

PLANNING & ZONING COMMISSION

"FINAL EXAM"

(PZ#24-8SUP & PZ#24-9CAM)

EX#233-2
RECEIVED

DEC 12 2024

Land Use Department

- | | |
|-----|----|
| YES | NO |
|-----|----|
- 1) ■■ Is GFI allowed to arbitrarily modify the definition of "Excavation-Major" to include "the processing of earth product and rock prior to its removal from the property"?
- Even though ... Gales Ferry District intervenor Attorney Wilson Carroll, in Exhibit #66, states that it is "impermissible" to modify zoning language in this manner.
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|-----|----|
| YES | NO |
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- 2) ■■ If you answered "YES" to question 1), that it is allowable to modify our "Excavation" definition to include "the processing of earth product and rock", then will GFI's "active removal area" be contained within ten (10) acres at a time as required under regulation 8.16.N.5?
- Even though ... Exhibit 172, Loureiro plan set pages C-3 and C-4, shows PHASE 1 at ~9.0 ACRES plus a >1-acre processing location, thereby exceeding the maximum allowable 10 acres.
- Or do you accept GFI's argument that you should EXCLUDE "the processing of earth product and rock" when calculating the 10-acre maximum, even though you just agreed to INCLUDE processing under question 1)?
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| YES | NO |
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- 3) Does GFI's proposal qualify as an "Excavation" operation and NOT a rock quarry?
- Even though ...
- Our zoning regulations define "Excavation" as the filling, removal, and relocation of material ...
 - Whereas what is being proposed (blasting, crushing, hammering, etc.) are rock quarrying functions that alter the very nature of material.
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| YES | NO |
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- 4) Have GFI's "experts" and other third parties indicated that what GFI is proposing is "Excavation" and not a rock quarry?
- Even though ...
- GFI's property value expert MacCormack references a "rock quarry" over 30 times in their report. See Zoning Compliance Manual.
 - GFI's air emissions modeling expert referenced "the quarrying location ... stone quarry blasting ... the planned quarry site ... mining/quarry operations ..." in their reports. See ZCM.
 - GFI's blasting expert used the term "quarry" repeatedly.
 - GFI's sound "expert" RSG uses the term "Gales Ferry Mine" Reference Exhibit #37. Note: terminology suddenly changed in Exhibit #221.
 - CT DEEP referenced "quarry operations, including the preparation of the site for quarrying" in their 9/12/24 letter. Reference Exhibit #63.
 - The Hartford Courant quoted, "Gales Ferry Intermodal contends it can do the quarrying without health hazards or excessive noise for neighbors and argues that it would benefit the town overall." Reference Exhibit #110.
 - You have Exhibit #206 which includes OSHA references that would label this proposed operation "mining", not "excavation".

YES	NO
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- 5) ■■ Regulation 8.16.I says, "The use of explosive devices and rock-crushing equipment may be limited as a condition of the permit". Does the mere mention of explosive devices and rock-crushing in 8.16.I mean that blasting and rock-crushing may be permitted as a PRIMARY use?

Even though ... blasting, hammering, rock-crushing, etc., are quarrying functions which are not permissible under our zoning regulations.

YES	NO
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- 6) Are blasting and rock crushing INTEGRAL to Excavation?

Even though ...

- It is possible to excavate without blasting and rock crushing (which means that these functions ARE NOT integral to excavation), but
- It is not possible to quarry without blasting and rock crushing (which means they ARE integral to quarrying).

YES	NO
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- 7) ■■ Has GFI satisfied regulation 11.3.4.D by proving "that no adverse effect would result to the property values ... of the immediate neighborhood"?

Even though ...

- You have a 22-page Exhibit #140 from local professional realtor Joanne Kelley indicating that property values would be adversely impacted.
- You have Exhibit #161 from the Journal of Environmental Law & Policy (December 2022) titled "Blasting Quarry Operations: Land Use Compatibility Issues and Potential Property Value Impacts" which references reduced property values and limited buyer interest. Most notable is their CONCLUSION section beginning on page 69.
- You have another Exhibit #193 from a local mortgage loan originator citing specific examples of negative property value impacts which are already occurring.
- You have another Exhibit #198 from professional realtor Natascia Klimas stating that "Residents and potential buyers prioritize safe, clean, and peaceful neighborhoods—qualities that are incompatible with the disruptions and risks associated with a quarry operation."
- You have another Exhibit #202 from professional realtor Joyce Perlot stating that "Home values are expected to plummet".
- You have MANY other Exhibits from residents testifying that they are considering leaving town and/or not recommending that others move into town, if this proposal is approved (including Exhibit #212 from an Active Duty Sailor).

YES	NO
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- 8) Was testimony in GFI's property value "expert" Steve MacCormack's report pertinent to this application?

Even though ... MacCormack's comparative properties were located near "rock quarries" which cannot be pertinent if GFI's application is supposedly for "Excavation" and NOT for a quarry.

YES	NO
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- 9) Was testimony from GFI's property value "expert" Steve MacCormack credible?

Even though ... data supplied was woefully insufficient, features of the comparative "quarries" were not considered, and he even admitted that some of his information came from Facebook comments!

YES	NO
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- 10) Was the Goman & York property value peer review report credible?

Even though ... it was a NIMBY-focused, self-described opinion piece that was dismissive and lacked any substantive supporting data.

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| YES | NO |
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- 11) Was Goman & York's follow up testimony unbiased?
- Even though ... Mr. When cross examined by Gales Ferry District intervenor Attorney Wilson Carroll, Mr. Poland opined that the Special Permit process is "abused", and he could not come up with a single example where he believed that any Commission had properly denied a Special Permit.
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| YES | NO |
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- 12) Is the Goman & York "fiscal and economic impact study" a comprehensive, credible report?
- Even though ... there are myriad inconsistencies, incomplete information, and open questions as outlined in Exhibit #211.
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| YES | NO |
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- 13) ■■ Is GFI a sensible location for a rock quarry operation and does the GFI proposal "follow all applicable goals and policies stated in Section 22a-92 of the Connecticut General Statutes." [Reference regulation **12.1.E.2.c**]
- From Exhibit #166:
- CT 22a-92-4: "... to resolve conflicts between competing uses, municipalities should give preference to uses that minimize adverse impacts on natural resources."
 - CT 22a-92-10b2: Policies are to "discourage uses that don't permit natural rates of erosion and disapprove uses that accelerate slope erosion and alter supply of sediments to the littoral system".
 - Of significance is that the author of Exhibit #166 researched all 69 active bedrock quarries listed in the State of CT and found no bedrock quarries in the State located as close to a tidal river as what GFI is proposing on the Thames River.
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| YES | NO |
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- 14) Has GFI proven that NO dust, dirt, fly ash, or smoke shall be emitted into the air so as to put public health at risk, decrease public happiness, decrease the enjoyment of other property, or contaminate the air to a degree that it arouses distaste, opposition, or protest, or is undesirable, unpleasant, or causes anyone to feel hurt, upset, angry, or resentful? [Language expounded from regulation **9.2.C.1**]
- Even though ...
- The generation of silica dust alone would violate every aspect of this regulation.
 - You have several presentations with well documented information regarding the risks of silica dust, including Exhibit #205-2 from the Director of Advocacy for the American Lung Association in CT, and Exhibit #205-4.
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| YES | NO |
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- 15) Has GFI proven that the proposed use would not generate odors, fumes, dust, noise, vibrations, appearance, or other similar reasons to the area that would be harmful or injurious with regards to human health or the environment (noxious), or cause anyone to feel hurt, upset, angry, or resentful displeasure (offensive)? [Language expounded from regulation **11.3.4.C**]
- Even though ...
- Blasting, rock-crushing, and other quarry operations will absolutely be dusty and noisy, will cause vibrations, and will create an ugly rock wall where there now exists a beautiful tree-covered hill, and
 - Fugitive dust (including silica dust), noise, vibrations, appearance, etc. will certainly be harmful, and residents already feel hurt, upset, angry, and resentful.

YES	NO
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16) Has GFI proven that our most vulnerable citizens, including children, the elderly, those with lung conditions, autism, PTSD, etc. will not be harmed by their proposed operation? [Reference regulation **11.3.4.C**]

Even though ...

- You have testimony including Exhibit #114 expressing concern for veterans in the area with PTSD.
- You have Exhibit #160 from an asthma sufferer who is especially concerned about exposure to silica dust.
- You have Exhibit #205-3 from a clinical psychologist stating that "the blasting proposed by Cashman/GFI will undoubtedly adversely impact individuals [with PTSD] by increasing and exacerbating their symptoms."
- You have Exhibit #214 from a nearby mother whose autistic child has hyper hearing that actually causes physical pain upon hearing loud noises.

YES	NO
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17) ■■ Has GFI proven that "the work will not be a source of dust" as required under **8.16.D.2**?

Even though ...

- GFI themselves have admitted that this proposed operation will generate dust, silica dust, stone dust, etc.
- There are myriad examples of other quarries where dust is a major concern, including right next door in Rhode Island. Reference Exhibit #151.

YES	NO
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18) Has GFI proven that the work will not cause the air, water, or earth to be made impure from mixture or contact with a foreign substance? [Language expounded from regulation **8.16.D.2**]

Even though ... every rock quarry creates silica dust (a Group 1 carcinogen), some of which will inevitably "contaminate" the surrounding air, water, and earth.

YES	NO
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19) Has GFI proven that "the work will not be a source of ... siltation" as required under **8.16.D.2**?

Even though ... the Trinkaus Engineering peer review (reference Exhibit #66 under Exhibit A) addresses myriad deficiencies in GFI's proposed plans for stormwater management, erosion, sedimentation, etc., deficiencies which have not been fully addressed by GFI in their subsequent Exhibits.

YES	NO
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20) ■■ Did GFI's Verdantas study prove that dust will be contained to the satisfaction of regulations **8.16.D.2**, **11.3.4.C**, and **9.2.C.1**?

Even though ...

- The Verdantas study focused on "Maximum Impact at Property Boundary" at the exclusion of dust concerns on the property.
- One of the Verdantas overhead slides clearly modeled dust migrating over the river.
- The study does not appear to account for dust generated by rocks being dumped onto the paved surface near the pier or dropped into barges at the pier by the Sennebogen material handler's clamshell bucket.
- The study did not appear to account for dust carried offsite in dump trucks, barges, or rail cars.

YES	NO
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21) Did GFI prove that they are competent in controlling dust with water suppression?

Even though ... neither GFI nor any of their experts addressed the criticality of the slipstream effect referenced in Exhibit 120.

YES	NO
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22) ■■ Did GFI prove that no noise that most people would deem unreasonable in terms of its volume, frequency, or shrillness would leave the property? [Language expounded from regulation 9.2.C.3]

Even though ...

- GFI's sound study does not appear to account for rocks dropping into barges at the pier, a significant noise source located right on the property line!
- HMMH's peer review (Exhibit #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."

YES	NO
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23) Regulation 7.10.1 states, "To facilitate the clearing of land on parcels that are actively being developed, temporary sawmills and stone crushing equipment may be utilized ..." Do you agree with GFI that you may cite this regulation as a reason to approve this application?

Even though ... there is no building included in this application, which means that this site is NOT "actively being developed".

YES	NO
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24) Does GFI's 12-foot proposed concrete block wall sound barrier comply with setback requirements?

Even though ... GFI's plan set sheet 17 shows this wall less than 25' from the western property boundary.

YES	NO
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25) ■■ Do you agree with GFI that the Cerveney's home at 1721 Rt. 12 is no longer pertinent to this application simply because GFI now owns that property?

Even though ... the Cerveney's still live in their home as tenants and are under no obligation to leave for the foreseeable future, therefore myriad regulations will clearly be violated relating to noise, vibrations, and air quality, among others.

YES	NO
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26) ■■

YES	NO
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27) Will this application meet the requirement under regulation 9.2.C.4 that "... no vibration shall be transmitted beyond the boundaries of the lot on which it originates"?

Even though ... GFI's own experts have testified that vibrations will leave the property.

28) Is the vibration impact analysis from "expert" Saul's Siemic a comprehensive, credible study?

Even though ... the Cerveney's home, the closest property to where blasting would occur, was inexplicably omitted from this vibration impact analysis.

YES	NO
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29) ■ ■ Is GFI's claim legitimate that the recent Baldwin Hill permit approval qualifies as a legal precedent compelling you to approve THIS application?

Even though ... there are myriad significant differences in physical and logistical features between the two quarries, not the least of which is the fact that, unlike the GFI application, the intent of Baldwin Hill's approval, according to meeting minutes, was to provide a means of controlling a legally existing, nonconforming, grandfathered site ... to protect nearby residents from "shocks that can make you jump" ... in an area totaling less than 10 acres.

YES	NO
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30) Do you agree that GFI's quarry banks should be exempt from regulation **8.16.N.4**, which states that "Upon completion of operations, no bank shall exceed a slope of one (1) foot vertical rise in three (3) feet of horizontal distance."

Even though ... this directly conflicts with the legislative intent of former Town Planner Juliet Hodge who wrote our current regulations, as outlined in her January 11, 2024, planner comments, reference Exhibit #115.

YES	NO
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31) Is GFI's claim legitimate that rock faces behind the Dollar Store, Ocean State Job Lot, Baldwin Hill, etc. are precedents compelling you to ignore the 1:3 slope requirement in **8.16.N.4** for THIS application?

Even though ... applications cited by GFI Community Liaison Mike Cherry on 12/5/24 were, unlike GFI's application, associated with buildings, and unlike GFI, Baldwin Hill was approved as a legally existing, nonconforming, grandfathered site.

YES	NO
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32) ■ ■ Has GFI proven that traffic from the proposed use would not have a deleterious effect on the safety and welfare (happiness, fortunes, well-being) of the motoring public? [Language expounded from regulation **11.3.4.B**]

Even though ...

- GFI's traffic expert Hesketh spoke only to safety and not to welfare.
- The proposed rerouting of school traffic would be deleterious.
- The proposed reduced speed limit would be deleterious.
- Weston & Sampson's peer review representative, when discussing the 50 additional heavy truck round trips per day, testified that "it will be noticeable" (i.e., "deleterious").

YES	NO
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33) Has GFI proven that their proposed use will preserve the "character of the immediate neighborhood" ... the distinctive traits, qualities, or attributes; the appearance and essential nature, pattern of uses, and sense of community of the surrounding area ... in terms of its intensity relative to past uses? [Language expounded from regulation **11.3.4.E**]

Even though ... the proposed intensity of use would be dramatically increased in terms of demand for utilities and public services, vehicle trips, hours of operation, and noise, to name only a few.

YES	NO
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34) Has GFI proven that their proposed operation would not cause the air, water, or earth to be contaminated (mixed, or come in contact with, any foreign substance) to a degree that the generality of people would deem unreasonable? [Language expounded from regulation **11.3.4.F**]

Even though ... there is zero question that the "generality of people" feel it is unreasonable to allow silica dust to be emitted into the air and into the Thames River.

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| YES | NO |
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- 35) Has GFI proven that their proposed operation would protect bald eagles, oyster beds, and other wildlife and marine life on and around the GFI property? [Reference regulation **11.3.4.F**]
 Even though ... the Bald and Golden Eagle Protection Act (16 U.S.C 668-668d) as well as the Migratory Bird Treaty Act states that no one may “agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior. 3) Nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior.” [Reference Exhibit #131]
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| YES | NO |
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- 36) ■■ Has GFI proven 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.” [Reference regulation **11.3.4.G**]
 Even though ... GFI’s proposed use will not provide much in the way of employment opportunities, will not improve town services, and will not improve the overall quality of life enjoyed by town residents, which are identified as the economic development goals for Ledyard on POCS page 37.
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| YES | NO |
|-----|----|
- 37) ■■ Will GFI’s proposed operation comply with regulation **8.16.N.7**, that “ALL topsoil and subsoil shall be stripped from the operation area and stockpiled for use in site restoration”?
 Even though ...
 - GFI’s “zoning compliance manual” admits that “Overburden soils will be partially reused ... with excess materials temporarily stockpiled and ultimately exported for sale.”
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- | | |
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| YES | NO |
|-----|----|
- 38) Has GFI proven that they will comply with the “phase” requirements of **8.16.M.1** and **8.16.N.5**?
 Even though ... the Phase 1 “active removal area” cannot be permanently seeded and stabilized prior to moving on to the next phase because GFI intends to move its primary crushing operation into the Phase 1 area after completion.
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| YES | NO |
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- 39) Has GFI demonstrated that wetlands mitigation will be completed prior to the completion of Phase 1 as required by their IWWC approval?
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| YES | NO |
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- 40) Is it allowable for GFI to place material stockpiles inside of the 100’ Inland Wetland Upland Review Area?
 [Reference Exhibit #172, page C-4]
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- | | |
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| YES | NO |
|-----|----|
- 41) ■■ Has GFI proven that their proposed “temporary protective interim cap” over the environmentally sensitive area will maintain its integrity beneath 10 years of rock crushing and other heavy machinery?
 Even though ... GFI’s “zoning compliance manual” says that, at the end of all operations, “The existing bituminous concrete engineered control cap will be inspected for damage, and any necessary repairs will be made to restore the integrity of the engineered control as required to meet with the satisfaction of the Connecticut Department of Energy & Environmental Protection”.

YES	NO
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42) Has GFI done enough to protect Mount Decatur and Fort Decatur?

Even though ...

- The Ledyard Historic District Commission feels otherwise (reference Exhibit #56).
- The American Battlefield Trust feels otherwise (reference Exhibit #124).
- GFI is offering to preserve only 3.44 acres surrounding the Fort area.
- An additional 6-acre donation is contingent upon approval of GFI's Special Permit.
- And GFI is only willing to nominate Fort Decatur to the National Register of Historic Places, funding for educational materials, etc. if their permit application is approved.

YES	NO
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43) Do you trust that GFI will be direct, straightforward, and cooperative with our community if there are regulatory violations in the future?

Even though ... GFI has demonstrated a willingness to twist language to suit their needs, for example:

- By proposing a quarry but calling it "Excavation".
- By suggesting that you should use regulation 7.10 as a reason to approve, even though 7.10 is not applicable because no buildings are a part of this application.
- By GFI's attorney suggesting that regulation 9.3.B.3 charges this Commission with protecting rock quarry "exposed ledge faces", even though 9.3.B.3 is part of "Landscape Design Standards" clearly meant for "unique site features such as stone walls", or glacial features like "kettle holes and boulder trains", not rock quarry ledge faces.

YES	NO
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44) Are you convinced that the United Methodist Church of Gales Ferry and other abutting homes located on the south side of Mount Decatur will not be adversely impacted by myriad regulatory violations?

Reference Exhibit #135.

YES	NO
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45) Are you convinced that Rebecca Soleyn/Dorothy Lewis & Family, whose home and business are also located on the south side of Mount Decatur, will not have their lives and livelihoods ruined by myriad regulatory violations from this proposed quarry?

Reference Exhibit #153.

YES	NO
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46) Do you trust that residents will succeed in seeking future recompense from Maine Drilling & Blasting if homes or wells are damaged from blasting?

Even though ... you have Exhibit #117 from a Bozrah attorney testifying that her claims experience with MDB at the Bozrah quarry was an abject failure. MDB's response in Exhibit #222 does not adequately address all content within Exhibit #117.

YES	NO
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47) ■■ In Mr. Treaster's 22nd reason to deny this application, he states that "If you approve this application, you will be approving everything in its 19-page Project Narrative, everything in its revised 948-page Zoning Compliance Manual, and everything in its revised 17-sheet set of drawings." Do you disagree with Mr. Treaster?

Even though ... GFI's application uses this very language on page 5 of their Project Narrative.

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| YES | NO |
|-----|----|
- 48) ■■ Do you *disagree* with the myriad concerns and regulatory violations outlined by former planner Hodge in her “memorandum for the record” dated January 11, 2024, Exhibit #115?
 Even though ... GFI’s current proposal is only nominally different than the GFI proposal addressed by that January 11th memo?
- | | |
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| YES | NO |
|-----|----|
- 49) ■■ Are you required to believe so-called “experts” over lay people?
 Even though ... the recent Preston court case of Blue Camp CT, LLC vs. Town of Preston Planning & Zoning Commission says that you are not. [Reference Exhibit #118]
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|-----|----|
| YES | NO |
|-----|----|
- 50) Has GFI proven that concerns are invalid regarding radon and mosquito borne diseases?
 [Reference Exhibit #127]
- | | |
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| YES | NO |
|-----|----|
- 51) Does GFI’s proposal constitute significant CURRENT economic development for the Town of Ledyard?
 Even though ... GFI’s own Narrative in Exhibit #1, states, “While this project, in a vacuum may not be considered significant development, either with respect to the generation of employment or municipal ratables ... it will translate to a highly attractive site for very significant future economic development ...”
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| YES | NO |
|-----|----|
- 52) GFI’s Narrative in Exhibit 1 states, “Chase Davis, representative of Gales Ferry Intermodal, LLC, shall be responsible for compliance with all erosion and sediment control measures in conjunction with the excavation and extraction operations.” Has GFI provided evidence that Mr. Davis has the experience, qualifications, and competence to manage such a sizeable, complex enterprise?
 Even though ...
- GFI air emissions expert Verdantas lists Chase Davis’s title as “Executive Assistant” in their 4/5/24 letter to him [Reference client’s “zoning compliance manual”].
 - Mr. Davis is also listed as an “Executive Assistant” in various websites online.

EXTRA CREDIT

Are you allowed to cite any of the following statements as reasons to approve this application?

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|-----|----|--|
| YES | NO | 53) ■■ This application MIGHT lead to significant future economic development. |
| YES | NO | 54) ■■ The site has been industrially zoned for ~50 years. |
| YES | NO | 55) The southerly half of Mount Decatur will be left undisturbed.
<i>Note: Eversource power lines prevent development of the southerly half.</i> |
| YES | NO | 56) ■■ There is a great need for aggregate in our society. |
| YES | NO | 57) GFI believes that “The redevelopment of the Allyn’s Point property has become a focal point for elements of the Gales Ferry community to coalesce in opposition to sound economic development.” |
| YES | NO | 58) ■■ GFI believes that “the opposition to the redevelopment of this property has been fueled by fear”. |
| YES | NO | 59) GFI believes that they have provided this Commission with “probative evidence”, yet the community’s testimony and Exhibits are “based on hyperbole, conjecture or internet research that is unrelated to the project site”. |
| YES | NO | 60) GFI cited reasons why the prior two quarry applications were withdrawn. |
| YES | NO | 61) ■■ “The applicant, at significant expense, has agreed to reimburse the Commission for expenses required to retain professional consultants to review and comment upon the conclusions reached by the applicant’s professional consultants ...” |
| YES | NO | 62) The client consciously decided to NOT participate in the 2022 public hearings regarding zoning language changes because they thought they fully understood our Planner’s legislative intent. |
| YES | NO | 63) The physical aspects of the site are strategic for GFI with road, rail, and water access. |

Even though ... NONE OF THE STATEMENTS IN THIS SECTION HAVE SUBSTANTIVE BEARING ON WHETHER GFI'S APPLICATION COMPLIES WITH OUR ZONING REGULATIONS.