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June 23, 2023

Town of Ledyard Planning and Zoning Commission
Attn: Mrs. Juliet Hodge, Director of Planning
741 Colonel Ledyard Highway
Ledyard, CT 06339

RECEIVED

JUN 28 2023

LAND USE DEPARTMENT

Re: Application of Gales Ferry Intermodal, LLC
1761 Connecticut Route 12, Ledyard, Connecticut

Dear Mrs. Hodge:

As you are aware, an application has been pending before the Town of Ledyard Planning and Zoning Commission for special permit, site plan and coastal site plan approval with respect to the development of a proposed commercial services facility on the above referenced property. As a result of both administrative and Commission review of the application, certain modifications have been made to the application in order to render the application approvable by the Town of Ledyard Planning and Zoning Commission. You have questioned whether or not the modifications which have been made to the proposed site development plan through the administrative process require re-noticing of the proceedings before the Town of Ledyard Planning and Zoning Commission. For the reasons hereinafter set forth, it is our opinion that no further notice, either constructive or actual, is required.

The application, as submitted, and as described in the "Narrative to Accompany Application of Gales Ferry Intermodal, LLC to Town of Ledyard Planning and Zoning Commission" dated March 7, 2023 describes the proposed use as the construction of a 20,000 square foot industrial building with certain accessory uses as are therein more particularly described. The original site plan submitted with the special permit, site plan and coastal site plan application evidences the fact that it was the applicant's intent to develop the 20,000 square foot building in two (2) phases, with each phase containing 10,000 square feet.


Through the administrative review process, the applicant has incorporated a second building, containing 6,000 square feet, into the development proposal as depicted on the June 21, 2023 revision of the site development plan. In conjunction with the proposed modifications to the

site development plan, the applicant has reduced the proposed size of the initial "Sterling Building" to 10,000 square feet and has designated an area adjacent to that proposed building as a "future 10,000 square foot addition". For purposes of clarity, the applicant is not requesting approval of the 10,000 square foot addition at this time, but may, in the future, seek approval of the same from the Town of Ledyard Planning and Zoning Commission. Therefore, the net effect of the modifications which have occurred through the administrative review process, as the same relate to the adequacy of the published notice of the public hearing, is a reduction in proposed building square footage under the current application from 20,000 square feet to 16,000 square feet of building area.

To be adequate, notice of a public hearing is required to fairly and sufficiently apprise those who may be affected of the nature and character of the action proposed in order to make possible intelligent preparation for participation in the hearing. *Nazarko vs. Zoning Commission of the Town of East Lyme* 50 Conn. App. 517, 519 (1998). Notice of a hearing is not required to contain an accurate forecast of the precise action which will be taken upon the subject matter referred to in the notice. *Kleinsmith v. Planning and Zoning Commission of the Town of Greenwich* 157 Conn. 303, 310 (1968). While the notice may not be misleading, it does not have to be exact. *R.B. Kent & Son, Inc. v. Planning and Zoning Commission of the Town of Ledyard* 21 Conn. App. 370, 378 (1990).

Generally, when an application is revised through the administrative review process to (i) effect consistency with the applicable zoning regulations (ii) result in a less intense proposal and (iii) attain greater consistency with the surrounding neighborhood than that contained in the original proposal, notice has been deemed adequate by a reviewing court. In this instance, the modifications which have occurred from the date of submission of the original application achieve all three of those parameters. The proposed buildings, as currently constituted on the revised site plan have been relocated significantly further distant from the abutting side yard lot line from the location depicted on the original site plan which was the plan of record when the statutorily and regulatorily required notices were published and mailed. It is therefore our opinion that the notice which has been provided of the public hearing on the Gales Ferry Intermodal, LLC applications is adequate and that the modifications to the site plan which have been effected as a result of the administrative review process do not require re-noticing of the hearing on the application.

Very truly yours,
HELLER, HELLER & McCOY

By: 

Harry B. Heller, a general partner

HBH/rmb