

DEC 05 2024

Land Use Department

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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 ^{Darryl Lee} 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 Macdonald has pointed out that quarrying was specifically taken out of the regs in Oct. 1975.*
- Throughout their verbal presentations to the Commission, even the experts themselves keep flip-flopping between calling it an excavation and a quarry.
 - MDB (name needed) continuously referred to the proposal as a quarry... as a professional blasting expert, he should know.
 - (more examples)

Obfuscation

Switching burden of proof from the applicant to the homeowner. If there is any question about the intent of the wording "Excavation heavy", I encourage the commission to take staff into consideration.

- MDB said it is up to their insurance company to process any claims to damage.

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

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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.

o https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-69Section_22a-69-1.5/

- No measurements of existing base-level noise were taken on any neighboring properties. HiMmH 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.
 - o 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.
 - o 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.
 - o 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.

Expert o Testimony recommending to reduce the number of access points for the schools from 4 to 1, so they can use the light.

Economic Development

The whole gist of Section 7 (in the town regulations) is that economic development does not take precedence over quality of life. (citation needed)

- Daniel Poland stated on 11/14/24 () 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 (1:26:00). 26k sq-ft of new construction has been built, separate from this application at one end of the property.
 - 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

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. Her 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 quarry phase. (timestamp needed)
- ~~Negative impact on property values is illegal at the Federal Constitutional level.~~

* & Denise) Poland
 from Gorman & York
 misrepresented the
 conclusions of the
 studies he referenced.

Health and Safety

- On-site 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 Commission on Nov 14, expert Michael McCarter (HMMH Harris Miller Miller & Hanson; Ex #130, #132 Noise and Air Quality peer review) testified before the commission that public exposure to _____ needs to be

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addressed. Further that ambient air emissions (of dust?) 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 (date needed), (name needed) from MDB (name needed) 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 cloud as "mitigating" into the surroundings - 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?

History
- Platts of Montezuma song.
- Comparison to battle of Bunker Hill