

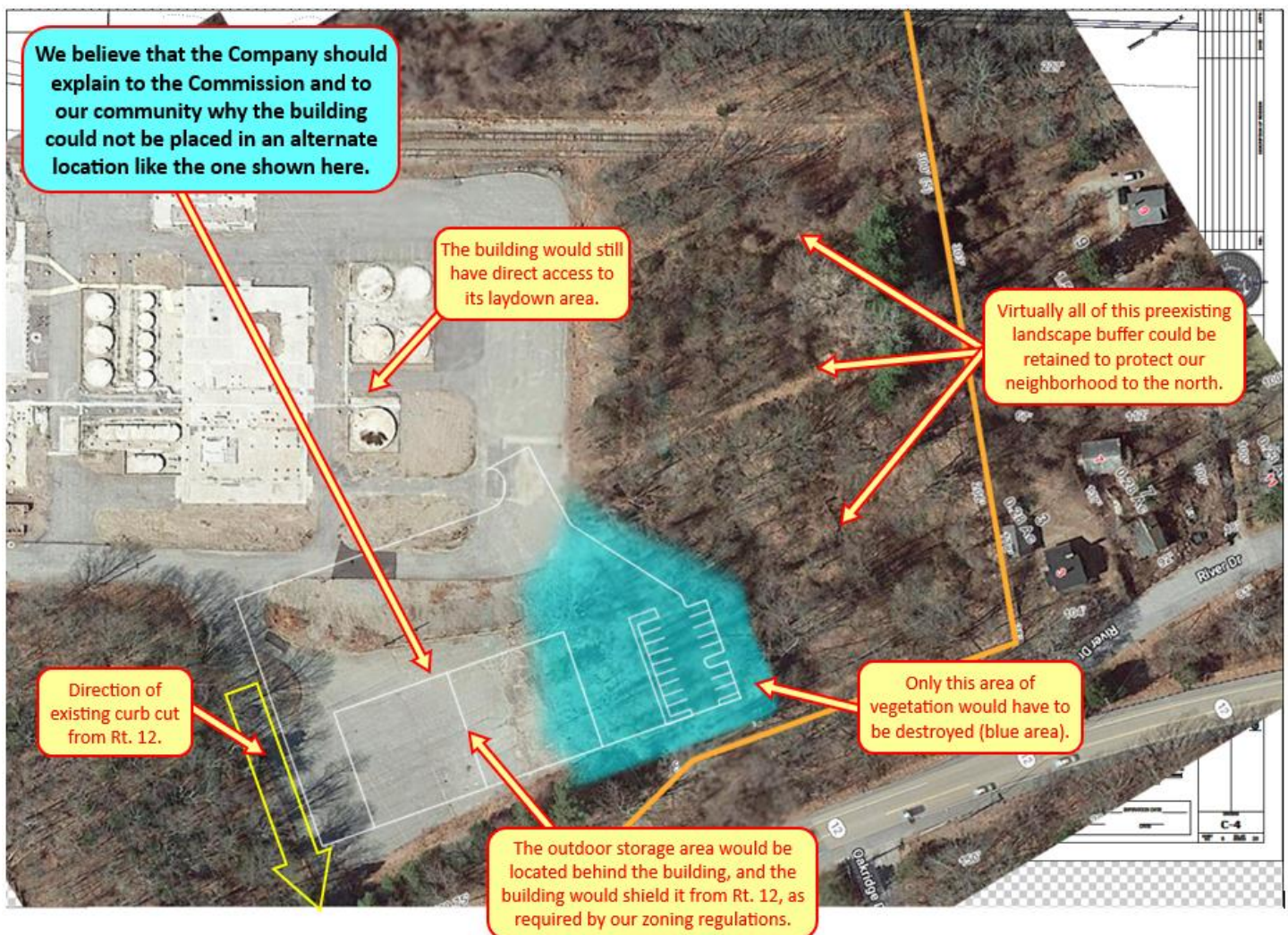
Date: 5/10/23
To: Ledyard Planning and Zoning Commission
Cc: Ledyard Town Planner
From: Citizens Alliance for Land Use (CALU), a Connecticut non-stock corporation
Re: Cashman Hearing 4/13/23 and revised plan set dated 5/1/23
Special Permit Application PZ#23-4SUP

OVERVIEW

During the 4/13 hearing, CALU proposed an alternate building location over toward Rt. 12, an area that is mostly cleared of vegetation already and where a pad already exists. This alternate location is outlined in white in the illustration below.

At this location, the building and its associated outdoor activity would have substantially less adverse residential impact than what the Company is proposing, most of the preexisting landscaping buffer would be retained, and the building would still have direct access to its proposed laydown area. Most importantly, at this location, the building and its associated activity would adequately meet our zoning regulations, which we believe the Company's revised 5/1/23 plan still does not.

This document will provide more detail supporting these statements and will also speak to takeaways from the 4/13 hearing.



DETAILED DISCUSSION.

This “DETAILED DISCUSSION” section details our takeaways from the 4/13 hearing, which will then be summarized at the end of this document in the “SUMMARY” section. For those sections impacted by the Company’s revised plan set dated 5/1/23, we’ve modified our comments to reflect that.

Why is the building being constructed in two stages?

Mr. Heller began the 4/13 hearing by explaining that the proposed building would be constructed in two 10,000 square foot halves. [19:48:29] We’re interested in understanding why the building is not simply being constructed in its entirety, and when construction would begin and end for each phase of construction.

Questionable arguments.

In describing the building, Mr. Heller said that it “not only is consistent with the zoning of the property, but it is consistent with the historic use of the property that has been ongoing for nearly 200 years.” [19:53:42] To this statement, we have these opinions:

- 1) The building’s proposed close proximity will certainly have adverse impacts to the abutting northern neighborhood, thereby violating many of our zoning regulations (see sections below on “Site Development Standards” and “Special Permit Criteria”).
- 2) The property’s lengthy industrial history is not relevant to this application.
- 3) Previous industrial uses on the property were not nearly as massive in scope as are those being proposed by this company. “The quiet neighbor” is a term commonly used by residents to describe the former business that had been operating for 60+ years on that site.

Front, rear, side yard.

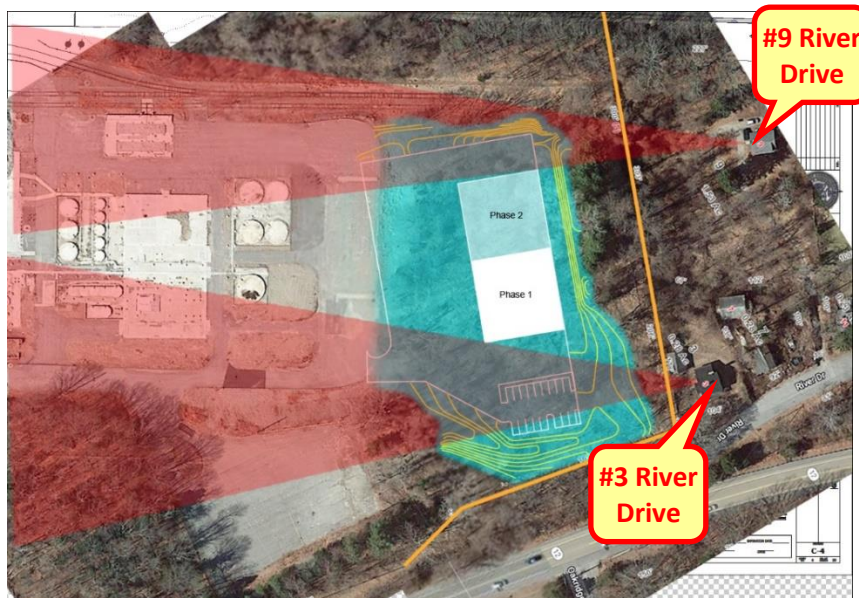
Mr. Heller stated, “Now, what’s very important here is ... we’re looking at a small segment of this site. This site is one piece of property and it’s 158 acres. So, when you consider rear yard, front yard, and side yard, we’re not looking at the building proper but the property as a whole in determining how those yards apply under your regulations.” [19:55:57]

This is not actually the case. Under our zoning regulations, the “front” of the property is that which faces Rt. 12. (Note: this argument has relevance when it comes to outdoor storage requirements, discussed in more detail below.)

The building itself would be a buffer?

There was discussion that some work would be done outside in the laydown area south of the building, but that “the building itself will be a buffer” [19:57:25] to this outside work. Several times during the hearing, the building was repeatedly described as an unqualified buffer to the northern neighborhood. **But the truth is that ... even when fully complete at 20K sq. ft. ... even at its new proposed location ... the building would be a partial buffer at best.**

As shown here, the two abutting northern properties ... the blue house at #3 River Drive and the red house at #9 ... would be only **partially** shielded from work being done in the laydown area (and the rest of the property to the south). The red cones shown here reflect sight lines from the red and blue abutting houses, contradicting the assertion that the building would buffer them adequately. Also, the building would only **partially** shield the neighborhood from noise, not only for abutting properties but also for other nearby homes.



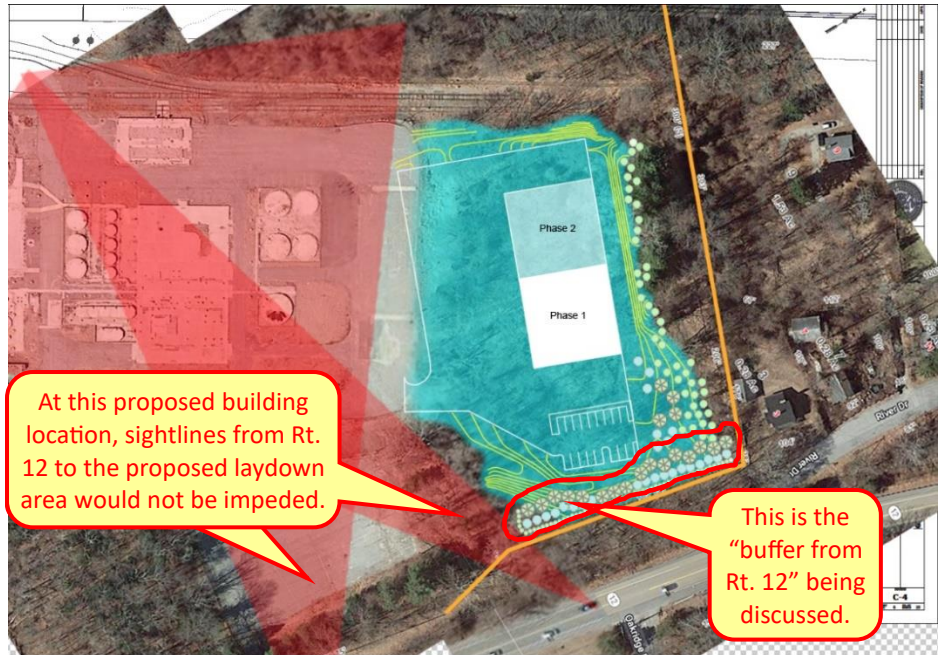
Landscape buffering from Rt. 12.

During a review of zoning paragraph 8.10, Mr. Heller said, “When you review the landscaping plan, what you will note is that we’ve also provided buffering from Rt. 12, so we have a landscape buffer along Rt. 12 to buffer and screen the outdoor storage area and the laydown area from being visible from Rt. 12.”

[19:59:32] This statement was also inaccurate and remains inaccurate even with the new (5/1/23) proposed building location.

In reality, the proposed landscaping down the east side of the paved area and parking lot would provide **little to no additional screening** of the laydown area from Rt. 12. The red cones shown here represent sightlines from Rt. 12 into the laydown area.

However, the outdoor storage area would be adequately screened from Rt. 12 if the building was constructed at the alternate location we’ve proposed.



At this proposed building location, sightlines from Rt. 12 to the proposed laydown area would not be impeded.

This is the “buffer from Rt. 12” being discussed.

Site Development Standards.

Beginning on 20:08:26, Special Permit criteria were discussed. Referencing section 11.3.4.A, Mr. Heller stated that “the standards for approval of any accompanying Site Plan application have been met.” He also mentioned that Mr. Andrews would review how the site plan complies with our zoning regulations. **But neither Mr. Heller nor Mr. Andrews spoke to specific Site Development Standards by section.** We’ve previously submitted our written positions on Chapter 9: Site Development Standards, but we will summarize them again here.

If the building were to be constructed at the alternate location we’ve proposed, we believe that the following Site Development Standards would be, for the most part, adequately met:

- No dust, dirt, etc. would be emitted into the air so as to endanger the public health, safety, or general welfare, or to decrease the value or enjoyment of other property 9.2.C.1.
- ... no noise which is unreasonable in volume, intermittence, frequency, or shrillness would be transmitted beyond the property boundaries. 9.2.C.3
- ... no vibration would be transmitted beyond the property boundaries. 9.2.C.4
- The proposed building location and its attendant landscaping plan would adequately protect neighbors from “noise and visual intrusion”, and “preserve or improve the quality of the environment and attractiveness of the Town of Ledyard.” 9.3.A
- To the extent possible, existing trees and vegetation would be retained. 9.3.B.3
- Retention of existing topography and vegetation would be given priority over re-grading and new plantings. 9.3.B.5
- Landscaped areas would provide a visual buffer between adjacent properties or enhance the appearance of the district. 9.3.C
- Appropriate screening would minimize noise, dust, vibrations ... and substantially dissimilar aesthetics. 9.3.D
- Outdoor storage areas would be fully screened from view from any road or neighboring structure. 9.3.E
- Outdoor storage of equipment or materials would be located to the rear of the principal building and would be screened so as not to be visible from any street or abutting properties. 9.7.C

At the building’s proposed location as reflected in the Company’s 5/1/23 plan, we do not believe that the Company can satisfy the burden of proof that these Site Development Standards would be met.

Character and property values.

In discussing 11.3.4.C, Mr. Heller referenced CT Public Act 21-29 was referenced. Here is the relevant text from 21-29:

“Such regulations shall be drafted with reasonable consideration as to the [character] physical site characteristics of the district and its peculiar suitability for particular uses and with a view to [conserving the value of buildings and] encouraging the most appropriate use of land throughout [such] a municipality.”

Mr. Heller argued that the elimination of the word “character” meant that our Commission should not take preserving the character of our neighborhood into consideration. He further argued that the elimination of the phrase “conserving the value of buildings” meant that our Commission should not take protecting our property values into consideration.

Think about this for a minute ... is the Company suggesting that it should NOT be required to preserve our neighborhood's character or protect our property values? Even if the language in 21-29 was pertinent to this application (which it is not), why would a “good neighbor” company even suggest such a thing?

(For edification, language in the paragraph above from 21-29 was modified primarily for the purpose of preventing discrimination against homeowners on the basis of race, color, national origin, socioeconomic status, etc. It was not intended to be used by an industrial district to circumvent its responsibility to protect neighboring residential districts.)

Special Permit Criteria.

Specifically, to section 11.3.4, we believe that these Special Permit Criteria would be adequately met if the building were located at our proposed alternate location over by Rt. 12, but not if located where the Company is currently proposing it:

- 11.3.4.C “... 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”.
- 11.3.4.D “... that no adverse effect would result to the property values or historic features of the immediate neighborhood”.
- 11.3.4.E “... that the character of the immediate neighborhood would be preserved in terms of scale, density, intensity of use ...”.

The building is innocuous?

Related to 11.3.4.D, it was then argued to the Commission that “in the entire array of industrial uses, a 20,000 square foot repair facility for marine equipment repair is a fairly innocuous use”, the implication being that it could be even worse. **But this is another flawed, irrelevant argument.**

First of all, if, for example, the Company were to propose something “even worse” ... a louder operation, a larger building, etc. ... their responsibility to protect their neighbors and comply with State and Local regulations would remain unchanged. **The more egregious the operation, the greater the degree of mitigation that would be required of the Company.**

Secondly, as mentioned in the 4/13 hearing, we visited neighbors of a Caterpillar repair facility and **the closest neighbor (~300 feet away) described the operation as noisy and dusty**, caused by heavy equipment being moved around the yard. We need **much** more information from the Company on operational details in order to calibrate exactly how innocuous this building (and its associated outdoor activity) might be.

Lastly, the repair and maintenance of heavy equipment is not a quiet operation, especially when some of it is being proposed outside of a building in a laydown area.



State noise regulations.

It was stated that the Company will comply with State noise regulations of 61 dba daytime, 51 dba nighttime at the property line, that the applicant knows they have to comply, and that those are “very conservative requirements”.

For reference, examples of 61 dba are normal conversation or background music. And shown here is just one sample noise matrix, showing that a typical dump truck or front-end loader well exceeds 61 dba even at 300 feet away.

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

Note¹: Noise levels are from Federal Highway Administration (FHWA) 2006 data
Note²: The reference sound level for Morbark 1100 Tub Grinder is provided by Oxygen Environmental Ltd., Article 12 Compliance Information, 22 Dec 2004

Flood zone

Late in the 4/13 hearing [20:57:26], Ms. Hodge asked whether activity on the parcel west of the railroad tracks was integral to activity on the east side of the tracks, and Mr. Heller responded, “Without question.” When Mr. Andrews discussed the FEMA flood zone of 12 feet, he stated that there would be “no proposed activities in that area [meaning, in the flood zone]” because the building is being proposed at 22 feet. But since activity west of the railroad tracks (presumably within the flood zone) would be integral to activity on the east side of the tracks, doesn’t our Commission need more information relating to building-related activity that **would** take place within the FEMA flood zone, so that they could take that into consideration?

Hours of operation.

The Company is now saying that its hours will be 6 AM – 5 PM or 11 hours/day. So ... surrounding neighbors (including those across the river) will begin hearing this industrial operation at 6AM every morning? How many days per week? Starting this type of operation so early in the morning, at a proposed location so close to neighboring homes, is not reasonable.

Comments from our Town Planner

Beginning at 20:49:56, there were many insightful comments made by Ms. Hodge about the following topics:

- Company master plan (which was previously presented to our Commission) to build out this entire property, including known plans to increase the site’s intensity of use. (Commissioner Baudro echoed these comments.)
- Rationale for why buffer areas are so crucial.
- Powers of the Commission under a Special Permit, including “you can’t overcome a big metal building next to a little blue house, but you can require a buffer so that the little blue house doesn’t have to see it.”
- The option that we proposed to locate this new proposed building by Rt. 12 where the area is already mostly cleared.
- Additional details we need from the Company to clarify its proposed operations before a permit could be granted.
- Her comment that “Fences make good neighbors; big buffers make even better neighbors.”

Q&A from Commissioner Wood

For about ten minutes beginning at 21:03:43, Mr. Wood engaged with the Company, trying to gain a better understanding of just exactly what “marine maintenance” would entail, both in the building and also outside in the laydown area. For reference, this is how the building and operation were described earlier in the hearing:

“The building under this application will be utilized as a marine services facility, for repair and refurbishment of equipment and vessels that are utilized by GFI’s affiliate, Cashman, in their marine dredging and contracting business ... it will be utilized for the repair of heavy construction equipment that is utilized by Cashman in its marine operations.” [19.54.30] It was also described as a “20,000 square foot repair facility for marine equipment repair.”

Therefore, Mr. Wood **did** hear correctly that this new building and accompanying outdoor area was described as “marine repair and maintenance.” He was also given the rendering shown here, relating to comments made by the Company about aggregate storage, a use that is unrelated to this application. We won’t rehash all of this Q&A since we all heard it at the hearing.



Comments from Mr. Lucas, owner of abutting property #3 River Drive.

One notable question from Mr. Lucas: “If you don’t know what the marine maintenance operation is going to be, how do you know how noisy it’s going to be? You’d need an acoustic engineer.” [21:23:23] Exactly! Without significantly more clarity regarding proposed operations, how can the Company possibly give comfort to our Commission that noise levels will not be exceeded. And this, of course, leads us back to the issue of monitoring, testing, and reporting which we believe should be written into this Special Permit.

SUMMARY

This “SUMMARY” section is simply a recap of the topics outlined in the “DETAILED DISCUSSION” sections above:

- We are interested in understanding why the building is being proposed in two stages.
- The currently proposed proximity to the northern neighborhood was, and remains, unreasonable. We’ve supplied an alternate, acceptable location for this new building.
- The Commission was asked to treat front, side, and rear yards loosely but, per our zoning regulations, the “front” of the GFI property is that which faces Rt. 12.
- The Company argued that the building itself would adequately buffer the northern residential neighborhood from the laydown area, but that was and is only partially accurate.
- The Company stated that they were proposing landscape buffering to screen the outdoor storage area from Rt. 12 but, in reality, that particular section of landscaping would have had virtually no impact whatsoever.
- There are myriad Site Development Standards, detailed above, that would be violated if the building were located where proposed in the Company’s 5/1/23 plan set. But those standards would be adequately met if our proposed alternate building location was used.
- The Company suggested that our Commission should NOT worry about preserving our neighborhood’s character or protecting our property values. (The cited statute is not pertinent to this application.)
- The new building was described as “innocuous”. We do not agree with this label. Additionally, the myriad of Site Development Standard violations would exist just the same unless the building was relocated.
- The hours of operation proposed by the Company are to begin heavy equipment repair operations at 6AM. That is not reasonable for surrounding neighbors.
- State noise regulations were discussed as if they are a non-issue but that is far from the case.
- We have open questions regarding whether related activities might fall within the flood zone.
- There were many questions and concerns raised by our Town Planner which we feel are valid.
- During Commissioner Wood’s Q&A with the Company, somehow the storage and transfer of aggregate (with a related Company rendering) came into the discussion, a use which is unrelated to this application.
- Mr. Lucas raised a point about noise and the probable need for the involvement of an acoustic engineer.

CONCLUSION.

The Company's decision to purchase industrial property surrounded by residential properties brings with it more responsibility to care for its neighbors than if they had purchased in a heavily industrial area where this type of operation really belongs.

While we understand the need for economic development, we are counting on our Planning and Zoning Commission to consider the effects and to protect us. In our opinion, there are a myriad of zoning regulations that would be violated if the Company were allowed to locate this new building where it has been proposed (including the Company's latest proposed location as outlined in their 5/1/23 plan set). For the many reasons discussed above, we submit that our Commission should deny this application in its current form.

However, we would support this Special Permit Application if the building were to be located over toward the open pad facing Rt. 12, where the building and its associated outdoor activity would have substantially less adverse residential impact, most of the preexisting landscaping buffer would be retained, the building would still have direct access to the Company's proposed laydown area, and our zoning regulations would be adequately met.

Thank you very much for your time in considering our thoughts and concerns. CALU