and previous board meetings they've had will concur that they want limited work going on there, Saturday and Sunday off and certainly not 24 hours, Monday through Friday. Thank you.

**Bob Reynolds** – He knows they just received the response from last month's meeting with all the questions, just yesterday, so he's sure they're going to take some time to digest and go through all and address it. Like the white noise, he brought it up about the decibels of the backup alarms and they're going, he just read it real quick, he only saw it about an hour ago. He knows that they said they're going to do some kind of limit on the ones of the trucks that they own, but obviously outside trucks will be there. There are probably going to have a limited amount there that they can control.

Hours of operation, he has to applaud them, he thinks that's all their concerns and it's been discussed by everyone there.

The projects that are going on, be it this one...when Medline, he actually brought this up with Medline, he dealt with with the fire service, about the water supply. He suggested back then that the water supply tie into the Village of Montgomery so that if there's ever a shortage in Montgomery, the village or the town, you could coincide, open a valve and supply each of them. All of these projects that are going on, Butler, the other warehouse on Dunn Road, the Food Bank, and he thinks it was discussed, he doesn't know, there should be a fund that all of them have to comply and add to for future development of water lines and stuff like that. He knows that Orange County Airport, the restaurant in

there had to shut down because there is no water there and they do need municipal water there, as well. He hopes they keep going on with that.

Another thing on the emergency services thing, a building of this size here, there is a rule, he's not sure what it is, he thinks it's 510.1, he's not positive but there has to be in building radio communications for emergency services for police, fire and EMS. He doesn't know if that's been addressed or not in any of the warehouses around here, quite honestly. He knows when Medline went up, Montgomery Fire District went there and tested their radios systems there. If the radios do not work in those buildings, they actually have to do something like an in-building repeater system or something like that so they can communicate. Obviously, he's looking at it from the fire service, but he knows police and EMS need it just as bad. That's all he has. Thank you.

**Gary DeMaris** – Wallkill Avenue – you're probably wondering what he's doing there when he lives there. About 25 years ago he moved into the Village because the Village was the Village, it's beautiful. There are only two main roads in there, 17K and 211. Why the hell anyone would pick that spot to make it commercial on our way into our beautiful little Village, he has no idea. So, all the employees coming out of here also are not going to be able to make a left-hand turn?

**Chrm. Conero** said they would be allowed to make a left-hand turn.

**Gary DeMaris** said employees can make a left-hand turn, people in their cars, trucks have to go the other way. The knowledgeable lady over there that talked about aquifers, water and everything else and she brought up a traffic circle. She also brought up the number of trucks. If the number of trucks are 90 something or 120 at 8:00 in the morning, how is that going to go through a traffic circle? How is that going to keep them from getting to work? All those trucks coming out of there, people picking up their kids, everything else. Ross, this area here (indicates on site plan), this is 211?

**Ross Winglovitz** replied, yes.

**Gary DeMaris** asked how many feet back does it go before the first building and the parking lot starts? He's sorry, it's his first time there.

**Chrm. Conero** said there's two different figures: one on Weaver and one Union.

**Ross Winglovitz** said, 360 ft back.

**Gary DeMaris** asked, the actual sound wall you guys are putting up, is it mainly on Weaver or going behind the trees and do here (indicates on site plan), too?

**Ross Winglovitz** showed him where it would be on the site plan.

**Gary DeMaris** said he agrees with John, if one person doesn't like it, it's a no. One thing he can say is it's up to you guys how it's built. They did a good job down here at Sunoco,

the Devitt's do a good job. The buildings are absolutely beautiful. If in fact you want to see what's going happen down the road, look at that beautiful warehouse down the road across from the post office, that's a beauty. That's wonderful. That's where stuff like that should be hid, not on the main road coming into our beautiful Village of Montgomery. We live in one of the safest Villages, let's keep it that way. When he came here it was; one or two buildings. It was an office building. They have one chance. Listening to Don, this is going to go through. He hopes it wouldn't. He hopes they could come up with 100 other reasons, get a moratorium, he'd rather have senior housing down there. But he knows where Buddy is with the water supply and the sewer supply, and they have antiquated infrastructure. So, at the very least you guys did a great job with the sidewalks, you're doing a great job at everything else, people should put in money to upgrade the infrastructure. Our infrastructure. And from what he understands, that's why they wanted that commercial because if it were residential, it would pull on water, pull on this and everything else. Please give this a lot of thought. We all live here, it's our Village. When these folks come here and build this, this is our only chance to make this as perfect as can be. Bob would probably know. How loud trucks are, diesel trucks, from where you just moved, a trucking company that took over your building. How can you do a sound study now when there's no trucks? You can guess. Maybe if they want to see how it's going to be they go down to Yellow Freight where Don used to live in Maybrook because they know what the trucking companies and warehouses did to Maybrook. They don't even have a school. The reality is, it is what it is? Is that what we want to turn our Village into? Right now, the big thing is warehouses. It's not always going to be that way. Or if they're allowed 3 stories, are they going to do a quick one and try to (inaudible) down the road? Make sure you put something there, there can be nothing else ever. Thank you.

**Chrm. Conero** asked if anyone else had a comment. They've heard the comments, they've been through 3 public hearings, they've answered a lot questions. He thinks they have a lot of information that we put forth into a resolution whether we're going to approve this or deny this, but he thinks, at this time, they should close the public hearing and issue a negative dec under that. They've addressed most of these environmental issues. He asks the Board if they should keep it open.

**Mbr. Steed** said he would like to see a real independent study done, not a review.

**Mbr. Frisbie** said, when she watched and read through the minutes, she was under the impression that it truly would be an independent study. When she received her packet and read this review of a study that someone else did, it's not independent. She couldn't believe it.

**Mbr. Meyer** said he missed it too. He had to read it twice because he couldn't believe it. He was trying to see if he looked over something, is this an independent study and finally, concluded that he wrote down and you stole his thunder that they did not conduct their own report they just commented on the existing sound study.

**Chrm. Conero** said, he doesn't know if it was relayed to you, Scott. The independent sound study, they may have asked for a review of what they did. His concern is that if

they do an independent sound study, his concern is that it would show the same results. If the Board feels, he will go along with the independent sound study.

Too many people speaking at once.

**Mbr. Frisbie** said she was reading the minutes, on page 40 after the executive session, it says that you stated, what we are going to do is require an independent study of the noise study so our engineers looked at the noise study, but we would like to have another outside independent company. I would say, it is not clear it is an independent company to look at the noise study not saying in this another study, but I agree that it should have been another study.

**Mbr. Meyer** said, it can't be Colliers because you know they're going to reiterate what they said can't be done at this point.

**Chrm. Conero** said, so the Collier's also commented on the truck parking and the loading spaces too and they did comment on that too, so are we okay with that part of the parking comments on the bottom of the back? They asked for two things, the independent noise study and truck parking and loading spaces. I mean if they can use that. They can look into that. So, we're at the point where they are going to keep the public hearing open and we're going to ask for the independent sound study. Is there any other information that you want to, that we need for the next meeting?

**Chrm. Conero** said they are going to try to answer all of the comments and that the questions that you had about the wetlands, delineation of wetlands, and all these documents are online so you can review them.

**Ross Winglovitz** said he can address that now; it's been addressed several times during the hearing. This is a federally regulated wetland that was delineated by a professional delineator. It was confirmed by the Army Corps of Engineers. These plans, as part of the SEQRA process were referred to the DEC. There is no DEC jurisdictional wetland, there is no water buffer required for this but to be clear he put that on the record before, but I just want to repeat it again.

**Ben Gailey** – one of the speakers earlier was referring to a non-nuisance industry. This application is for warehouse. Warehouses are separate permitted special exception use in that zoning district, so we're not applying for a non-nuisance industry, this is a warehouse application. They are both separate permitted uses in the zoning district.

**Chrm. Conero** said, correct but your criteria for a warehouse. The definition of non-nuisance industry that is not detrimental to the environment, which is located by reason of the admission of smoke, noise, odor, dust, vibration or accepted light beyond the limits of its lot or by reason of generating excessive traffic and its hazards. And which does not include any outdoor processing materials or open accessory storage unless completely enclosed by a solid wall or fence not less than 6 ft.

**Ben Gailey** – they are not applying for approval of a non-nuisance industry. They are applying for approval of a warehouse. It's a separate permitted use.

**Chrm. Conero** said its special exception use.

**Ben Gailey** said, correct separate and distinct from non-nuisance industry.

**Atty. McKay** said, it's a separate request or special exception use that is permitted as opposed to non-nuisance.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR KSH ROUTE 211 DEVELOPMENT – 211-1-29.22 TO JULY 26, 2023, AT 7:30 PM OR THEREAFTER, AT 9:13 PM by Mbr. Steed, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

To be clear what they need:

The independent noise study, hours of operation and Scott to verify the Orange County map regarding the aquifer.

A representative from Andeson Design Group stated that the radio communication is part of the building code and is included in the design of the building. A test is done to make sure the radio communication can get out of the building and if not, a communication system is put in to repeat. That's all done during the building design.

**RE: MINUTES**

**A MOTION was made TO APPROVE THE MEETING MINUTES OF MAY 24, 2023 AT 9:16 PM by Chrm. Conero, seconded by Mbr. Romano and carried 4 Ayes 0 Nays.**

**RE: ADJOURNMENT**

**A MOTION was made TO ADJOURN THE MEETING AT 9:17 PM by Mbr. Steed, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

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Tina Murphy, Deputy Village Clerk