

**PLANNING STAFF REPORT for 01/30/25 Commission Deliberations #2**

**PZ#24-8SUP/24-9CAM – 1737 & 1761 Route 12 – GFI, LLC**

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Tyche Planning & Policy Group**

**Note: This document is intended as a guide. It has been prepared by Town Staff and Town Consulting Staff in an effort to guide the Commission regarding relevant Ledyard Zoning Regulations that it is recommended should be reviewed and considered when deliberating and making a decision regarding Application #PZ24-8SUP & 24-9CAM.**

**A reference document to this Planning Staff Report has been prepared as Attachment “1.” It provides links to relevant expert testimony of the Applicant, Town Consultants, the Intervenor and various Experts who are members of the public.**

**- GENERAL STAFF COMMENTS:**

The Commission is being asked to approve a Special Permit/Site Plan and Coastal Site Plan Application for Gales Ferry Intermodal, LLC as submitted by Heller, Heller, & McCoy for the excavation of a roughly 40-acre site, removing approximately 5M cubic yards of material to create an approximately 26-acre flat industrial pad site for future industrial uses. The project, as proposed, will be completed during five phases over the course of ten years. The application consists of a site plan review, a coastal site plan review, and a special permit review.

The property at 1761 and 1737 Route 12 is located in the Industrial Zone along the Thames River. As stated in the Zoning Regulations (“regulations”), the purpose of the Industrial zone is *“To encourage the adoption, continuation and expansion of manufacturing, research, and industrial uses in a way that protects our natural assets.”* As found in ZR Section 6.4 (Schedule of Permitted and Specially Permitted Uses: All Non-Residential Districts) on page 6-7 of the regulations, Major Excavation Operations ( $\geq 300$  cu yds §8.16) are an allowed use in the Industrial Zone subject to a special permit approval.

In addition, the property’s location along the Thames River and partially in the Flood Zone makes it subject to ZR Section 12, Coastal Management Area and Flood Protection. In its review and decision-making process, the Commission must consider the criteria found within Section 8.16 – Excavation, Section 9.2 (Site Development Standards), Section 11.2 (Site Plans), Section 11.3 (Special Permits) and Section 12 (Coastal Area Management and Flood Protection), and others.

- **REVIEW OF ZR SECTION 2 (DEFINITIONS) – EXCAVATION MAJOR & SECTION 6.4 (Schedule of Permitted and Specially Permitted Uses: All Non-Residential Districts):**

*Zoning Regulations (ZR) Section 2.2 (Definitions) defines “Excavation, Major” as “The excavating or relocating or the movement of 300 cubic yards or more of topsoil, sand, gravel, clay, stone or other materials to, from or on any lot.”*

*ZR Sec. 6.4 (Schedule of Permitted and Specially Permitted Uses: All Non-Residential Districts) allows, under “Industrial, Principal,” “Excavation Operations – Major (> 300 cu yds) §8.16” by Special Use Permit (SUP) in the I zone. The subject properties, 1737 & 1761 Route 12 (“subject properties) are located in the Industrial (I) zoning district.*

*Staff Comment: Staff recommends the Commission make a finding that the use proposed by the Applicant, “Excavation., Major,” as defined in ZR Sec. 2.2 (Definitions), is a specially permitted use that may be approved by the Commission if the proposed use complies with all relevant sections of the Regulations.*

*Commissioner Comment:*

- **REVIEW OF ZR SECTION 8.16 – EXCAVATION (FILLING OR REMOVAL OF SOIL, GRAVEL & STONE)**

In accordance with Section 8.16 of the Zoning Regulations, operations which fill, excavate, or relocate 300 cubic yards or more of topsoil, sand, gravel, clay, stone, or other material must be issued a Special Permit by the Commission. The stated purpose of Section 8.16 is to insure the following:

1. The landscape is not needlessly marred during and after operations;
2. The work will not be a source of dust, pollution, and/or siltation;
3. The site will not be generally characterized by unsightliness as evidenced by open pits, rubble or other indications of completed digging operations which would have a deteriorating influence on nearby property values; and
4. The site will have future usefulness when the operation is complete.

**Staff Comments:** Upon reviewing the record, it appears that the Applicant has demonstrated consistency with the criteria noted above. The site plan contemplates significant improvements once completed to stabilize the surface and prevent erosion;

measures will be taken during and after the operation to mitigate impacts of dust pollution and siltation; and once the operation is complete, a 26-acre level pad site will be created allowing for future industrial uses.

Commission Comment:

- **REVIEW OF SECTION 11.3.4 – SPECIAL PERMIT CRITERIA**

As noted within Section 8.16, the application for such work is subject to a Special Permit under Section 11.3 of the Regulation. **Section 11.3.4 includes the following specific Special Permit criteria which must be met for the Commission to consider approval:**

- 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;**

*Staff Comment: Upon reviewing the latest site plan and supporting documents, Staff opines that the plan is in compliance with all applicable sections of the regulation including Site Plan Review, Major Excavation, and Coastal Area Management.*

Commissioner Comment:

- 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;**

*Staff Comment: The applicant has indicated that the majority of the material to be moved off site will be done so using a barge along the Thames River, and upon review of expert testimony provided by both the consultant hired by the applicant and the consultant hired by the Commission, it is the opinion of staff that this project will not cause undue traffic generation leading to additional congestion. The application itself limits truck traffic to 50 round trips per day, which equates to 50 trucks entering and leaving the site daily in addition to employee vehicles. Trip modeling completed by both consultants indicates that this project will not lead to additional congestion, and it is noted that this site generated traffic is minimal giving due consideration to the carrying capacity of Route 12.*

Commissioner Comment:

- 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;**

*Staff Comment: The project is classified as a major excavation operation as allowed in the zone. Although the excavation will be a large component of the site for a long duration, the project will ultimately create 26 acres of flat industrial land within an existing industrial zone for the development of industrial buildings and/or green energy related development. The property has been used for industrial purposes for over 100 years, currently occupied by American Styrenics & Cashman Marine and recently was the home to a Dow Chemical plant. Allowed uses in the zone include various commercial uses, as well as heavy industrial uses, sawmills, manufacturing facilities, warehouses, and solar energy systems. The proposed excavation operation is industrial in nature, as is the goal of creating usable industrial land which is in harmony with the industrial uses further to the north on the property and uses allowed in the zone. The Thames River has been used for the transport of goods to and from the towns that lie along its banks for as long as the communities have been settled. Deep water ports are available in several locations, including at this site, to facilitate industrial activities. In addition, the Providence and Worcester Railroad operates an existing rail line which runs through the property, allowing for freight to be shipped to and from the property easily.*

*Commissioner Comment:*

- D. that no adverse effect would result to the property values or historic features of the immediate neighborhood;**

*Staff Comment: The Commission contracted with Goman and York to provide an analysis of current and future property values and a market analysis. A thorough discussion is included in the expert testimony compiled by the firm. All studies and evidence used within the report suggest that there will be no negative impact on the property values of nearby residential properties. While the study suggests that there is a slim chance of temporary negative impacts to nearby property values, the study suggests that due to additional jobs and increased economic activity in the area, property values may actually increase in the long-term. There has been much discussion regarding the historic asset of Fort Decatur, which is to be transferred to the Archaeological Conservancy for permanent preservation.*

Commissioner Comment:

- 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;**

Staff Comment: The term “immediate neighborhood” is somewhat difficult to define. There is no definition in the zoning regulations related to the term, so the Commission must rely on another definition. An available definition coming from the Law Insider which states “Immediate neighborhood means an area separated by no appreciable space and specifically denoting a limited number of properties in a very close space relationship to each other, such as properties located within the same block.” Considering this definition, the Commission has discretion to -determine whether the homes across Route 12, and those to the south of the power line right-of-way would be included in the “immediate neighborhood.” If not, then the only consideration is the existing property and the adjacent industrial use.

Commissioner Comment:

- 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**

Staff Comment: Several expert testimonies have been submitted with regard to these environmental concerns. As a result of the two intervenors as well as comments from the public, town staff, and town consultants, the plans have been revised several times to address these environmental concerns.

Additional stormwater mitigation measures have been implemented, and a dust control protocol will be used.

Extensive testing of the rock was done to ensure that the rock on the site which is to be blasted contains no harmful compounds, and radon testing will be completed at nearby homes before blasting takes place and after blasting has begun to ensure that no one is exposed to radon as a result of the work.

In addition, an Erosion and Sediment Control bond will be submitted to the town that can be used in the event of a failure by the contractor to properly protect the site from erosion.

*In any administrative, licensing or other proceeding, the agency (Commission) shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect as long as, considering all relevant surrounding circumstances and factors, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.*

Commissioner Comments:

**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.**

*Staff Comment: As noted above, the goal of the Industrial zone is to allow the continuation and expansion of manufacturing, research, and industrial uses. Stated goals in the 2020 POCD that relate to this project include encouraging economic growth and diversification in order to expand the nonresidential tax base, develop new utility infrastructure, foster the development of vacant or underutilized commercial and industrial zoned land, and utilize a variety of traditional and nontraditional strategies to attract business to Ledyard (Section VII, pp37-38). As discussed previously, this property is and has been zoned for industrial use for decades. The proposed project will create an additional 26 acres of flat usable industrial land in an area with good connections to the river, rail, and access to two interstate highways.*

The Commission has received 422 exhibits consisting of application materials, public comments, certified environmental interventions, expert testimony on various subjects, and staff comments. Subject matter experts included those relating to airborne pollution, stormwater, radon, arsenic and lead, noise and vibrations, and traffic, among others.

Staff has reviewed the substantial amount of evidence and supporting documents that have been submitted during this application process, including public comments, questions from Commission members and expert testimony and advises that the applicant has submitted supporting evidence showing substantial compliance with the above criteria.

- **REVIEW OF OTHER RELEVANT REGULATIONS BY THE COMMISSION.**

Should the Commission make a finding that the use proposed in the application complies Excavation, Major, staff recommends it review all applicable Zoning Regulations for the record when deliberating and making its decision, including Section 1.3 (Purpose); 6.3.A – Purpose - Industrial District); 6.4 (Schedule of Permitted and Specially Permitted Uses: All Non-Residential; 8.16 (Excavation (Filling or Removal of Soil, Gravel and Stone); 8.23 (Mixed Use [Commercial and Industrial Uses]); Chapter 9 (Site Development Standards) – all applicable sections, including, but not limited to, 11.2 (Site Plan Application) & 11.3 (Special Permit Application); Chapter 12 (Coastal Area Management & Flood Protection.

***STAFF COMMENTS: THE COMMISSION SHOULD REVIEW ALL RELEVANT SECTIONS OF THE REGULATIONS.***

***ZR SECTION 1.3 - PURPOSE as follows:***

**1.3.1 PURPOSE:** The purpose of these regulations is to:

(A) lessen congestion in the streets; (B) secure safety from fire, panic, flood and other dangers;(C) promote health and the general welfare; (D) provide adequate light and air; (E) protect the state's historic, tribal, cultural and environmental resources; (F) facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements; (G) consider the impact of permitted land uses on contiguous municipalities and on the planning region, as defined in § 4-124i, in which such municipality is located; (H) address significant disparities in housing needs and access to educational, occupational and other opportunities; (I) promote efficient review of proposals and applications; and (J) affirmatively further the purposes of the federal Fair Housing Act, 42 USC 3601 et seq., as amended from time to time.

*Commissioner Comments:*

***ZR SECTION 6.3.A – PURPOSE – INDUSTRIAL DISTRICT as follows:***

**6.3 GENERAL COMMERCIAL AND INDUSTRIAL DISTRICTS: PURPOSE**

**A. Industrial District (I)**

**Purpose:** To encourage the adoption, continuation and expansion of manufacturing, research, and industrial uses in a way that protects our natural assets.

*Commissioner Comments:*

**ZR SECTION 8.16 EXCAVATION (FILLING OR REMOVAL OF SOIL, GRAVEL AND STONE as follows:**

**8.16.1 EXCAVATION (FILLING OR REMOVAL OF SOIL, GRAVEL AND STONE)**

- A. Filling, excavating, or the relocation of 300 cubic yards or more of topsoil, sand, gravel, clay, stone or other materials in any district is allowed by Special Permit and requires a Plan of Operation.
- B. Filling, excavating, or the relocation of less than 300 cubic yards (per calendar year) of topsoil, sand, gravel, clay, stone or other materials in any district is allowed by a Zoning Permit issued by the Zoning Official (except if part of an approved construction site of a permitted building, part of a farming operation, or is an exempt activity as permitted by these regulations.)
- C. The sale, destination, or ultimate use of the removed topsoil, sand, gravel, clay, stone, or other materials does not determine whether a Zoning Permit or Special Permit is required.
- D. The purpose of these regulations is to insure the following:
1. the landscape is not needlessly marred during and after operations;
  2. the work will not be a source of dust, pollution, and/or siltation;
  3. the site will not be generally characterized by unsightliness as evidenced by open pits, rubble or other indications of completed digging operations which would have a deteriorating influence on nearby property values; and
  4. the site will have future usefulness when the operation is complete.
- E. **Exception:** Provided the purpose stated above is satisfied, a permit is not required if the removal is associated with:
1. construction or grading activity associated with an approved Site Plan for which a Zoning and/or Building Permit has been issued;
  2. maintenance or operation associated with a farm or farming activity provided the topsoil, subsoil, sand, gravel, clay, stone or other materials from the operation are stockpiled for the farm's future use and not sold or brought off site; or
  3. road construction where no additional permits or approvals are necessary from the Zoning Official.

- F. Any removal of topsoil, sand, gravel, stone or other materials occurring beyond the stated extent of an existing operation shall be considered a new operation requiring a permit and subject to conditions contained herein.
- G. **Bond:** Before a permit is granted to an applicant starting an operation regulated by Special Permit under this Section, the applicant shall post a bond to the Town of Ledyard in an amount and form approved by the Commission to guarantee that the premises shall be excavated, graded and landscaped in conformance with the approved Plan of Operation.
- H. Deviation from the approved Plan of Operation, without the Zoning Official's, or Commission's approval, shall be a violation of these regulations.
- I. The use of explosive devices and rock crushing equipment may be limited as a condition of the permit.
- J. The Commission may impose hours and days of operation as conditions of the permit.
- K. A permit for the removal of topsoil, sand, gravel, clay, stone or other materials shall expire after three (3) years. The Zoning Office may, but is under no obligation, to provide a reminder notice regarding an expiring permit for soil, gravel, and stone removal.
- L. A renewal permit can be granted for three (3) years during the thirty (30) day period prior to expiration of an existing permit under the same procedure used for the initial approval. There is no limit on the number of times a renewal permit can be granted.
- M. **The applicant for a permit shall:**
1. Provide a completed application form indicating the nature and extent of the operation, the proposed land use with supporting data, a Site Plan in conformance with applicable criteria per Check Sheet in Appendix B (note, not all may apply), a plan for sediment and erosion control, and a Plan of Operations including a closure plan prepared and approved by a licensed Professional Engineer showing how the entire site will be closed/restored upon completion of the excavation. For phased operations, no permit shall be issued for a subsequent phase until the prior phase has been completed and a report provided by a licensed Professional Engineer.
  2. Applications that involve filling, excavating or relocation of topsoil, sand, gravel, clay, stone or other minerals shall also contain:
    - a. Applicable Site Plan information per check sheet
    - b. The proposed truck access to the excavation.
    - c. The hours of operation.
    - d. The machinery to be used on site.
    - e. The type of buildings or structures to be constructed on site.

- f. Location of existing structures on the subject parcel and adjacent properties, including information regarding depth to the ground water table and a log of soil borings taken to the depth of the proposed excavation.
  - g. details for final grading and landscaping after completion of operations, and proper drainage of the area of the operation during and after completion of the work.
3. Applicant shall sign a document provided by the Zoning Official to certify that the excavation/Filling Operation will be conducted in conformance with these regulations, the approved Plan of Operations, and the plan for sediment and erosion control.
  4. For a permit renewal application, the applicant shall provide a report on the excavation operation prepared by a licensed Professional Engineer, which shall attest that the excavation, as completed to date, conforms to the approved Plan of Operation.

N. **Operations:**

1. The gravel bank floor area shall be graded not less than one percent (1%) or more than four percent (4%) to provide for surface drainage.
2. A twenty (20) foot wide by fifty (50) foot long tracking pad at the site entrance consisting of three (3) inch crushed stone shall be installed prior to the start of operations.
3. For Excavations involving Special Permit approval, no removal shall take place within twenty-five (25) feet of a property line, nor within fifty (50) feet of a highway property line: such distances to be measured from the top of the bank. If removal area is within sight of a Town/State Road, the Commission may require additional screening as part of a Special Permit approval. The Commission may require a similar screening if isolation of adjacent property is deemed necessary. No operation shall take place closer than fifty (50) feet from any wetlands, watercourse or waterbody.
4. Upon completion of operations, no bank shall exceed a slope of one (1) foot vertical rise in three (3) feet of horizontal distance. The disturbed area shall be covered with a minimum of four (4) inches of topsoil and graded. On completion of grading, the area will be limed, fertilized, and seeded in accordance with the approved Plan. The site shall be maintained until the area is stabilized;
5. The active gravel removal area shall not exceed a total of ten (10) acres at any time.
6. Temporary seeding, used to control erosion, is permitted during the time that the operation is being completed
7. All topsoil and subsoil shall be stripped from the operation area and stockpiled for use in site restoration.

8. Any surface water flowing from the excavated area shall flow through appropriate sediment control devices before leaving the site.
9. If excavation has occurred below the seasonal high-water table, the pond banks should be no steeper than a two to one ratio(2:1).

*Commissioner Comments:*

**ZR SECTION 8.23 (MIXED USE [COMMERCIAL AND INDUSTRIAL USES] ) as follows:**

**8.23 MIXED USE (COMMERCIAL AND INDUSTRIAL USES)**

- A. The mixture of uses in one structure or multiple structures, where each proposed commercial and/or industrial use is currently permitted in the underlying zone. There shall be no residential use allowed.
- B. Mixed-use (Commercial/Industrial) developments involving multiple structures shall be treated as one single development for purposes of signage, parking, setbacks, lot size, and buffering.
- C. For all new Mixed-Use developments, the applicant is encouraged to discuss the proposed mixed-occupancy and the required separation of uses and means of fire suppression prior to Commission Approval.

*Commissioner Comments:*

**ZR SECTION 9.2 (SITE DEVELOPMENT STANDARDS- PERFORMANCE STANDARDS) as follows:**

**9.2.C Performance Standards:**

Uses shall be designed to *minimize* any injury or nuisance to nearby premises by reason of noise, vibration, radiation, fire and explosive hazard, electromagnetic interference, humidity, heat, glare, and other physical impacts that may be caused by the use.

For Special Permit applications, *the Commission may impose additional restrictions on the use if it determines, after a hearing for which the owner of the facility is given written notice that the physical impacts of the use are causing a nuisance to nearby properties.*

The following performance standards shall apply to all uses of land subject to Chapter 9 of these Regulations.

1. No dust, dirt, fly ash or smoke shall 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 or to constitute an objectionable source of air pollution.
2. No offensive odors or noxious, toxic or corrosive fumes or gases shall be emitted into the air.

3. With the exception of time signals and emergency signals and noise necessarily involved in the construction or demolition of buildings or other structures, no noise which is unreasonable in volume, intermittence, frequency or shrillness shall be transmitted beyond the boundaries of the lot on which it originates.
4. With the exception of vibration necessarily involved in the construction or demolition of buildings or other structures, no vibration shall be transmitted beyond the boundaries of the lot on which it originates.
  5. Any glare or radiant heat produced shall be shielded so as not to be perceptible at or beyond the boundaries of the lot on which it originates.
  6. Fire and explosion hazards. Uses shall conform to the fire safety code of the State of Connecticut, the regulations of the Town of Ledyard, and any other applicable regulation.

**ZR SECTION 11.3 (SPECIAL PERMITS) as follows:**

**11.3.3 Proceedings:**

**B.** If a Special Permit application involves an activity regulated pursuant to CGS §22a-36 to § 22a-45, inclusive, the applicant shall submit an application for a permit to the Inland Wetlands and Watercourses Commission (IWWC) not later than the day such application is filed with the Commission. **A permit, valid until July 12, 2028 for regulated activities associated with the application were approved by the IWWC on July 12, 2023 with the following conditions:**

1. **In the event that the monitoring of the created wetland indicates a diminution or failure, the applicant will provide a plan to remedy within sixty (60) days, and act on the plan.**
2. **Mitigation must be completed before the completion of Phase I.**

**C.** The Commission shall hold a public hearing on the Special Permit application and:

1. publish a legal notice in accordance with the requirements of §11.6.6 of these Regulations, and
2. require that the applicant give notice to property owners in accordance with the requirements of §11.6.7 of these Regulations. **All completed. D.** Notification to adjoining municipalities may be required in accordance with §11.6.8 of these Regulations. **Completed.**

**E.** The Commission shall process the Special Permit application and any accompanying Site Plan application within the period of time specified in §11.6.4. **Completed**

*Staff Comments: See above in bold.*

Commission Comments:

**11.3.5 Decision Considerations:**

- A.** Before the Commission may approve a Special Permit application, it must determine that the application satisfies:
1. the Special Permit criteria in §11.3.4 of these Regulations; and
  2. all other applicable provisions of these Regulations.
- B.** On a Special Permit application involving an activity regulated pursuant to CGS §22a-36 to §22a-45, inclusive, the Commission shall:
1. wait to render its decision until the Inland Wetlands and Watercourses Commission (IWWC) has submitted a report with its final decision; and
  2. give due consideration to any report of the IWWC when making its decision.
- C.** On a Special Permit application involving notice to adjoining municipalities, under §11.6.8, the Commission shall give due consideration to any report or testimony received from such municipalities.

Commissioner Comments:

**D.** The Commission may approve an application for a Special Permit, deny the application, or approve the application subject to such conditions as it may deem necessary to protect the public health, safety, welfare, property values, and natural resources of the state. The Commission may also require that some or all conditions of approval be met prior to the issuance of the Zoning Permit by the Zoning Enforcement Officer.

*Staff comments: Staff recommends the Commission give due consideration to all three actions it can take with regard to this application.*

Commissioner Comments:

**F.** The submission of any application for Special Permit approval shall be deemed to represent a certification by the applicant and property owner that the proposed use will comply with the performance standards of §9.2C of these Regulations, and an acknowledgment that any approval of the Special Permit by the Commission will be made

in reliance on that certification and that such approval is conditioned on continuing conformance with those standards, whether or not such condition is expressly stated on the record. *If the use, as actually established and operating, fails to meet those performance standards, the Commission's approval of the Special Permit shall not prevent the issuance of a zoning enforcement order to remediate such noncompliance, even if such order may require a revision of the approved Special Permit.*

*Commissioner Comments:*

**11.3.6 Action Documentation:**

- A.** Whenever it acts on a Special Permit application, the Commission shall state upon its record the reason(s) for its decision.
- B.** The decision to grant a Special Permit shall:
  - 1. state the name of the owner of record;
  - 2. contain a description of the premises to which it relates;
  - 3. identify the section and/or sections of the Regulations under which the Special Permit was granted or denied; and
  - 4. specify the nature of the Special Permit.
- C.** The Commission shall send, by certified mail, a copy of any decision on a Special Permit application to the applicant within fifteen (15) days after such decision is rendered.
- D.** The Commission shall cause notice of the approval, approval with conditions, or denial of the Special Permit application to be published in a newspaper having a substantial circulation in Ledyard within fifteen (15) days after such decision is rendered.
- E.** In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten (10) days thereafter.

*Commissioner Comments:*

**ZR SECTION 11.2 (SITE PLANS) as follows:**

- A.** Applicability: Except as may be expressly provided elsewhere in these Regulations, a Site Plan application shall be submitted:
  - 1. for any proposed new use designated in the Regulations as requiring Site Plan or Special Permit approval. If a proposed Site Plan is being submitted in connection with a Special Permit application, the Commission's review of the Site Plan application shall be deemed to be an integral component of the Special Permit review;

2. for any expansion or other alteration of any existing use designated in the Regulations as requiring Site Plan or Special Permit approval if such change would affect the layout of any structure, facility, parking or loading area, or other physical feature shown on a previously approved Site Plan or, if no previous Site Plan was approved for such use, and such physical feature(s) would have been required to be shown on a Site Plan for a new use under any other provision of these Regulations. As used in this §11.2, the term “expansion” includes, but is not limited to, any change that does or is likely to increase the number of parking spaces required by §9.4 of these Regulations.

### **11.2.1 Submission Requirements**

A. A Site Plan application shall be submitted to the Land Use Office and shall include a completed application form and the appropriate fee.

2. Site Plans may be reviewed by outside experts and consultants, as determined by the Commission or Zoning Official. A fee may be charged to the Applicant for expert outside review per the Fee Schedule.

D. If required by the Commission, evidence of submission, review and acceptability of plans to other State and Local regulatory agencies with jurisdiction over some or all of the proposed structures and/or uses including but not limited to the following permits: Inland/Wetland permits, Ledge Light Health District Approval, Dept. of Transportation Encroachment Permit and/or State Traffic Commission permit, DEEP, Water Diversion Permit Floodway Encroachment Permit, WPCA, Groton Utilities, and/or SCWA approval for water supply.

E. A Site Plan application shall be accompanied by detailed plans, signed and sealed by one or more appropriate professionals. Generally, in order to determine the compliance of a Site Plan with the applicable provisions of these Regulations, the Commission will require the applicant to provide all information specified in the “Site Plan Check Sheet” in Appendix B of these Regulations. However, the Commission may approve or modify and approve a Site Plan application that does not include all such information if it finds that such information is not needed to assure that the proposed use or uses will be in compliance with the substantive provisions of these Regulations.

F. A Soil Erosion and Sediment Control Plan shall be submitted for applications that require Soil Erosion and Sediment Control Plans pursuant to CGS §22a-325 to §22a-329 based on the "Connecticut Guidelines for Soil Erosion and Sediment Control," (1985) as amended (disturbed area cumulatively more than one-half (.5) acre) which shall provide a mapped and written description of the following:

1. Locations of areas to be stripped of vegetation, re-graded and contour data indicating existing and proposed grades;
2. A schedule of operations, including the sequence of major improvement phases such as clearing, grading, paving, installation of drainage features and the like; Seeding, sodding or re-vegetation plans and specifications for all unprotected or un-vegetated areas;
3. Location, design and timing of structural control measures, such as diversions, waterways, grade stabilization structures, debris basins, storm water sediment basins, and the like. The narrative shall indicate design criteria used in the design of control measures;
4. A description of procedures to be followed to maintain sediment control measures;
5. The name of the individual responsible for monitoring the plan with whom an inspector for the Town may contact routinely; and
6. 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.

**G. Stormwater Management Plan:** All storm drainage for proposed commercial development in which the combined square footage of roofs, paved Parking Areas and other impervious surfaces exceeds ten thousand (10,000) square feet shall be designed in accordance with, and subject to, the provisions of the Stormwater and Stormwater Runoff Ordinances of the Town of Ledyard Ordinance #300-016 & 017 and shall be reviewed and approved by the Town Engineer and the Commission.

**H.** 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.

**I.** A Landscape Plan shall be submitted with any applications for new construction, or alterations to the size of existing buildings, parking, loading, and driveway areas, or a change in use that will expand the size of the building or parking, loading, and driveway areas demonstrating conformance with applicable sections of Chapter 9 and all other specific landscaping standards required for a particular use or district.

1. Landscape plans and designs shall include the layout, type, and size of all buffers, landscaping, plant materials, fencing and screening materials and shall include a

proposed a planting list, with plant names, quantities, size at planting, and size when mature. Typical sections may be shown. Existing plantings shall also be identified on the plan.

**2.** The landscape plan should include a description of the natural resources located on the parcel and clearly delineate construction boundaries to minimize disturbance of the site's existing vegetative features.

**3.** Location of existing trees with a caliper of more than six (6) inches, except in densely wooded areas where the foliage line shall be indicated.

**4.** For development within any Development District, the Commission may require such plans to be prepared by a professional landscape architect (e.g., American Association of Landscape Architects, ASLA).

**J.** A Lighting Plan (photometric plan) shall be submitted demonstrating conformance with §9.10. Plan shall also include the location, size, height, orientation, and design of all outdoor lighting.

**K.** The Commission may require the submission of additional information as deemed necessary to make a reasonable review of the application.

#### **11.2.4 Considerations:**

**C.** No Site Plan application shall be approved unless it is materially in conformance with all applicable provisions of these Regulations, including, but not limited to, the Site Development Standards in Chapter 9.

**D.** The Commission may modify and approve any proposed Site Plan if it determines such modifications are needed to satisfy the applicable requirements of these Regulations.

**E.** The Commission may, as a condition of approval of a Site Plan or modified Site Plan, require a financial guarantee in the form of a bond, a bond with surety or similar instrument to ensure (A) the timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality, and (B) the implementation of any erosion and sediment controls required during construction activities. The amount of such financial guarantee shall be calculated so as not to exceed the anticipated actual costs for the completion of such site improvements or the implementation of such erosion and sediment controls plus a contingency amount not to exceed ten per cent of such costs.

**F.** The Commission shall not approve any Site Plan for any property on which there exists a zoning violation, unless the implementation of such Site Plan would remedy such violation.

**G.** The submission of any application for Site Plan approval shall be deemed to represent a certification by the applicant and property owner that the proposed use will comply with the performance standards of §9.2C of these Regulations, and an acknowledgment that any approval of the Site Plan by the Commission will be made in reliance on that certification. If the use, as actually established and operating, fails to meet those performance standards, the Commission's approval of the Site Plan shall not prevent the issuance of a zoning enforcement order to remediate such noncompliance, even if such order may require a revision of the approved Site Plan.

**11.2.5 Action Documentation:**

A. Whenever it modifies or denies a Site Plan application, the Commission shall state upon its record the reason(s) for its decision.

B. The Commission shall send, by certified mail, a copy of any decision to the applicant within fifteen (15) days after such decision is rendered.

C. The Commission shall cause notice of the approval or denial of Site Plans to be published in a newspaper having a substantial circulation in Ledyard within fifteen(15) days after such decision is rendered.

D. In any case in which such notice is not published within the fifteen (15) day period after a decision has been rendered, the person who submitted such plan may provide for the publication of such notice within ten (10) days thereafter.

E. On any application for which the period for approval has expired and on which no action has been taken, the Commission shall send a letter of approval to the applicant within fifteen (15) days of the date on which the period for approval expired and such letter of approval shall state the date on which the five-year completion period expires.

Commissioner Comments: