

# Resubmittal of Schroeder Public Comment Ex#209 from 12/5/2024

**Note to Commissioners:** Missing citations, names, dates and times have been added in red

The P&Z Commission's role is to apply the regulations. **All** Ledyard regulations must be fulfilled... it does not have the authority to negotiate, rather the Commission is required to reject an application that does not fulfill all regulatory requirements. Applying those regulations is neither qualified nor negotiable. This includes the money offer from Cashman which falls completely outside the purview of the P&Z Commission, as well as speculation about pie-in-the-sky projects that may or may not be built on the future site - which is not part of this application. The Commission does not have the authority to approve under conditional compliance requirements.

- To the point, quarrying is not listed as an allowable use under Town Regulations and therefore is not allowed (**3.6.D Prohibited if not permitted**).
  - **Eric Treaster (12/05/24 Ex#204 p4) pointed out that quarrying was specifically taken out of the town regs in Oct 1975. If there is any question about the intent of the wording for "Excavation Major", I encourage the Commission to take that into account.**
- Throughout their verbal presentations to the Commission, even the experts themselves keep flip-flopping between calling it an excavation and a quarry.
  - **In the presentation from MDB (9/26/24 video time 1:35:30) Tim Harmon** continuously referred to the proposal as a quarry... as a professional blasting expert, he should know.
  - **Further citations, per Ex #235.2:**
    - **Appraiser MacCormack repeatedly called it a quarry (9/26/24)**
    - **Exhibits #37 and #221 refer to it as a mine**
    - **Daniel Poland (11/14/24 video timer 1:54:10) - states on the record the closest designation he could find to the extraction activity was a study that looked at rock quarries.**

- MSHA defines this type of operation as a **mine**:

<https://www.osha.gov/laws-regs/mou/1979-03-29>

## **APPENDIX A - Definitions: "Mining and Milling":**

Mining has been defined as the science, technique, and business of mineral discovery and exploitation. **It entails such work as directed to the severance of minerals from the natural deposits by methods of** underground excavations, opencast work, **quarrying**, hydraulicking and alluvial dredging. Minerals so excavated usually required upgrading processes to effect a separation of the valuable minerals from the gangue constituents of the material mined. This latter process is usually termed "milling" and is made up of numerous procedures which are accomplished with and through many types of equipment and techniques.

## Obfuscation

- **During cross-examination by Atty Carrol (9/26/24 video time 2:12:40)** MDB said it is up to their insurance company to process any claims to damage. **Thereby switching the burden of proof from the applicant to the homeowner.**

## Noise

- HMMH peer review concerning noise and vibration (Ex #132) states: *“With background levels in the mid-40s dBA, the **excavation noise at many of the nearby homes will be continuously audible for most of the duration of the project and will be very intrusive for considerable periods of time.** Given the extended duration of this project, HMMH **strongly suggests that modifications to the project’s plans be implemented to reduce the projected noise levels at the nearby homes to be no more than 5 dBA above the background L90s for the entire duration of the project. Predictions of 50 dBA or less in the communities mentioned above [sic Thames View Pentway homes, Pheasant Run Condominiums, ect] would largely accomplish this objective.**”*
  - Scott Noel (HMMH) affirmed this again on 11/14/24 when cross-examined by Atty Carrol. (at video timer 2:58:00)
  - During cross-examination by Atty Heller on 11/14/24, Scott Noel (HMMH) testified before the Commission that CT State maximum of 60 dBA ambient noise are protective, but not overly so. Heller protested that even 5 dBA of sound reduction is significantly difficult to achieve (due to decibels being a progressively increasing scale) and did not concede the CT State maximum of 60 dbA ambient noise is too loud.
  - **CT Dept of Environmental Protections Regulation**  
**Sec. 22a-69-1.5. Compliance with regulations no defense to nuisance claim**  
*Nothing in any portion of these Regulations shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with these Regulations is not a bar to a claim of nuisance by any person. A violation of any portion of these Regulations shall not be deemed to create a nuisance per se.*
    - [https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title\\_22aSubtitle\\_22a-69S\\_ection\\_22a-69-1.5/](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-69S_ection_22a-69-1.5/)
- No measurements of existing base-level noise were taken on any neighboring properties. HMMH in their peer review of RSG’s study (Ex #132) had to make assumptions regarding base-levels of noise at neighboring residences. So it would appear RSG’s noise study is incomplete because it doesn’t actually take residences into account... there is no real metric to compare against existing ambient noise and the proposed quarry noise, should someone ever make a complaint in the future.

- This demonstrates that GFI is not serious about mitigating disturbing noise in neighboring properties, rather they are only setting up an alibi for when complaints start being registered.

## Traffic

CT legal precedent (Ex#118 Town of Preston P&Z Commission, submitted by Atty Wilson Carrol) encourages Commissioners to apply their own personal judgment in local matters that don't require an expert.

- Anyone who has ever tried turning South onto Rt.12 during rush-hour knows how difficult it can be, waiting for a break in the line of traffic coming each way. Often, when the traffic light at the intersection of Military Highway and Rt.12 in Gales Ferry is red, leaving a gap in northbound traffic, there is a solid uninterrupted line of vehicles heading south. Similarly when there is a break in southbound traffic, the light in Gales Ferry is green and there is now an unbroken line of northbound vehicles. I've seen frustrated drivers dash out into perilously narrow gaps of oncoming traffic in an effort to get to work as more and more cars pile up behind them waiting to do the same. It is safe to presume *every single feeder-road* into Rt .12 up to the Glenwoods without a traffic light encounters similar issues.
- Both expert traffic studies assume a concentration of heavy truck trips to and from the GFI site during the opening and closing hours of operations - namely during morning and evening rush hours, when it is the most difficult to get onto Rt.12 from a feeder road in a *timely and safe* fashion. It beggars belief that they come to the conclusion these slow heavily-laden trucks wouldn't noticeably affect traffic, nor introduce any safety issues.
- Reducing the speed limit on Rt.12 from 45 mph to 35 mph would seem to be counterproductive to people trying to get to work in a timely manner.
- **Recommendations to reduce the number of access points to the schools from 4 to 1, so they can use the light on Rt 214 for traffic safety would seem to be counterproductive to bussing kids to school in a timely manner.**

## Economic Development

- Daniel Poland stated on 11/14/24 (**video timer**) that projecting the need for industrial space 10 years into the future is a *bit* speculative. It is in fact ***entirely*** speculative and his projections are based on e-commerce and speculative subcontracting by EB sees an increase in working with local suppliers.
- 300k sq-ft of buildings have been demolished and removed from the site (**video timer 1:26:00**). 26k sq-ft of new construction has been built, separate from this application at one end of the property. **The Gorman & York study (Ex #103) speculates the economic benefits from 270k of new buildings could generate 1m\$/yr in tax revenue. There is obviously room on the existing site to do this now (270k < 300k). So what is a quarry needed for? Why wait 10 years?**

- Costs to the local government to determine a fiscal impact (1:30:00).are based on commercial use, not industrial.
- Fiscal impact for the 10 years of the quarry operation is a “wash” - it generates \$800 k over 10 years.
- Number of employees per 1000 sf of space in industrial warehouses “can be wide ranging” depending on the end-user: **if it is simply warehousing and storage then the job numbers could be low.** If it is a last-mile delivery facility for some e-commerce related company, then the (number of) jobs could be really, really high. He uses an industry standard of 1 employee per 2000 sq-ft. **But a similar proposed facility was not built in Plainfield CT, which is better situated for highway access. Why would they build one on Ledyard, which is even farther away from the interstate and in a less central regional location?**

## Property Values

- Section 11.3.4 (Special Permit Criteria) of the Ledyard Zoning Regulations states that the applicant shall have the burden to prove no adverse effect would result to the property values (or historic features) of the immediate neighborhood.
  - In her presentation before this Commission (Ex# 140), real-estate-appraisal expert Joanne Kelly has competently and convincingly demonstrated that the study by MacCormack Appraisal Services (included in Ex#2 Zoning and Compliance Manual) is poorly researched and hence its conclusions misleading. **Further, she conclusively demonstrated using exact citations (11/14/24 video timer 3:55:30 and 11.21.24 video timer 0:13:00) that Daniel Poland from Gorman & York misrepresented the conclusions of the studies he referenced.** Mrs Kelly’s own conclusion being that proper analysis of comparables in real estate data demonstrates nearby quarrying **does negatively affect** property values and time on market. Which quite frankly makes complete logical sense, as the common expression “location-location- location” testifies.
  - During his presentation before this Commission, even Donald Polack (Gorman + York), who came accross as pro-quarry, stated on public record that real estate values will be impacted **during the pre-development period** (ie. quarry phase). **(11/14/24 video timer 1:52:20)**

## Health and Safety

- Onsite workers are physically protected from noise and dust - let’s be clear... the MOSHA requirements allow zero amounts of dust to be breathed in by workers. That’s how dangerous it is - because the specialist told us the fine particles of silica dust never leave the lungs.
- In his verbal presentation before the Commision on Nov 14 **(video timer 3:06:00)**, expert Michael McCarter (HMMH Harris Miller Miller & Hanson; Ex #130, #132 Noise and Air Quality peer review) testified before the commission that public exposure needs to be addressed. Further that ambient air emissions **(of carcinogens & acute health-affecting emissions)** were **not addressed at all**, and that once such minute

dust particles are breathed in, your lungs cannot get rid of them. **This supports the public's perception that GFI is neither interested in public exposure to dust and noise, nor in public physical & mental health at all.**

- Given the danger from dust, and the incessant cacophony of rock grinding day-in and day-out month-after-month for **ten years**, we have seen a **complete lack** of concern for the health and well-being of the surrounding residents and nearby school children at Juliet Long Elementary and Ledyard Middle Schools. Other than of course “experts” that tell us their calculated models show no
  - No monitoring nor measurements being taken off-site at all.
  - No neutral 3rd-party ensuring compliance of sound and dust levels, nor enforcement if non-compliance becomes an issue. Is the town expected to be doing this and assume the hidden cost of doing so? The residents themselves?
- **Think about the children.** If this project is approved **an entire generation** of Ledyard's school children will spend their childhood with noise and dust from the quarry constituting a daily menace to their health and well being.
- During his presentation to the Committee on **(9/26/24)**, **Tim Harmon** from MDB **(video timer 1:51:00)** played a video clip, now on public record, of a blast that clearly shows a cloud of dust rising into the air and dissipating into the surrounding countryside at the Baldwin Hill quarry. What further proof does one need that dust clouds from blasting at quarries are not contained on site? Further, he incorrectly described the dissipating cloud as “mitigating” into the surroundings **(video timer 1:51:50) “It doesn't really leave the site much”** - if this language choice was intentional, it serves as a harbinger of lax attitudes when it comes to the “mitigation” of dust.
- (Ex# 117 letter from Laura Stauning - a resident who lives near a quarry in Bosrah CT) How many comments from residents living near or adjacent to existing quarry sites who describe the dust and incessant rock-grinding noise need to be heard before the experts' calculative predictions to the contrary can be discounted?

## Historic Significance & Preservation

### Ledyard PoCD Section VIII B. Historic Preservation

#### Goals (p.50-51)

- **Protect historic resources and minimize encroachment and impacts of development** or road widening or realignment projects on historic homes, barns and other outbuildings, stone walls and other stone structures, cemeteries, ancient burial places, and archaeological sites.
- **Promote preservation through education, appropriate regulations and through listing** of significant historic homes and buildings on the **National Register of Historic Places.**

#### Issues Policies and Strategies (p51)

##### 1. Identify and Protect Historic Buildings and Resources

Identify and protect cemeteries, **historic sites**, and archaeological remains prior to site disturbance...

##### 2. Maintain Historic Resources

##### 3. Promote Historic Preservation Efforts

## First Barbary War (1801–1805)

Among other feats, then Lt. Stephen Decatur commanded the gunboats that spearheaded a successful raid on the corsair-haven of Tripoli. For his valor, in 1804 Decatur was promoted to the rank of Captain and was given command, among other ships, of the heavy frigate *USS Constitution* (aka *Old Ironsides*) for a brief time.

## War of 1812

By 1812 when war broke out with Great Britain, Decatur had achieved the rank of Commodore (ie. rear admiral) and was given command of the heavy frigate *USS United States* (1 of 2 sister ships to *Constitution*). After capturing the British frigate *HMS Macedonia* in a one-sided fight and bringing her to New York for repairs, Decatur was intercepted by a powerful British force off Montauk Point. He escaped with his small squadron - **the *USS United States*, *USS Macedonia* and sloop *USS Hornet* - into the Thames River past New London**, where they remained blockaded for the duration of the war (attempts to break the blockade were foiled by sympathizers/spies in New London signaling the British fleet).

In 1814, Decatur was transferred command of the heavy frigate *USS President* (the **other** sister ship of *Constitution*), and once again attempted to break a British blockade of New York City before his ship was caught and captured in a running engagement off the coast of Long Island. Decatur himself spent the rest of 1814 as a prisoner of war in Bermuda.

## Second Barbary War (1815)

In 1815, at the outbreak of the Second Barbary War, Decatur was given command of a squadron of 10 ships - the largest fleet ever assembled by the United States at the time - and ordered to sail for the Mediterranean. He surprised and captured an enemy flagship at the Battle off Cape Gata, thereby forcing the Dey of Algiers to sue for peace and return American sailors taken as slaves. Decatur's squadron then set sail to Tunis and Tripoli to successfully demand reimbursement for money owed during the War of 1812. For this campaign, he became known as "the Conqueror of the Barbary Pirates".

The lyrics of the US Marine Hymn "From the Halls of Montezuma To the shores of Tripoli" commemorates in part the exploits and bravery of Steven Decatur & the men and ships under his command during the two Barbary Wars. During the War of 1812 the river in front of Allyn's Hill and the fort at its summit provided a safe berth for, among others, the *USS United States*, sister-ship to *Old Ironsides*. This is a significant **National** historic site, and the deeds of Commodore Decatur form an important part of the mythos of the fledgling US Navy.

To put this into perspective, imagine someone deciding to do *industrial regrading* of the 1775 Revolutionary War battle site known as *Bunker Hill* near Boston, MA. Let's preserve a 100ft distance from the stone wall where William Prescott ordered "Don't fire till you see the whites of their eyes", but the rest of the site would be levelled flat, in anticipation that someday in the future, someone would have an industrial use for it. What type of suggestion is that? Mount Decatur is our Bunker Hill - the entire hill, not just the earthworks at its summit. It is a precious, irreplaceable part of Ledyard's history. Don't let it be destroyed for the sake of short-term profit.