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TIPPING FEE

The Applicant is cognizant of the fact that the industrial regrading of the southerly portion of the Applicant's property to ready it for future industrial development (and the production of ratables for the Town of Ledyard) is a long term proposition. In order to provide suitable compensation to the Town of Ledyard, in lieu of taxes, the Applicant is proposing a payment in lieu of taxes ("PILOT") for the duration of the proposed extraction operation¹. The PILOT proposed is at the rate of \$0.25 per cubic yard of stone material extracted and exported from the site.² In conjunction with the proposed PILOT payment, the Applicant proposes to provide to the Town of Ledyard, on a semi-annual basis, verification of the amount of stone which has been exported from the project together with a payment of the PILOT required for the amount so exported.

CHARACTER OF THE NEIGHBORHOOD EVALUATION CRITERIA

Section 11.3.4(E) of the Ledyard Zoning Regulations provides "That the character of the immediate neighborhood would be preserved in terms of scale, density, intensity of use, existing historic/natural asset/features and architectural design;". The character of a neighborhood has been specifically eliminated as a legitimate permitting consideration in the promulgation of zoning regulations by the operative effect of Public Act 21-29 adopted by the Connecticut legislature. In enacting Public Act 21-29, the legislature repealed §8-2 of the Connecticut General Statutes, the zoning enabling legislation for the State of Connecticut, and substituted in lieu thereof Section 4 of the new legislation. In pertinent part, the substituted statute provides that zoning regulations must "be drafted with reasonable consideration as to the physical site characteristics of the district and its particular suitability for particular uses and with a view to encouraging the most appropriate use of land throughout a municipality." The statute had previously required that zoning regulations be prepared with reasonable consideration as to the character of the district and its peculiar suitability for the particular uses and with a view for conserving the values of buildings and encouraging the most appropriate use of land throughout such municipality.

Subsection D in the new legislation further provides that "Zoning regulations adopted pursuant to subsection (a) of this section shall not ... (10) be applied to deny any land use application, including for any site plan approval, special permit, special exception or other zoning approval on the basis of (A) a district's character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures ...".

¹ A payment of a PILOT in Connecticut is a vehicle commonly used to compensate municipalities for the burden of accommodating uses that are otherwise exempt from taxation. The practice is regulated by Regulations of Connecticut State Agencies §12-20b-1 and 12-20b-2. It is an appropriate vehicle for this application due to the amount of time that will be required to render the 26 acres suitable for permanent industrial development. Like a tax-exempt entity PILOT, the tipping fee is intended to provide compensation to the Town of Ledyard for the use of the 40 acres specifically involved in the instant application until such time as this portion of the property is able to generate permanent ratables through general taxation.

² No PILOT payment is proposed with respect to surficial material removed from the site due to the fact that the surficial material is not structural in nature and has no intrinsic market value.

Section 8-2(a)(3) of the General Statutes, enabling the concept of special permit uses, provides “Such zoning regulations may provide that certain classes or kinds of buildings, structures or use of land are permitted only after obtaining a special permit or special exception from a zoning commission, planning commission, combined planning and zoning commission or zoning board of appeals, whichever commission or board the regulations may, notwithstanding any special act to the contrary, designate, subject to standards set forth in the regulations and to the conditions necessary to protect the public health, safety, convenience and property values.”

From an analysis of Public Act 21-29, it is clear that there has been a legislative shift in focus to the physical site characteristics of the district as opposed to the district’s character. It is also noteworthy that the legislation utilizes the term “district” as opposed to the term “neighborhood”. This distinction evidences legislative intent. In referring to the district, the enabling legislation is referring to the particular zoning district within which the property lies; i.e. in this instance, the industrial zoning district. The prohibition contained in the new legislation is also instructive because the Ledyard Zoning Regulations contain no expressly articulated character for the industrial zoning district by clear and explicit physical standards for site work and structures.

In considering the physical site characteristics of the industrial zoning district in which the Gales Ferry Intermodal property lies, and its particular suitability for the extraction use proposed, the following attributes of the property are material: (1) access to a state highway at a signalized controlled intersection; (2) availability of rail service through the property and a rail siding on the property; (3) availability of deep water dockage on the Thames River; (4) the presence of a reconstituted pier suitable for accommodating large vessels; (5) the historic use of the property as a manufacturing facility which predated the enactment of comprehensive zoning regulations in the Town of Ledyard; (6) the fact that residential districts located outside of the “district” in proximity to the “district” were developed subsequent to the commitment of the Gales Ferry Intermodal property to industrial use; and, most importantly, (7) the fact that the “district” is one of the few viable industrially zoned districts available to promote economic development in the Town of Ledyard resulting largely from the dearth of infrastructure and utilities to support industrial development in the municipality.

In a prior proceeding with respect to the Gales Ferry Intermodal property before the Ledyard Planning and Zoning Commission, the Applicant heard, time and again, that the Dow Chemical Company was a good neighbor. The perception of being a good neighbor, in large part, manifests itself in the physical setting of the property. While the property maintains extensive frontage along the westerly side of Connecticut Route 12, it slopes, on a relatively uniform basis, from an average elevation of 70 along the Route 12 frontage to sea level at the Thames River. The Gales Ferry Intermodal property, in general, is remote, both topographically and in distance from both the adjoining highway and properties which have developed residentially in other zoning districts.

Although not entirely screened, the operating and permanent face of the proposed rock extraction will be largely invisible from locations within the Town of Ledyard. In order to mitigate any adverse perception, the Applicant has proposed, and has incorporated into its site development vernacular, a landscaping protocol for the finished rock face which will incorporate the placement of surficial material on each of the proposed benches in the final stabilized slope and the vegetation

of those benches as depicted on the plan entitled "Industrial Site Preparation Plan: Final Closure & Landscaping Plan Gales Ferry Intermodal 1737 & 1761 Route 12, Gales Ferry, CT 06335 Prepared For: Gales Ferry Intermodal LLC 549 South Street, Quincy, MA 02169 Drawing C-10 Sheet No. 15 No. of Sheets 16 Scale: 1" = 120' Comm. No. 045JC2.06 Drawn By: ESF Approved By SRM Date 04/03/2023 Revisions 1 Response to Inland Wetland Commission Comments 06/06/2023 By SRM 2 Response to Inland Wetland Commission Comments 07/10/2023 By SRM 3 4 PZC Submission 09/27/2023 By SRM 4 Per Town Comments 12/07/2023 By SRM 5 Per Town Comments 01/09/2024 By SRM Loureiro Engineering Associates, Inc. 100 Northwest Drive Plainville, Connecticut 06062 Phone: 860-747-6181 Fax: 860-747-8822". A visual representation of the final rock slope, as landscaped in accordance with the final closure and landscaping plan, is presented in a rendering of that slope submitted with the instant application.

Other perceived adverse impacts from the proposed rock extraction and processing operation are fully addressed in the reports contained in the Zoning Compliance Manual submitted with this application. In conclusion, the "district" as contemplated by Public Act 21-29 is primarily comprised of the Gales Ferry Intermodal property and unimproved land which continues to be owned by the Dow Chemical Company on the easterly side of Connecticut Route 12. The proposed rock extraction operation, submitted by Gales Ferry Intermodal, LLC with the ultimate goal of creating additional clean industrial land for development adjacent to the rail line and the Thames River, is both consistent and compatible with the physical site characteristics of the industrial zoning district.

CONSISTENCY WITH COASTAL POLICIES AND GOALS

The Property is located within the Coastal Management Area. The application submitted herewith is therefore, in addition to an application for site plan and special permit modification approval, an application for Coastal Area Management approval. As indicated above, this phase of the redevelopment of the Property will create 26 +/- acres of prime industrial land adjacent easterly to the Thames River. This will provide a unique opportunity for regional development which is materially enhanced by the presence of the deep water access that the Property enjoys creating a plethora of opportunities for future intermodal and/or energy development on and of the site.

Coastal resources located on the site (with the site being defined as the entirety of the Property) as depicted on a plan entitled "Coastal Area Management Plan Gales Ferry Intermodal 1761 Route 12, Gales Ferry, Connecticut 06335 Gales Ferry Intermodal, LLC 549 South Street, Quincy, MA 02169 Drawing C-8 Sheet No. 13 No. of Sheets 16 Scale As Noted Comm. No. 045JC2.06 Date 04/03/2023 Drawn By: ESF Approved By SRM Revisions No. 1 Response to Inland Wetland Commission Comments 06/06/2023 By SRM 2 Response to Inland Wetland Commission Comments 07/10/2023 By SRM 3 4 PZC Submission 09/27/2023 By SRM 4 Per Town Comments 12/07/2023 By SRM 5 Per Town Comments 01/09/2024 By SRM Loureiro Engineering Associates, Inc. 100 Northwest Drive Plainville, Connecticut 06062 Phone: 860-747-6181 Fax: 860-747-8822" (the "Coastal Site Plan") are as follows:

- (a) Developed shorefront, defined as port and harbor areas which have been highly engineered and developed resulting in the functional impairment or substantial alteration of their natural physiographic features or systems.