



Chairman
Tony Capon

TOWN OF LEDYARD

Planning & Zoning Commission

Meeting Minutes

741 Colonel Ledyard Highway
Ledyard, Connecticut 06339

Regular Meeting

Thursday, July 13, 2023

6:00 PM

Council Chambers - Hybrid Format

I. CALL TO ORDER

Chairman Capon called the Regular Meeting of the PZC to order at 6:00 PM. The meeting was hybrid with some attending in person and others via Zoom.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL APPOINTMENT OF ALTERNATES

The following Staff was present: Juliet Hodge, Director of Planning and Development, Makenna Perry, Admin Asst. and Alex Samalot, Zoning Enforcement Officer (training).

Present Commissioner Marcelle Wood
Chairman Tony Capon
Commissioner Paul Whitescarver
Commissioner Howard Craig
Commissioner Gary St. Vil

Excused Alternate Member Jessica Cobb

Non-voting Alternate Member Thomas Baudro

IV. CITIZENS PETITIONS (LIMITED TO NON-AGENDA ITEMS)

None.

V. APPROVAL OF ADDITIONS TO AND/OR CHANGES TO ORDER OF THE AGENDA

Without objection, Chairman Capon reordered the agenda to move Application PZ#23-6SUP before Application PZ#23-4SUP.

VI. PRE APPLICATION OR WORKSHOP

None.

VII. PUBLIC HEARINGS/APPLICATIONS

Item C as noted below was addressed at this point in the meeting:

Application PZ#23-6SUP of Dieter and Gardner, Inc, 1641 Route 12, Gales Ferry, CT

06335, for a special use permit at 1340 Baldwin Hill Road, Gales Ferry, CT 06335, for continued processing of earth materials and removal of ledge material. (Please see Public Hearing/Applications (C) for the text noted below).

- A. Application PZ#23-4SUP of Gales Ferry Intermodal LLC / Heller, Heller, McCoy, 549 South Street, Quincy, MA 02169, for a special use permit for the construction of an industrial building with appurtenant facilities on a portion of the property located at 1761 Route 12, Gales Ferry, CT 06335.

Chairman Capon re-opened the public hearing for the Application at 6:28 PM.

Planning Director, Juliet Hodge identified all the new exhibits received since the last meeting to be incorporated into the record.

Atty. Harry Heller, 736 Route 32, Uncasville was present on behalf of the applicant, Gales Ferry Intermodal.

Alan Perrault, Gales Ferry Intermodal, presented the background and history of the Quincy site to give the Commission a better understanding of the activities that are conducted at their properties.

Atty. Heller described the changes to the plans and other documents that were submitted since the previous meeting. Changes included a Spill Control and Countermeasures Plan, which includes a response protocol if a spill were to occur. Atty. Heller also stated that the applicant addressed The Director of Public Works, Steve Masalin's, concerns regarding an error in the changes made to the Stormwater system when the industrial building was rotated including an error in the narrative, and concerns about repairs being performed in the lay-down area and a lack of Spill Control Plan.

Atty. Heller noted that the industrial building is now between 160 feet from the northerly property line. On the revised plans the applicant has submitted, they have committed to a 100 foot, vegetated, non disturbance area along the northerly property line. The applicant provided Cross-section Elevations showing the views between the two closest residences to the north and the proposed industrial building. Atty. Heller explained that they are willing to plant a row of arborvitaes close to the northerly property line to better block the view from the abutting residents.

Submissions from the applicant also include a letter from Groton Utilities stating that there is sufficient water available and sufficient pressure to serve the needs of the property; and a letter from Lourerio Engineering responding to staff comments provided during the June 29th, 2023 Special Meeting. Atty. Heller also noted that a bond estimate in the amount of approximately \$300,000 was provided for erosion and sediment controls, and site restoration and stabilization.

Atty. Heller concluded his comments stating that he feels the application complies with the staff's interpretation of the regulations as well as the evaluation criteria for Special Permits. Heller stated that the town has very little Industrially Zoned properties and that all the Industrial Zones are surrounded by residential properties. He believes that the buffering

proposed is adequate to address the concerns raised about potential adverse effects.

The Commission members asked several questions to determine exactly what uses would occur in the lay down area and in the proposed buildings.

Atty. Heller and Alan Perrault explained that equipment such as cranes and crane buckets, excavators or other vehicles for loading and unloading material/equipment, and pumps would be stored in the area, and that repair work on these types of equipment might also be conducted in the lay down area. Commissioner Wood stated that he would prefer that there not be any doors on the North side of the 10,000sf. building. Mr. Perrault stated that they needed to have the ability to drive through the building or access through a second door if the other door is blocked by a piece of equipment. He did state that the doors could be kept closed when activity was occurring. He state that there were limitations as to where buildings could be located due to environmental constraints.

When questioned about what they might expect for future development, the hours of operation and what kind of noise would be generated. Atty. Heller explained that Connecticut has adopted daytime and nighttime sound level limits, and any activity conducted by Gales Ferry Intermodal is anticipated to meet those requirements, however if they are not met, modifications will have to be made.

The Commission stated that they appreciated the work that Cashman had done to address the concerns and comments of staff and residents. Commissioner Whitescarver commented of the value of the property given its location and ability to support off-shore industry. Commissioner St. Vil asked questions about the lighting on site when foliage disappears and how it will affect residents on River Road - particularly security lighting. Atty. Heller stated that a Lighting Plan was submitted that demonstrated that there would be no light migration into the buffer area or at any property line.

Commissioner St. Vil questioned if the approval of the current application would include approval for the possible future expansion of the 10,000 square foot building. Atty. Heller stated that it did not. Commissioner St. Vill asked why the building could not be shifted farther to the south to provided a bigger buffer. Atty. Heller noted that the area in which the second proposed industrial building is located in an A1 protected area, where activity is limited until the remediation activity is complete. He noted that if the applicant moved the building location thirty feet to the south, they would be encroaching the restricted area.

Mr. Perrault explained that the 6,000sf and 10,000sf buildings may satisfy the company's needs and that they may submit an application to have a third building that is closer to the water.

Planning Director, Juliet Hodge asked if the proposed 6,000 square foot building was located on the protected area.

Atty. Heller explained that the 6,000sf building was and that the protected area extends to the southern wall of the proposed 10,000 extension of the proposed industrial building.

Planning Director, Juliet Hodge also questioned where the discharge from the existing catch basins in the lay down area, go. She asked what would stop oil, etc. from getting into the basins. Ms. Hodge expressed concern about runoff draining into the basins in the lay down area.

George Andrews stated that the catch basins discharge directly into Allyn's Pond. The applicant agreed that they would install a hydrodynamic separator in the system in the lay-down area with the oversight of a Licensed Engineering Practitioner (LEP) in addition to providing Spill Kits in the area.

J. Hodge asked about the ways noise could be reduced within the industrial building - such as insulation or keeping the door closed in the area proposed for heavy equipment repair.

Chairman Capon open the floor to public comment.

Eric Treaster, 10 Huntington Way, was impressed with the information in which the applicant has provided for staff and residents. Mr. Treaster expressed concern about volatile organic compounds, paint chips, and odors from painting. He asked whether painting would be conducted inside or outside, and how the neighbors be protected from odors.

Dave Harned, 13 River Dr, spoke on behalf of the CALU group. He was not in support of the application. Mr. Harned read his prepared remarks. He was most concerned about potential nuisances caused by noise and dust. He believed the applicant has given a lot of info that is not relevant to making a determination as to whether the application meets the zoning regulations and should not used as a reason to approve the application.

He asked whether the operation was required to meet state noise regulations, or not? Or whether fugitive dust or fumes are allowed to leave the property. Mr. Harned believed that the applicant did not provide enough tangible evidence related to what kind of activity would be conducted or stored on site, and what the impact would be. He asked the Commission to examine the testimony provided by the applicant as he feels that there is not a lot about noise and dust. He also stated that some of the testimony is erroneous. He, on behalf of CALU, believed that the application should be denied until the applicant satisfies concerns related to noise and dust as they have the burden of proof to do so. He asked if the Commission were to approve the application, to consider the following conditions.

1. A later starting time, 6:30 AM is too early.
2. Additional vegetation to further reinforce the 100 ft landscape buffer.
3. Request a wall or greater buffer to help with noise.
4. Ongoing monitoring paid for by the applicant, bond paid for by applicant to know the regulations are being complied with (noise and dust monitoring).
5. Request more evidence to determine if the site is too noisy/dusty, the applicants current information is not sufficient.

Atty. Russell Stewart, 9 Billings Lake, North Stonington (Representing Amy Harned), believed that the published notice for the meeting, previously published, was insufficient given the subsequent proposal to add an additional building in a different area.

Atty. Stewart expressed concern about the proposed buffer and explained why it is not reasonable, as the applicants assert - given the particular industrial use proposed so close to a residential neighborhood. He stated that it is the applicant's burden of proof to show that a

100' buffer is reasonable versus the existing 300' buffer that was apparently deemed reasonable for all this time. He explained that the Commission should not be receiving information about what the potential uses will be at this point, and that it should be a red flag that Commission members still have to ask what is going on in the lay down area. Atty. Stewart urged the Commission to deny the application given the lack of information provided. He feels the Applicant has not met the burden of proof to show that the activities proposed will not negatively impact the residents.

Attorney Stanley Lucas, 35 River Dr, and owner of 3 River Dr. was in support of the application. Mr. Lucas believed that changing the 25' buffer to 100' was sufficient. He also appreciated the applicant changing the building orientation and size and placing a line of arborvitaes on the northerly property line near his property. Mr. Lucas stated that those changes were significant enough to approve the application.

Atty. Heller explained that the state has noise regulations that the applicant will abide by. Atty Heller explained if there are complaints, then the applicant will demonstrate they are in compliance, or take steps to come into compliance. The applicant stated that the use was not a dust generator. It is a repair facility. He stated that they will not move equipment on dirt or gravel surfaces which will address the dust concern. Atty. Heller noted the hours of operation starting at 6:30 AM. Employees arrive at 6:30, but the operation typically starts at 7. There are no third shift operations. Atty. Heller disagreed with the comment that the public hearing notification was not sufficient as the change was not significant enough and part of the iterative process and evaluation of a proposal for approval. He requested that Ms. Hodge add the written opinion about the notice he provided (at staff's request) into the record. The proposal has been modified to reduce the scope of the project with respect to total building size and location near the residential zone. Atty. Heller was confident that the area was vegetated enough to reduce the visual impact of the development.

Atty. Heller pointed out that there are other non-residential uses across the street that are not buffered at all.

He believes the Application complies with the regulations including the general evaluation criteria for Special Permits and that it will not have an adverse impact on the residential neighborhood.

He stated that the project is a critical component of economic development for the town.

Chairman Capon closed the public hearing at 8:35PM without objection.

Chairman Capon explained that the Commission will not be deliberating the proposal at tonight's meeting. The Commission will discuss the proposal of the application at the next Planning and Zoning Meeting on August 10, 2023 at 6:00 PM.

- B.** Application PZ#23-5CAM of Gales Ferry Intermodal LLC / Heller, Heller, McCoy, 549 South Street, Quincy, MA 02169, for coastal area management approval for the construction of an industrial building with appurtenant facilities on a portion of the property located at 1761 Route 12, Gales Ferry, CT 06335.

The public hearing was closed for this application.

- C.** Application PZ#23-6SUP of Dieter and Gardner, Inc, 1641 Route 12, Gales Ferry, CT

06335, for a special use permit at 1340 Baldwin Hill Road, Gales Ferry, CT 06335, for continued processing of earth materials and removal of ledge material.

Chairman Capon resumed the public hearing at 6:03 PM.

Peter Gardner, on behalf of the applicant, presented the application. Mr. Gardner explained the provisions requested by the Wetlands Commission on Tuesday, July 11, 2023. He explained that they are working on 6.4 acres of land. There will be 11 trucks which will carry on average, ten loads per day, which equates to about 110 trips per day. He also noted that the applicant has decreased the charge shots from 12,000 yards to 4,000 yard shots.

Commissioner Craig asked Mr. Gardner if he could explain what a 4,000 yard shot was. Mr. Gardner explained the applicant drills down into the ledge with a drilling rig, fills the hole with dynamite, and blasts the ledge. That is called a "shot."

Commissioner Wood questioned whether the 6AM start time was reasonable.

Gardner explained the hours of operation would be Monday through Friday, from 6 AM to 6 PM, and Saturday 7 AM to 5 PM. Chris McLaughlin, B+R Holding, explained that they don't start blasting until 12:00PM, they arrive at 6 on site to start preparing. He stated there would be no more than one blast on any given day - likely once or twice a week.

Mr. McLaughlin also explained that neighbors can get added to a list to get become notified when they blasting will be conducted.

Commissioner Wood also questioned when they would grind stone and Mr. McLaughlin answered that that type of activity would not start until around 7:30 AM, but it is not noticeable, nor noisy.

Chairman Capon questioned where the water table was, and how deep the rock and ledge are on site.

Mr. Gardner was unsure how deep, and also explained they would have to get bring a rig onto the site to drill in order to find the water table.

Planning Director, Juliet Hodge, asked for clarification on what the final slopes would be.

Mr. Gardner explained that the slope would not be less than 1% and not more than 4%.

Ms. Hodge also questioned if there would be an impact to public water supply.

Mr. Gardner explained that run off from the site would not pollute the wetlands and that the berm was going to be extended further south.

Ms, Hodge questioned if it was procedural to have a hydraulic analysis conducted when blasting activity is proposed.

Mr. Gardner, was not sure.

Juliet Hodge, summarized the history of the parcel to the Commission. She stated that a Closure Plan was needed and could be a condition of approval. Another condition should be added to limit the blasting to 4,000yard shots.

Mr. Gardner explained that the machinery used on site would include three large excavators, in addition to the trucks mentioned previously. He also noted that to mitigate the dust across

the site, a water truck is present every day to spread water across the parcel to keep dust down.

Chairman Capon expressed concern about the water table and wanted to ensure that the applicant would not impact the water supply. Chairman Capon suggested that the applicant consult with a hydrologist to determine the location of the water table and that there will be no impact to wells or local water supply and that the application would be approved conditional on a favorable report. Applicant stated he would comply with this request.

The Commission determined that the public hearing would close at this meeting, and staff would identify conditions of approval for the next regular Planning and Zoning Meeting on August 10, 2023 at 6:00 PM.

Chairman Capon allowed public comment.

Mike Cherry, 5 Whipporwhill Dr, was in support of the application. He does not have any problem with the blasting times, though he lives close. He explained the noises he hears are crushing stones, and small blasts.

Chairman Capon closed the public hearing at 6:27 PM. The discussion of this application and possible vote was set for the next Planning and Zoning Meeting on Thursday, August 10th, 2023 at 6:00 PM.

- D.** PZ#23-7RA of The Town of Ledyard, 741 Colonel Ledyard Highway, Ledyard CT, 06339, to add section 8.34 "Cannabis Establishment" and the following uses to the use tables: Cannabis Retailer and Hybrid Retailer (Section 6.4), Cannabis Cultivator and Micro-cultivator (Section 5.3 + 6.4).

Chairman Capon opened the public hearing at 8:38 PM.

Chairman Capon, presented the application on behalf of the Town of Ledyard.

Chairman Capon opened public comment.

Mike Cherry, 5 Whipporwhill Dr, was in support of increasing the distance between Cannabis Establishments and The Submarine Base.

Eric Treaster, 10 Huntington, was not in support of this application. Mr. Treaster does not believe that the Commission should adopt the regulations seeing that it is in violation of federal law. Mr. Treaster urged the Commission to deny the application.

Commissioner Wood questioned the location restrictions that the Commission could implement. He is in support of limiting the number of Cannabis Establishments in the Town of Ledyard.

The Commission decided that a condition of approval for the application is to add "No more than one cannabis retailer or hybrid retailer shall be allowed in the Town of Ledyard" after section 8.34.1B.

Chairman Capon closed the public hearing at 9:11 PM.

Commissioner Craig was not in favor of the application. He did not like the idea of Cannabis being sold in Ledyard, and believed it would negatively impact the town.

Commissioner Wood was indifferent to the application, as the residents of the Town voted to allow cannabis sales and retailers in Ledyard.

Commissioner St. Vil agreed with Chairman Capon that the it is up to the Commission to determine framework for Cannabis establishments and retailers to follow.

The Commission moved to approve Application PZ#23-7RA with the condition "No more than one cannabis retailer or hybrid retailer shall be allowed in the Town of Ledyard" after section 8.34.1B.

The effective date of the regulation is August 1, 2023.

RESULT: APPROVED WITH CONDITIONS

AYE: 4 Wood, Capon, Whitescarver, and St. Vil

EXCUSED: 2 Baudro, and Cobb

ABSTAIN: 1 Craig

- E. PZ#23-8RA of The Town of Ledyard, 741 Colonel Ledyard Highway, Ledyard CT, 06339 to amend section 3.9A "Cannabis Establishments" to extend existing Moratorium an additional six (6) months to provide time to review and act on proposed regulations.

Without objection the application was withdrawn.

RESULT: WITHDRAWN

VIII. OLD BUSINESS

None.

IX. NEW BUSINESS

- A. PZ#23-9SITE of Rustic Boutique Catering and Events LLC, at 39 Military Highway, Gales Ferry, CT 06335, for a an accessory use.

Planning Director, Hodge presented the application. Applicant is proposing to add an accessory use to the property - private weddings. There is no change in parking or building lay-out. Applicant will be providing a tent for the events.

Charlene Rand was present for the application to answer questions. Commission directed staff to act on the application.

RESULT: APPROVED TO ALLOW STAFF TO ACT ON APPLICATION

MOVER: Paul Whitescarver

SECONDER: Marcelle Wood

X. APPROVAL OF MINUTES

A. Draft Meeting Minutes - June 8, 2023

The Draft Meeting Minutes from June 8, 2023 were approved as submitted.

B. Draft Meeting Minutes - PZC Special Meeting, June 29, 2023

The Draft Meeting Minutes from the June 29, 2023 meeting were approved as submitted.

XI. CORRESPONDENCE

None.

XII. REPORTS

A. Planning Director Report

Planning Director, Juliet Hodge met with the contractor from Dollar General on Route 12 in Gales Ferry. She addressed the problems with their landscaping. She also visited Bark n Barley, where she identified erosion issues from the recent rain, and issues with the detention basin.

Ms. Hodge noted that the department will be fully staffed on July 24th.

B. Zoning Enforcement Official (training) Report

Zoning Enforcement Official (in training), Alex Samalot, identified ongoing blight issues. He stated that he is in contact with offenders. Mr. Treaster was appointed as the Citation Officer. He stated that potentially two citation orders will require a hearing.

XIII. ADJOURNMENT

Without objection, the meeting was adjourned at 9:30 PM.