



TOWN OF LEDYARD
Department of Land Use and Planning
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MEMORANDUM FOR THE RECORD

May 11, 2023 PZC Meeting

Property Address: 1761 and 1737 Route 12, Gales Ferry, CT
Application: #PZ23-4SUP – Special Permit Approval and #PZ23-05CAM
Applicant/Owner: Gales Ferry Intermodal
Lot Size: 158 acres (6,882,480F)
Lot Frontage: 3,700ft on Rte. 12
Zoning District: Industrial.
Public Water/Sewer: Public Water/On-site septic.
Wetlands/Watercourses: Occur on the site. Property is also adjacent to the Thames River.
Flood Hazard Zone: Yes. Zone AE (Elev. 12) and Zone X
CAM Zone: Yes.
Public Water Supply Watershed: No.
Proposed Public Improvements: Yes.
Legal: #PZ23-04 SUP and PZ23-05CAM Submitted to Land Use Office on 3/8/23. Received by PZC on 3/09/23. Public Hearing opened 4/13/23 and was continued to 5/11/23.

EXISTING CONDITIONS:

The Property is the site of the former Dow Chemical manufacturing facility. Buildings associated with Dow Chemical were removed. Existing Industrial Use – American Styrenics still in operation. Existing pier and active freight rail line. Environmental issues present associated with former use. Unclear of status.

PROPOSAL: 10,000sf commercial/industrial building and associated site improvements for Motor vehicle, RV, Boat and Equipment Repair Facility.

GROTON PUBLIC UTILITIES: NO COMMENTS RECEIVED. Were they contacted to determine whether there is adequate water for domestic use and fire protection?

LEDGE LIGHT HEALTH DISTRICT: NO PLAN REVIEW COMMENTS received to date. Did they receive an application?

DPW DIRECTOR/TOWN ENGINEER: Steve Masalin provided initial review dated 4/3/23. No comments received on the revised Stormwater Report.

BOND: A site erosion & sediment control bond estimate or estimate for the Stormwater management systems have not been submitted. Must be submitted for review & approval by the Town Engineer.

STAFF COMMENTS:

1. **General:**

- a. Location Map should indicate Zone of the parcel and that of all property within 500 ft (per App. B-1)
- b. T2 survey based on actual field data required – particularly as you are proposing changes to the existing grade. (App. B-2 C)
- c. Sheet labeled 1 of 2 the CHA Site Plan dated 5/10/22 - Note 6 states the Purpose of the Industrial Zone referencing Section 4.9A of the Zoning Regulations. The regulations have since been updated and the new "**Purpose**" is: *To encourage the adoption, continuation and expansion of manufacturing, research, and industrial uses in a way that protects our natural assets.*

2. **Notes Page:**

- a. Note 2 under Erosion and Soil Control Plan states that there are inland wetlands on the site and Note 3 states that "a large portion of the upland soils will be disturbed by earthwork activities. What wetlands are you referring to? Mr. Logan stated that the area marked wet area was not wetlands.
- b. The statement of intent under Construction Sequence as well as Note 5 in this same section also refer to wetlands and watercourses.
- c. On Sheet C16 please provide the following information per Section 9.11B of the regulations and Site Plan Check Sheet.
 - o The name of the individual responsible for monitoring the plan with whom an inspector for the Town may contact routinely; and
 - o The plan map shall show the words: "Erosion and Sediment Control Plan" with space for the date and signature of the Chairman/Vice Chairman of the Zoning Commission or its agent.

3. **10,000sf building vs. 20,000**

- a. Will there be any activity on the gravel area where the other half of the building will be? Is it gravel or are you pouring a slab. Would make a difference with respect to repair activity if the surface is pervious.
- b. I assume there will be a change in the proposed lighting – as in some lighting on the western façade of the building. Are the wall pack lights full cut-off?

4. **Regarding the proposed use:**

- a. The overall use is Mixed Use (Commercial Industrial) with an existing Industrial Use and a new proposed Repair Facility use. (It should be noted that an application for a multi-phased excavation use on the southern portion of the property is currently in front of IWWC). Both the existing Industrial and proposed Commercial Service (Repair Facility) are permitted in the Industrial Zone via Site Plan Approval. The fact that there is more than one principal use makes this a Mixed-Use development which is subject to Special Permit Approval (regardless of individual uses) so that the Commission can consider the cumulative impact of all the uses (existing and proposed) when determining compliance with the Special Permit Criteria and Site Development Standards.

Mixed -Use Developments must comply with the supplemental regulations in Section 8.23 as well as all other applicable regulations for Site Development and Special Permit. Each subsequent addition of uses will be treated as a modification to the Special Permit for this Mixed-Use development should it be approved, and as such will have to be evaluated for compliance with the Special Permit requirements each time it is modified.

The areas proposed to be utilized per the Site Plan submitted include the pier area, the northern end of the property that is currently undeveloped in part, and the area identified as the "Laydown Area" where structures associated with DOW Chemical were located. Access is from Rte. 12.

The use that is being applied for falls under "MV, RV, Boat and/or Equipment Repair Facility" with associated (accessory) outdoor storage/repair area. This repair use is a type of Commercial Service that is identified in the table of uses separately as there are additional supplemental regulations for this particular type of Commercial Service.

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

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.

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.

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.

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?

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?

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.

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.**

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.

6. With respect to the laydown area:

What is the laydown area being used for exactly?

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).

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.

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.

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

7. Coastal Area Management portion of the narrative:

- a. *States: In conjunction with the development of this project, all activities proposed in conjunction with the development of the "Sterling Building" are proposed on shorelands.*

This doesn't seem to be entirely true if equipment and material are arriving by ship, off-loaded and driven across the property to the Sterling Building area. Nor would it be true if the laydown area is being used for some "activity." There is more to the application than just building a 10,000sf building, stormwater system, septic and parking area in the shorelands. Use of the laydown area may not be "development" but depending on what it is used for, there could be an impact to the coastal resources which includes Allyn Pond.

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.

- 9.9.2 Encouraged Materials and Practices:***... Preferred façade materials are brick, stone, and wood, including narrow-width siding, clapboards, wood shingles, or a reasonable equivalent. Metal, unfinished concrete, and concrete block, as well as asphalt siding, are discouraged.*

...Architectural details characteristic of the particular style and period proposed should be incorporated into the design for new construction and should relate harmoniously to adjacent buildings.

...Large structures should have well-articulated façades to reduce the appearance of significant bulk. Provision shall be made to coordinate site architecture with that of the surrounding district. Rooflines should be varied to provide architectural interest.

These standards are not required – only "encouraged." As with most industrial buildings in particular, the architectural style and building materials generally do not align with the preferred materials and style identified in the Site Development standards or "relate harmoniously" to adjacent buildings especially if the adjacent buildings are residential. In recognition that in this case the overall development of the parcel is and will continue to be commercial/industrial, the only way to really satisfy the standards identified in Section 9.9 is through building placement, landscaping and buffering. The Commission must determine whether the landscaping and buffering and placement are adequate to protect at least the abutting residential neighborhood.

The narrative states that the existing vegetated buffer areas have been maintained between the area of the proposed industrial development and the adjoining property to the north. That is a bit of an exaggeration as most of the vegetation in the referenced buffer area is to be removed.

9. Refuse Storage

- a. Are there dumpsters proposed on the site? Locations and detail must be shown to determine compliance with Section 9.6 of the regulations.

10. Utilities Plan

- a. Per Section 11.2.1H, A Utilities Plan shall be submitted to demonstrate the adequacy of on-site water supply and sewage disposal facilities to serve the needs of all proposed uses. The Utilities Plan should also include comment on the availability of water for any fire-fighting needs that may arise in connection with the proposed uses. The applicant must submit a copy of the Utilities Plan to the Town's Director of Health and Fire Marshal no later than the date the application is filed with the Commission. Was this done?
- b. Notes on the Utility Plan only state that the domestic water service and fire protection service require Groton Utilities Approval and will be sized prior to construction which does not satisfy the requirement above that the applicant demonstrate that there is adequate water supply.
- c. **Was the Application submitted to LLHD for approval? Have they reviewed the Septic System?**

11. Special Permit Criteria:

In considering an application for a Special Permit, the Commission shall evaluate the merits of the application with respect to all of the following criteria that the Commission may determine are relevant to the application. To the extent the Commission finds such criteria applicable, the applicant shall have the burden to prove:

- A. that the application is materially in conformance with all applicable provisions of these Regulations, including, but not limited to, the Site Design Requirements in Chapter 9, and that the standards for approval of any accompanying Site Plan application have been met; **Additional information needed. Buffering may not be adequate depending on the use of the laydown area.**
- B. that transportation services would be adequate and that the uses would not cause traffic congestion or undue traffic generation that would have a deleterious effect on the welfare or the safety of the motoring public; **This phase not expected to generate traffic, though not all proposed "support services" activity detail for this phase has been provided.**
- 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.**

What are the hours of operation? Noise levels of typical machinery when operating?

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

- 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.**
- 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.

- 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.***
- G.*** that all proposed uses and structures would be consistent with future development as identified and envisioned in these Regulations and the Ledyard Plan of Conservation and Development. ***The Cashman property is Ledyard's primary industrial site and Cashman has outlined a future build-out that could greatly benefit the town economically. The reuse of underutilized properties is highly desirable provided the new use does not pose issues of its own. I feel that there is a great opportunity to create a quality development that protects everyone's interests.***

Respectfully submitted,

Juliet Hodge