June 27, 2023

Citizens Alliance for Land Use (CALU)

Comments regarding:

- Exhibit #37 – Applicant Response to Planner, 6-21-23.
- Exhibit #40 – Revised Narrative, 6-20-23.

Planner comments are in italic text.
Applicant comments are in roman text.
CALU comments are in red Arial text.

Before diving into details of the two above-referenced Exhibits, we'd like to make a few summary comments.

First and foremost, the fundamental issue on the table is simply whether the current application complies with our Site Development Standards (SDSs) and Special Permit Criteria (SPCs).

- **That the site is zoned Industrial is not, and has never been, in dispute.**
- **The fact that the site has been zoned Industrial for some 200 years is no more relevant than the fact that abutting neighborhoods have an equally impressive residential history.**
- **That the current version of this application provides "four times" the minimum setback is, in and of itself, irrelevant.**
- **Based upon proposed uses, both those within this application as well as those previously presented to our town by the Applicant, the site's intensity of use will significantly increase.**

Secondly, has the Applicant sufficiently, consistently, and clearly described their proposed operations such that our community, most importantly our Planning and Zoning Commission, could gain an adequate grasp of those operations in order to determine compliance with our SDSs and SPCs? We would argue that the Applicant has not yet done this. Can the Applicant provide photos and/or videos of their similar repair and maintenance buildings in their Quincy and Staten Island yards? Or, at the very least, activity logs from those facilities to provide statistics about operations? That would seem like an easy, powerful step toward adequately describing their proposed operations.

Next, we want to recognize that the Applicant is currently on their fourth version of this application, and that with each revision they appear to have modified the application to benefit neighboring properties. But partly, if not mostly, because proposed operations have not yet been adequately described, we remain concerned that the application still does not comply with our SDSs and SPCs.

Although the current application proposes retention of a 100-foot buffer for the northern neighborhood, more than two thirds of that decades-old preexisting landscape buffer would still be destroyed. That destruction would not only unduly expose the northern neighborhood to nuisances from proposed operations, but it would also likely handicap the Applicant when it comes to the future Special Permit modifications. The more of that buffer that gets destroyed, the greater the burden on the Applicant to take ever-increasing steps to mitigate those nuisances … noise, dust, odor, visual instrusion, etc.

Knowing that the site's intensity of use is going to significantly increase relative to historical operations, this preexisting buffer becomes all the more important. And once it's gone, there's no reversing it. We are asking our Planning and Zoning Commission to consider this overall perspective as relates to this instant application.

Below are detailed comments on Exhibit #37 and #40. Please note that, to keep as brief as possible, our comments below relate to excerpts from these two Exhibits, not the entire Exhibit in either case.

Exhibit #37 – Applicant Response to Planner, 6-21-23.

4. Regarding the proposed use:

Section 8.24(A)(1) requires that repair facilities may not locate pick-up/drop-off areas or storage areas for such repair facilities in front of the principal building. All such areas shall be located along the side or rear of the facility in compliance with the applicable setback requirements of the district.

The Applicant's comments on section 8.24(A)(1) only speak to the narrow topic of "pick-up/drop off" areas relating to the specific use of "Motor Vehicle, Recreational Vehicle, Boat and/or Equipment Repair Facilities." Zoning language in 8.24(A)(1) allows "pick-up/drop-off" on the side, as well as rear, of a facility. This distinction is important, because more encompassing language in Zoning section 9.7 requires that outdoor storage be only to the rear of a principal building.

The modified site plan now incorporates two principal buildings as a component of the repair facility aspect of the redevelopment of this industrial property. Drop-off and pick-up (to the extent that the same applies to this use which is primarily a marine equipment repair use) will be located to the rear of the newly proposed 6,000 square foot building …

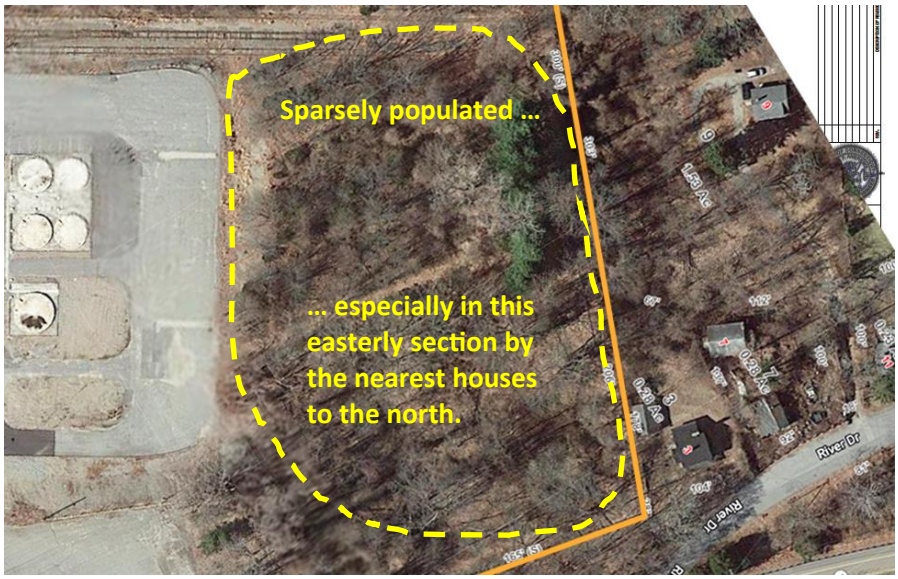
This new building was likely added to this application to address our zoning regulations' language about side vs. rear storage. By adding this new building, the Company can claim that drop-off and pick-up will be located at the rear of the newly proposed building. But this does not make them comply with section 9.7 of our regulations, which will be discussed in more detail in section 5 below.

… and will be screened from the adjoining residential neighborhood to the north of this property by the proposed 20,000 square foot building (to be developed in two stages) …

As with prior versions of this application, this particular claim by the Applicant is exaggerated. The laydown area (a.k.a. "drop-off and pick-up") will only be partially screened from neighboring houses to the north by the two newly proposed buildings.

… as well as the maintained 100-foot vegetated buffer.

One of the reasons why we've continued to advocate for maintaining the entire 300' preexisting landscape buffer is because the vegetation within it is sparsely populated. Because the Applicant is required to provide adequate all-season buffering, we submit that retaining only 100' of this preexisting buffer (plus a smattering of new plantings 7' or smaller) won't be nearly enough to fully screen the laydown area from neighbors to the north, especially in Winter.



The blue area below represents how much of the preexisting landscape buffer would still be destroyed based upon the Applicant's most recent re-grading plan. Note that, even with a proposed 100' setback, approximately 70% of the preexisting landscape buffer will be destroyed.

We recognize that the Company likely reoriented the 20K sq. ft. building in order to distance it from the closest northern houses, but especially for the houses closest to the street on River Drive, notice how little vegetation will be left behind to buffer them (yellow dotted area below). We remain mystified why the Company seems adamant about ignoring our suggested building location over toward Rt. 12 where it would be as far away from as many residences as possible.

As such, the site layout for this use will be in compliance with this requirement. We obviously disagree.

8.24(A)(2). The revised site plan has incorporated a minimum 100 foot undisturbed buffer area between the proposed industrial activities associated with this use and the adjoining residential neighborhood to the north. No vegetation will be removed in this area and supplemental landscaping has been incorporated into the vernacular of the site plan as demonstrated by landscaping plan Sheet L-1. As mentioned previously, the current undisturbed buffer exceeds the minimum requirement contained in the Ledyard Zoning Regulations by 400%. In their replies to our Town Planner's comments, the Applicant repeatedly seeks credit for "far exceeding" the minimum setback requirements of our zoning regulations. But this indicates a fundamental misunderstanding of setback minimums.

A minimum setback is a "prerequisite", akin to the requirement that you must be at least 16 years old to get a drivers license. Once you're at <u>least</u> 16 years old, exactly <u>how</u> old you are is completely irrelevant. Whether you're 16, 25, or 60 years old, you still need to pass a driving test in order to get a drivers license. You get no credit for being "a lot older" than 16.

Similarly, once the Applicant satisfied the minimum 25-foot setback requirement, and amount by which they <u>exceeded</u> the minimum became completely irrelevant. The fact that the current buffer exceeds the minimum by 400% (actually, it's 300%) is, in and of itself, irrelevant. Satisfying the setback is simply a hurdle that then allows them to "take the test" … in this case, that "test" is whether or not the application complies with our Site Development Standards (SDSs) and Special Permit Criteria (SPCs), irrespective of the "excess" setback afforded.

One last point … it would be possible for an applicant to place a building 25 feet from an adjacent property line and still satisfy our SDSs and SPCs. … and it would also be possible to place a building 1000 feet from a property line and not comply with our SDSs and SPCs. Therefore, the fact that the Applicant is now proposing a 100' setback vs. the minimum 25' required is, in and of itself, not relevant.

8.24(B). As discussed previously, this application contemplates the use of the foundations of the former Dow Chemical facility in this area of the property as a laydown area. A more descriptive enumeration of the uses in the laydown area is contained in the Supplemental Narrative being submitted by the Applicant to the Town of Ledyard Planning and Zoning Commission last revised as of June 20, 2023, a copy of which is attached hereto as Attachment A.
Here and elsewhere in this document, the Applicant claims that a "more descriptive enumeration of the uses in the laydown area" is contained in their updated Narrative, but the 6/20/23 Narrative has barely changed from the prior 4/5/23 version, and it falls well short of what should be provided to our Commission. We'll discuss this in further detail below in section 6.

5. With respect to the outdoor storage/repair activity:

Our Town Planner spent two full pages discussing outdoor storage concerns within the current Application. The Applicant replied with only three paragraphs, none of which specifically addressed our Planner's comments, and all of which are mostly devoid of useful information to aid our Commission and the public in understanding the details of exactly what is being proposed.

Notable paragraphs:

There are two applicable sections in the regulations that pertain to "outdoor storage" associated with commercial services and specifically repair facilities. One section applies to repair facilities and is found in the Landscaping and Buffering requirements in the Site Development Standards Section of the regulations (9.3), and Section 9.7 that applies in a more general sense for all uses that propose some associated outdoor storage of material, vehicles or equipment.

Section 9.3 requires Outdoor Storage Areas associated with repair facilities to be fully screened from view of any road or accessway and/or neighboring building/structure including parking areas.
As mentioned above, we submit that the buffer being proposed will not adequately screen "neighboring buildings/structures" (houses to the north). Nor will it be fully screened from "any road" (Rt. 12).

9.7 states that Outdoor Storage of material and equipment is only allowed if the material and equipment are customarily accessory to the principal use (which in this case is the repair facility.) In the Industrial district, this area must be to the rear of the principal building.
This section is critical. The Applicant does not specify which of the newly proposed buildings is to be considered the "principal building/use". Their most recent Narrative describes both newly proposed buildings as having an outdoor storage area. Our comments are:

- **The proposed laydown area, a.k.a. outdoor storage area, is to the rear (partially) of the 6,000 sq. ft. "regional office" and to the side of the 20,000 sq. ft. repair and maintenance building.**
- **If the regional office is the principal building, does that mean that only items "accessory" to that regional office are allowed to be stored in the laydown area, since the laydown area is at least partially behind the regional office?**
- **If the repair and maintenance building is the principal building, does that mean that outdoor storage is not allowed for items accessory to that building because the laydown area is to its side and not to its rear?**

The important language in 9.7 is that the outdoor storage is accessory to something else – particularly a principal building. In 9.3, there is no restriction on where the outdoor storage area associated with the repair facility is, as long as it is essentially not visible. Should also note that the maximum height for materials stored outdoors is 25ft.

The narrative describes the proposed use in several places. Each is slightly different. This needs to be clarified.

Paragraph 1: "…re-development of the northwesterly corner"

P2: "…the industrial redevelopment of this site"

P2: "…the construction of a 20,000 square foot building which will be utilized by the Applicant for a motor vehicle, ship, machinery and/or equipment repair use with the accessory outside storage of materials, equipment and machinery utilized in conjunction with its marine contracting operations along the east coast of the United States." This definition would indicate that the activity occurring outside includes the storage of materials, equipment and machinery utilized in conjunction with its marine contracting operations. This needs further clarification as well with respect to the type of material that could potentially be stored that is typically used in conjunction with marine contracting operations. That could be anything. **Paragraph 2 of the Applicant's Narrative has slightly changed only in that it adds a second newly proposed building to the application.**

P8:"….the first phase of the redevelopment of the Property is for the development of a 20,000 square foot building to be utilized for vehicle, ship, equipment and machinery repair, material storage and appurtenant facilities that will support the activities of the Applicant's affiliate engaged in marine contracting.

This is a little different. Still have the repair use… the material storage aspect, but then we have appurtenant facilities to support (undefined) "activities of the Applicant's affiliate" engaged in marine contracting.

*What **exactly** are the "activities" that are being supported by the accessory "facilities" mentioned in this paragraph? Who is the Affiliate? What jobs are they contracted to do?* **The Applicant is essentially silent on our Planner's comments about P2 and P8.**

P11: the development of the facility proposed in this Application will support water dependent uses as the activities proposed to be conducted on the improved site are limited to the provision of support services in conjunction with the marine contracting operations of the Applicant's affiliates.

Repair support? What services would this include? **Similarly, this question was not addressed by the Applicant.**

P13: The proposed use will support water dependent uses….. The proposed water dependent use takes advantage of the unique characteristics of the Property including deepwater and rail access at the Property by providing support services for the full and complete operation of industrial and commercial water dependent uses.

In this paragraph the language goes back and forth about whether the proposed use merely supports water dependent uses or actually is a water dependent use. Again the nature of the "support services" is not clear. **Again, not addressed by the Applicant.**

P14: The project is water dependent and will provide shorefront services by making available support services for the future intermodal use of the Property which will include receiving and transporting goods and materials by vessel.

Here it is characterized as water dependent and the support services described include receiving and transporting goods and materials by vessel. This is a very different use than a Repair facility! This has all sorts of implications. What kinds of goods are coming in and being stored in order to be shipped back out? ***This is a completely different kind of Commercial Service and not specifically being applied for based on testimony from the public hearing to date.*** **Not addressed by the Applicant.**

P15: "the facility which will provide support services by way of equipment and material storage and a repair facility for the affiliate's marine contracting and dredging activities (which are not a component of this application). This definition identifies both the equipment and material storage and the repair facility as components of the proposed use – both associated with marine contracting and dredging activities. Again, what materials are we talking about here.

And finally, in P16: The project consists of the redevelopment of an existing industrially developed shorefront property…to provide support services which will be utilized to foster new water dependent uses.

This goes beyond a simple repair facility use and needs to be further clarified.

Applicant's responses to section 5:

The revised site development plan meets the requirements of Section 9.3(E) of the Zoning Regulations.
We've already submitted above that we disagree with this assertion, not to mention other paragraphs within Section 9.3.

… In addition, additional landscaping has been incorporated into the site development plan as evidenced by Sheet L-1.
To the right is an excerpt from Sheet L-1, showing that very few new plantings are being proposed around the planned paved area. Those plantings are sized at 7 feet or smaller, which will do very little to facilitate the necessary screening.

The Project Narrative (Attachment A) has been revised to better describe the proposed use of the outdoor storage area (laydown area).
As stated above, the Project Narrative revised 6/20/23 falls woefully short of "better describing the proposed use of the outdoor storage area (laydown area)." With the exception of language adding a second new building, paragraph two of the Project Narrative remains virtually unchanged, which means that virtually all of our Town Planner questions/comments relating to outdoor storage remain unaddressed by the Applicant.

The Applicant desires to emphasize the fact that this industrial site has been acquired due to its strategic location with the availability of a deep-water pier, active rail service and location on a State highway which renders it most suitable for intermodal use as a shipping and receiving facility.
The Applicant continues to make points about this issue for which there has never been a counterpoint. Neither our community nor CALU have ever disputed that the site is zoned Industrial, that it has been zoned that way for many years (although irrelevant), and that the site is strategic in its deep-water, rail, and road access. Our goal is, and has always been, simply to ensure that proposed Industrial uses comply with our zoning regulations and protect our community.

While the current application does not request approval of this use, the Applicant highlights this fact to ensure that there are no misunderstandings or alleged misrepresentations when future applications are submitted for the intermodal use of this property.
As implied above, we doubt that anyone "misunderstands" or will "misrepresent" that the site is not suitable for intermodal use. Having said that, each proposed use still must comply with our zoning regulations, which is entirely the point.

6. With respect to the laydown area:

As with Section 5. above, the Applicant provided one relatively generic paragraph in reply to many very specific comments and questions from our Town Planner:

What is the laydown area being used for exactly? **Not addressed by the Applicant.**

We know that the overall plan is to redevelop the Property as a "full-service industrial intermodal facility", but that was described as a later phase. It seems the use of the laydown area is more related to a later phase that involves activities that have not been well defined yet, and that do not necessarily relate to the repair use at all.

The laydown area is bigger than the proposed principal building and surrounding pavement. Outdoor Storage is not a principal use in the Zoning Regulations; it is an accessory use. The argument could certainly be made therefore, that the proposed outdoor storage area used to store equipment related to the repair facility cannot be bigger than the main repair facility so as to appear to be the real principal use (though examples of this scenario are out there – i.e., Auto dealerships). **The Applicant did not address the Planner's comments regarding the outdoor storage area being an accessory vs. a principal use.**

If the laydown area is only associated with non-repair support services and storage of goods and materials that have not been defined, then that is a separate use – a separate Commercial Service that would have to be associated with a principal building that was located in front of the laydown area in part to provide a visual buffer. If the laydown area is to be used to process dredge material in the future – that would be considered manufacturing (most likely) and the material storage area would still have to be behind the buildings associated with the full redevelopment of the site. The applicant is not there yet.

The use the Commission is being asked to approve has to occur in the table of uses and comply with all applicable regulations/criteria. The repair facility is a permitted principal use. Commercial Services (general/unspecified) is also a permitted principal use which is then clarified during the application process with respect to what type of service is being proposed.

The applicant has not fully clarified what activity is being proposed in this instant application and the use described in the narrative is inconsistent throughout. **We agree with this comment and believe that it still applies.**

Clearly identifying the use being applied for is imperative because the Commission needs to decide the appropriate amount of buffering needed between the proposed use and the neighboring residential property based on the details of the proposed activity. The only chance to preserve the existing 3-acre buffer that has been there since the beginning when Dow developed the site, is now.

Without knowing what will occur in that laydown area, the Commission cannot possibly determine if the criteria in Section 11.3.4 including determining whether (1) the use(s) would not be noxious, offensive, or detrimental to the area by reason of odors, fumes, dust, noise, vibrations, appearance, or other similar reasons; or (2) that no adverse effect would result to the property values or historic features of the immediate neighborhood; or (3) that the character of the immediate neighborhood would be preserved in terms of scale, density, intensity of use, existing historic/natural assets/features and architectural design; or (4) whether in accordance with CGS §22a-19, that the proposed uses would not cause any unreasonable pollution, impairment or destruction of the air, water and other natural resources of the state.

Without knowing the exact activities in the laydown area, the Commission would also not be able to determine whether the Site Development Standards relating to access, parking, lighting, landscaping, buffer, outdoor storage, waste disposal, stormwater management, etc. have been met – or if there will be any impact to Allyn's Pond or the other Coastal management Resources identified. The Laydown Area abuts Allyn Pond, therefore activity proposed in that area could in fact be potentially regulated by the IWWC. **Highlighted sections in the two prior paragraphs are critical.**

I would also note that the laydown area is not actually appropriately screened if it is going to be used for equipment storage.

The proposed laydown area does not extend into any upland review area regulated by the Town of Ledyard Inland Wetlands and Watercourses Commission.

The descriptive use of the laydown area has been refined in the revised Project Narrative attached to this response letter as Attachment A. The Applicant's descriptive use of the laydown area has barely changed since the Planner made these comments. Not remotely enough information has been provided to describe proposed operations.

Since no nighttime use is proposed in the laydown area (or associated with the proposed use of the Sterling Building, regional office and related facilities), no lighting is proposed in the laydown area. The laydown area is effectively screened … we do not agree … by both the 6,000 square foot proposed building (from Route 12) and the residential neighborhood to the north by the proposed 20,000 square foot Sterling Building, 100-foot undisturbed natural buffer area and landscaping incorporated into the landscaping plan.

The Applicant believes that the revised site plan far exceeds the requirements of the Ledyard Zoning Regulations … We respectfully disagree. It is our position that the Applicant should provide evidence supporting their beliefs, and not simply make a generic statement that they hold such a belief.

…with respect to any perceived adverse impacts on the adjacent residential neighborhood to the north. We also respectfully request that the Applicant stop diminishing adverse impacts by labeling them as "perceived". The impacts being discussed are real and tangible to surrounding residents.

8. Character of the Neighborhood:

ARCHITECTURAL CHARACTER, AND HISTORIC AND LANDSCAPE PRESERVATION

> *9.9.1 General Provisions: The overall character of the proposed site layout and the architectural character of proposed structures shall be designed, to the extent feasible, to protect property values in the neighborhood and the Town; preserve the existing historic character in terms of scale, density, architecture, and materials used in construction of all site features; protect the existing historic patterns of arrangement of structural and natural features, including circulation patterns; and preserve public access to scenic views and vistas and to water courses.*

We include this paragraph as a reminder that the Applicant argued in a prior hearing that our Commission should not take preserving the character of our neighborhood or property values into consideration when considering their application. This goes against everything you'd expect from a company professing "good neighbor" intentions.

Certain language was modified in CT Public Act 21-29, but those modifications were made primarily for the purpose of preventing discrimination against homeowners on the basis of race, color, national origin, socioeconomic status, etc. They were not intended to be used by an industrial district to circumvent its responsibility to protect neighboring residential districts.

11. Special Permit Criteria:

C. that the proposed uses and structures would be in harmony with the appropriate and orderly development of the Zoning District in which they are proposed to be situated, and that the use(s) would not be noxious, offensive, or detrimental to the area by reason of odors, fumes, dust, noise, vibrations, appearance, or other similar reasons; Not enough information on the typical activities has been provided. Consider sound proofing the Sterling Building and maintain as much buffer to reduce noise impact from outdoor activity.

The Sterling Building will be fully insulated thereby providing a significant reduction in noise generated inside the facility.

The building must be insulated due to its location in New England. Will there be additional soundproofing added in addition to the necessary insulation? Also, could the company provide information to the Commission regarding soundproofing measures to be taken during pleasant weather when the building's overhead doors will undoubtably remain open during operations?

The applicant has quadrupled the 25-foot minimum buffer …

As mentioned above, the degree to which a minimum setback is exceeded is irrelevant, in and of itself.

What are the hours of operation?

Hours of operation will be 6:30 a.m. to 4:30 p.m.

Starting a heavy equipment repair operation at 630AM is not reasonable, especially since some work will be done outside and/or with overhead doors open. We would ask the Commission to restrict hours to the same "normal business hours" that the Applicant promised to our community in their July 2022 public meeting. It would be reasonable to start no earlier than 8AM, preferably even 830-9AM. And the Applicant has not yet stated their intentions regarding how many days per week.

On a related note, when asked why the 20,000 sq. ft. building was being constructed in two stages, the Applicant replied that they were not confident that there would be sufficient demand initially for the entire building. Why, then, would demand be enough to force work to begin at 630AM?

Noise levels of typical machinery when operating?

It is noteworthy that heavy equipment will occasionally be moved throughout the site but typically at a slow speed and not under load as when working a construction site, so the DB levels are considerably lower than equipment actively engaged in soil or sediment movement on a jobsite.

This is an example of generalized commentary from the Applicant as opposed to the type of detailed information that a Commission deserves when considering an application such as this. "DB levels will be considerably lower than … etc., etc." The Applicant should provide <u>much</u> more detail:

- **What type of equipment will be repaired, specifically?**
- **What type of equipment and machinery will DO the repairing?**
- **What specific noise levels do they each generate?**
- **How much and what type of work will be performed outside?**

Typical Equipment Noise Levels

Equipment Type	Noise Level (L_{max}) 50 feet	Noise Level (L_{max}) 100 feet	Noise Level (L_{max}) 300 feet
Bulldozer[1]	85	79	70
Dump Truck[1]	84	78	69
Wood Chipper[2]	81	75	66
Front End Loader[1]	80	74	65

Note[1]: Noise levels are from Federal Highway Administration (FHWA) 2006 data
Note[2]: The reference sound level for Morbark 1100 Tub Grinder is provided by Oxygen Environmental Ltd., Article 12 Compliance Information, 22 Dec 2004

Why can't the Applicant provide photos and/or videos of their similar repair and maintenance buildings in their Quincy and Staten Island yards? Or, at the very least, activity logs from those facilities to provide statistics about operations?

Please review criteria in Section 9.2C (Performance Standards) as I do not feel the Applicant has demonstrated that standards have been met.

Noise from the site has been managed by revise operating hours …
Revising operating hours has no impact on whether "noise which is unreasonable in volume, intermittance, frequency, or shrillness shall be transmitted beyond the boundaries of the lot …" as required in 9.2.C.3. And, as mentioned previously, operating hours starting at 630AM is not reasonable for neighbors of a heavy equipment repair and maintenance facility.

… and by significantly increasing the residential buffer to four times the minimum included in the regulations.
Whether the residential buffer is four times the minimum or forty times is irrelevant. Once the minimum setback has been satisfied, all that matters is whether the application then complies with our Site Development Standards and Special Permit Criteria.

D. that no adverse effect would result to the property values or historic features of the immediate neighborhood; Commission needs to determine if enough is being done to protect the neighborhood from possible nuisances.

The applicant has quadrupled the minimum buffer (irrelevant) allowed in the zoning regulations and provided additional landscaping to screen and attenuate noise levels emanating from the site. Hours of operation have been adjusted to reduce the duration of site activities and the proposal of aggregate storage has been eliminated from this application. Activities will be limited to primarily asphalt and concrete surfaces to control dust. The buildings are well screened and distanced from the residential neighborhood.
This paragraph does not specifically speak to property values. Most local residents remain concerned about this issue, primarily because the Applicant has not adequately described proposed operations.

E. that the character of the immediate neighborhood would be preserved in terms of scale, density, intensity of use, existing historic/natural assets/features and architectural design; The use of the site will certainly intensify from historic and current industrial use. The scale of the new building and future buildings are also out of scale with the immediate neighborhood which includes residences- Commission should determine if enough is being done to protect the neighborhood.

The Applicant has quadrupled the minimum buffer allowed in the zoning regulations and provided additional landscaping to screen the site from the neighboring property and Route 12. As such, the scale and architectural design of the proposed buildings are well masked from the adjoining properties thereby mitigating any deleterious degradation in architectural value.

The site is a historic industrial site that has historically operated as such.
The site's industrial history is not pertinent and has never been in dispute.

The intensity of the use proposed will clearly be more than this site sitting idle with no industrial activity, …
This argument is rhetorical since no one is comparing the Applicant's proposed intensity of use to an idle industrial site.

… however, the site was an active industrial site for many years.
Again, this has zero bearing on the instant application.

We are not able to gauge the intensity of the proposed use against the historical industrial operations and question the assertion above.
It is not difficult to gauge proposed vs. historical intensity of use:
- **Historical operations did not encompass heavy equipment repair and maintenance and therefore of course did not include such operations being performed outside.**
- **Historical operations did not include huge stockpiles of processed dredge materials with attendant noise, dust, odor, and traffic.**
- **Historical operations did not include carving 40 acres out of the north side of Mount Decatur.**

No reasonable person would argue that the Applicant's proposed activities, which have already been presented to our town, would not "certainly intensify from historic and current industrial use." It doesn't seem reasonable for the Applicant to "question that assertion".

F. In accordance with CGS §22a-19, that the proposed uses would not cause any unreasonable pollution, impairment or destruction of the air, water and other natural resources of the state; and More information is needed about the activities occurring outside to make a determination of compliance.

CGS §22a-19 allows certain qualified parties to intervene in a permitting proceeding in which it is alleged that the activities proposed are reasonably likely to unreasonably pollute, impair or destroy the public interest in the air, water or other natural resources of the State. The proposed use is a repair facility. It is not located in proximity to any regulated resources. There is no evidence of any endangered, threatened or species of special concern in the area of the proposed use. The use is much less intense than the historic manufacturing use which has been made of this property notwithstanding the fact that it is occurring in an area of the property not previously utilized for industrial activity.

This is THE issue of concern to neighboring residents! The new heavy equipment repair and maintenance building is being proposed "in an area of the property not previously utilized for industrial activity", thereby destroying most of a preexisting landscape buffer that has existed for many decades. Even Dow understood the need to protect its neighbors by retaining this buffer! The Applicant apparently does not.

Exhibit #40 – Revised Narrative, 6-20-23.

For this purpose, existing vegetated buffer areas (4 times the minimum requirement contained in the Ledyard Zoning Regulations) have been maintained between the area of the proposed industrial development and the adjoining property to the north.

As it has been since the very first Applicant Narrative, this statement is misleading in that more than two thirds of the vegetation in the referenced buffer area will still be destroyed.

Also, as replied to many times above, in mentioning "4 times the minimum requirement", the Applicant seeks additional credit where none, in and of itself, is warranted.

While the instant application is a minimal traffic generator, the Applicant has commissioned a traffic study which will be submitted for consideration in conjunction with future applications for the development of the Property for uses which may have the propensity to generate more significant vehicular traffic.

CALU has requested this traffic study several times, most recently in December 2022: "Cashman indicated in the 11/17/22 meeting that the traffic study had been completed. Would you please provide us with a copy, thank you." The Company replied, saying, "The traffic study is completed – the report is not. When the draft is finalized, copies will be provided." We have yet to receive the promised traffic study.

This development initiative is located on property within the primary industrial zoning district of the Town of Ledyard. The zoning district classification for the Property (which has remained consistent since the inception of zoning in the Town of Ledyard) reflects the historic use of the Property as a developed industrial site dating back nearly 200 years. The development proposed by the instant application is consistent with the zoning district classification of the Property.

We agree, and we've never heard anyone dispute the fact that the property in question is zoned Industrial.

As evidenced by the Site Development Plan, the setback, landscaping and buffering treatments incorporated into the Site Development Plan significantly exceed the minimum requirements of the Ledyard Zoning Regulations …

We agree that the setback provided exceeds the minimum requirements. However, that does not mean, by default, that landscaping and buffering treatments also exceed minimum requirements. Those are two fundamentally different issues that should not be conflated, and we contend that landscaping and buffering treatments as proposed will not sufficiently protect the northern neighborhood. Of course, we admit that we are operating somewhat in a vacuum because sufficient information has not been provided by the Applicant regarding its proposed operations.

… and will mitigate any perceived adverse impacts to adjoining properties to the north.
As stated above, the potential adverse impacts are real, not simply perceived.

The proposed development of the Property is consistent in both scale and use with the development contemplated by the Town of Ledyard Zoning Regulations. As such, any impacts on neighboring property values will be consistent with the impacts contemplated by the current and historic zoning district classification of the Property as an industrial site.
We would refer you to Exhibit #8, Letter from Karen Sacco, specifically the very first paragraph:

> "With regard to the negative impact the proposed project will have on neighboring properties the application reads in part that "any impacts on neighboring property values will be consistent with those contemplated by the current and historic zoning classification". The applicant seems to suggest that what was contemplated was that the Commission should disregard the impact because a negative impact should be assumed. This was certainly never the purpose of this classification. Instead, what was undoubtably contemplated was that this Commission would use the power and responsibility it has, together with the flexibility a Special Permit Application affords, to protect its neighbors."

We agree with Karen's comments and believe it irresponsible for the Applicant to have made such a comment about neighboring property values.

This phase of the development will provide for the development of a facility which will provide support services by way of a regional office, equipment and parts storage and a repair facility for the affiliate's marine contracting and dredging activities (which are not a component of this application).
This is an example of the slightly revised language that the Applicant points to when they stated that "A more descriptive enumeration of the uses in the laydown area is contained in the Supplemental Narrative being submitted by the Applicant." We maintain that no one having read through the current application materials could claim to have a clear understanding of exactly what operations are being proposed by the Applicant. It should not be difficult for the Applicant to make it clear to all involved, in layman's terms, what our community should expect from these new buildings and their accessory outdoor area.

A few closing images …

As we all know, the Applicant's first submission proposed the destruction of the entire northern preexisting landscape buffer, except for the absolute minimum requirement of leaving a 25-foot setback intact. (Even with that, most of that negligible 25-foot setback was going to be re-graded, with preexisting vegetation replaced with new plantings!)

Remember, this is what the Applicant first proposed to our Town!

After receiving immediate pushback, the Applicant's first revision provided only 15 feet of additional landscape preservation, designated by the purple strip of land below.

The next revision added about 40 additional feet of landscape preservation along part of the northern property, but zero additional feet in the easterly section (closest to neighboring houses). That revision is designated in green.

And now this most recent revision proposes saving 100 feet of landscaping along the northern property border. The yellow section designates additional vegetation that would be spared.

But even after four versions of this application, the Company still intends to destroy more than two thirds of this decades-old, preexisting landscape buffer (designated in blue).

We can only imagine the amount of time, effort, and money that has been wasted by the Applicant, not to mention the resources of our Town and many of us residents as well. Instead of going above and beyond, making a sincere good-neighbor gesture to our community right off the bat, the Applicant has revised their application "inch by inch". What has motivated them to take that approach, remaining steadfastly intent on destroying as much vegetation as possible, we'll likely never know.

Maybe, just <u>maybe</u>, our northern neighborhood would be ok if all of this vegetation was destroyed. But we just don't understand why the Applicant would put us at such risk when there are so many alternate locations available, like the one we've suggested over by Rt. 12.