

January 25, 2021

Via Email
Town of Hudson Conservation Commission
c/o Elvis Dhima, Town Engineer
edhima@hudsonnh.gov

Re: Hudson Logistics Center Conditional Use Permit, CU# 02-20
Lowell & Steele Road- Map 234/Lots 5, 34 & 35, Map 239/Lot 1
Letter of Opposition

Dear Chair Collins and Members of the Conservation Commission:

I write again on behalf of my clients in opposition to the application for Conditional Use Permit approval submitted by Hillwood Enterprises, L.P. ("Applicant") to redevelop property identified as Town Tax Map 234, Lot 5 and Tax Map 239, Lot 1 ("Property") from a golf course into the proposed Hudson Logistics Center ("Proposed Project") ("Application"). Please make this letter a part of your record in this matter.

This letter responds to the new materials the Applicant filed last week, including the 1/18/21 letter from Attorneys Pasay and Smolak and its enclosure, the 1/18/21 letter from Brendan Quigley, CWS; the 12/14/20 Cul De-Sac Configuration Sketches; and the 1/11/21 Final Wetland Impact Plan (collectively, the "Final CUP Supplement").

As a threshold matter, my prior letters to you, including the previously enclosed letters from a team of professionals at GeoInsight, Inc. and from Marc E. Jacobs, apply with equal force to the Final CUP Supplement as they do to the Application materials provided earlier. The Final CUP Supplement does not resolve all of the issues my clients' consultants and I have set forth in our prior communications.

With particular respect to the Final CUP Supplement, it perpetuates several key problems of the Application.

First, the Applicant claims no viable alternatives exist. However, the Applicant disregards alternatives such as building only one or two of the proposed buildings or using the Northern Access Road as the primary accessway and limiting development of Green Meadow Drive to something akin to the condition of Class VI road to be available in case emergency access is needed. Either of these options would significantly reduce impacts to wetlands and the wetland buffer. Yet, the Applicant gives them no consideration, not even to explain why they are not viable. The Application does not satisfy the required alternatives analysis.

Second, the Applicant goes to great pains to explain why the proposed buildings and surrounds must be exactly as they are proposed, essentially to maximize efficiency based on Amazon's experience and apparent industry standards, and that these buildings will serve

important need, especially during the current pandemic. None of that matters with respect to the question of whether the Proposed Project satisfies the legal standards required to obtain a conditional use permit. For example, the requirement set forth in Section 334-3 6(C)(2) of the Zoning Ordinance states (in part), “located and constructed in such a way as to minimize the potential for detrimental impact to the District.” It says nothing to indicate that detrimental impact can be greater if a proposed use is subject to unyieldingly strict specifications or would serve an important need. These considerations are simply beside the point for consideration of the applicable legal standards. It would be an error for the Conservation Commission to rely on them in reaching its recommendation.

Third, many have long-since requested that the Applicant provide details of a project with similar attributes, including similar wetlands and wetlands buffer impacts, as well as a similar humungous earthen berm with a sound wall on top, and similar proximity to homes. It is striking that of all the facilities the Applicant has mentioned already exist, plus the 18 to 25 new buildings under development mentioned in the Final CUP Supplement, that the Applicant still has not provided one single analogous example.

Fourth, the Application contains many important statements that are unsubstantiated by any evidence. For example, the Final CUP Supplement states, without citing to any support whatsoever, that the “proposed developed area ratio is far less than a typical logistics center”. As another example, the record contains nothing to support the Applicant’s assertion that, “there are no other viable sites reasonably available which could be used to achieve the project’s purpose with less impact to wetlands or wetland function and value.” Without providing the bases for all of its assertions, the Applicant cannot have met its burden of proof.

Fifth, the Applicant interprets the reference of “essential” in Section 334-36(C)(2) to mean essential to use the land the way the Applicant proposes. However, that interpretation ignores the plain meaning of the words in the law, which is an impermissible way to interpret an ordinance. *See Winnacunnet Coop. Sch. Dist. v. Town of Seabrook*, 148 N.H. 519, 525–26 (2002) (“When construing a statute, we must give effect to all words in a statute and presume that the legislature did not enact superfluous or redundant words.”); *Dietz v. Town of Tuftonboro*, 171 N.H. 614, 619 (2019) (“[The Court] will not add language that the legislature did not see fit to include.”); *Wolfeboro (Planning Bd.) v. Smith*, 131 N.H. 449, 453 (1989) (“We assume that all words in a statute were meant to be given meaning in the interpretation of a statute.”)

The Applicant’s interpretation requires the law to say, “if essential to the proposed use of the land”. However, what the law actually says is “if essential to the productive use of land”. In other words, if the land cannot be used productively at all without impact to wetlands and/or wetlands buffer, then the impact to wetlands and/or wetlands buffer is allowed. In this case, it is indisputable that the land beyond the District can be used productively without the impacts to wetlands and wetlands buffer because it already in use as a golf course without said impacts. It is not “essential” to impact the wetlands and the wetlands buffer the way this Proposed Project would impact them in order to make any productive use of the land.

Sixth, while it may seem like a trivial matter, many court cases have focused on the exact meaning of phrases such as “fullest extent practical,” which is the legal standard contained in Section § 334-36(C)(4). Each and every word in such standards is exceedingly important in knowing what the standard requires. Yet, Hillwood has applied various different legal standards. It uses words such as “fullest”, “maximum”, and “greatest” and “possible”, “practicable”, and “practical” interchangeably, as if they all have the same meaning, when the law makes clear that they do not.

Seventh, the Proposed Project is not “the most appropriate use of land” as the Applicant claims. Indeed, with the wetlands and wetlands buffers located where they are, it would seem that the most appropriate use of this land is a use that is not so inextricably intertwined with heavy traffic. Without such heavy traffic, accessways could be smaller and lesser in number, which would involve significantly less impact to wetland and wetlands buffers. The conditional use permitting process is designed to discourage the type of wetlands and wetlands buffer impacts the Proposed Project would cause.

In conclusion, for all of the reasons stated here and in prior communications, and on behalf of my clients, I respectfully request that the Conservation Commission recommend that the Planning Board does not approve the conditional use permit. Thank you for your attention to my clients’ input and request.

Very truly yours,



Amy Manzelli, Esq.
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Cc: Clients

Dhima, Elvis

From: Rob C <rob613@gmail.com>
Sent: Tuesday, January 19, 2021 5:26 PM
To: ~Com-Conservation; Com-Conservation@hudsonnh.gov
Subject: Fwd: Conservation Committee: public input - Hillwood Conditional Use Permit and Hillwood's admitted sewerage leakage risk

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Dear Town of Hudson Conservation Committee, and others in Town Government who can forward this public input to them, and HARD,

I am a Hudson resident of around 30 years living near, but not directly abutting, the Green Meadow golf course. I have been watching most of the meetings of the various local government boards and committees concerning this warehouse park project to take over the golf course land. I am quite concerned by what I am seeing.

Here is a new very specific concern that I think compels the Conservation Committee to recognize that this proposed Hillwood warehouse project would be very bad for Hudson, and now it is clearly, as Hillwood admitted to the Board of Selectmen, too much of a risk to our wetlands and other natural resources, which fall under the protection of the Conservation Committee.

Please look at this web page short presentation of the 1 minute segment of video of Attorney Smolak, representing Hillwood, admitting to the Town of Hudson Board of Selectmen, that there is a very dangerous risk of sewage emission to our wetlands and natural resources, including Limit Brook, and the Merrimack River, and certainly to the aquifer or water table locally. In his first point here, Attorney Smolak admits what I've heard several other concerned Hudson residents and others with expertise in pollution say, that the Hillwood project represents a huge risk of sewage discharge into our wetlands, brook, river, and water table / aquifer!

The presentation is found here:

<http://save-hudson.nashua.nh.us/Planning20210107-SmolakAdmits.html>

just click the Play Presentation button and an approximately 1 minute segment of the HCTV video of the Board of Selectmen Meeting will play. Full context can still be found within the HCTV web site. This segment starts approximately 2 hours into the 3 hour meeting.

Do you have the capability of replaying this same video segment into the video record at the next Conservation Committee meeting?

Would you accept it in lieu of my own presence and playing it into the record, as well as reading out my letter that is this email?

Without this project being within the Town of Hudson Sewer District this project is too much of a risk. Please do not take the risk.

Thanks to the Town Engineer also admitting, even under the extreme pressure of the Selectmen's repeated questioning (in the same meeting), that the Golf Course is absolutely not in the sewer district, this adds up to too much risk.

I understand that staff at the Town offices who initially received the Hillwood request for a sewer exception, which apparently Mr. Groth was concerned was bypassing the proper Planning Board channels right on their memos about this, also explained from the very beginning, before this massive project was first revealed to the public, that the Golf Course is outside of the Hudson Sewer District, and thus could not be given a town sewer hook-up.

So this really should not be a surprise to anyone, and this project's proposal probably should not have even gone along as far as it has.

The admitted risk, and the well known fact that this private business is both unworthy to the NH DOT of being given a private entrance and exit onto Sagamore Bridge Road, and similarly that this private business is not in any of the categories of emergency services needs to be worthy of a Sewer Exception, given that that it is known to be outside of the Sewer District (and thankfully the Board of Selectmen voted correctly to deny the exception) is just too much risk to our natural resources and water safety.

If I may, I also heard all the discussion between the Board of Selectmen and others, including the Town Engineer, regarding the floodplains and various 30 to 100 year flood risks and seek the Conservation Committee's guidance:

In the event of a flood, the likes which might happen once every 30 years or every 100 years, or perhaps to other standards, that any stored up sewage waste, or perhaps also any "skimmer" held / detained / retained petroleum, diesel, soot, snow-melt, or truck cleaning chemicals, could all become unsafely discharged into the Town's natural resources, including getting to all the local wells (some of which serve the Town water utility), private wells, and of course downstream towns and cities who rely upon the Merrimack River for their drinking water.

While I heard floodplains and years between floods mentioned, I didn't hear adequate consideration of how to ensure that all possible risks, particularly from a project this size, are protected from ever happening.

Perhaps it is precisely for this type of risk, even if it might not happen until after Hillwood seels the property they are developing to a future buyer, that Hillwood admits to the great risk here.

Perhaps our little rural area is just not the right place for a project like Hillwood is proposing? Just like in other committees and boards meetings there were questions about the requirements, not exactly under zoning and not exactly under Town Planning, but how to try to fit in an Industrial Park usage right across the street from, and certainly directly abutting, existing rural residential areas.

We cannot take this risk, and the project just doesn't fit.

Robert Chesler
14 Fairway Drive
Hudson NH

Dhima, Elvis

From: BOYER AUTO BODY <boyerab@comcast.net>
Sent: Monday, January 25, 2021 1:09 PM
To: Dhima, Elvis; ~BoS; Groth, Brian; Planning; robert.scott@des.nh.gov; victoria.sheehan@dot.nh.gov; info@hudsonlogisticscenter.com
Cc: Nicholas Pappas
Subject: Hudson Logistic Center

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As a LIFELONG Hudson resident of 44 years and owner of a Family business in Hudson on Lowell Rd for over 50 years, we support the approval of the Hudson Logistic Center.

I believe it is in located in the best spot for what it's purpose will be. There is highway to the north. There are businesses and trucks to the east. There is a river and railroad tracks to the west. To the south there is a neighborhood, however I believe the earth mountain the developer plans to build with trees planted on it, FITS the standards for urban living. I also believe this shows wiliness to be a good neighbor.

I would like to see river access for residents with designated parking spots. I also believe this area should be very well light at night and also be free from obstructions. These (2) things will reduce illegal activity.

I do want to say that I understand during construction there will be some heart ache for the people to the south. However I truly feel that the short term pain will be well worth it in the end. Hudson needs some different income injected into our town. We can not afford to continue building house after house and believe that our taxes will pay the bill. We need more commercial and industrial to help of set residential.

We do need some form of long term plan from the building owner (not the tenant) as to what their contingency plan is if something changes in 20 years and the tenant leaves. I know it is slim to no chance the tenant will leave, but it does HAPPEN, you can't say never.

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Dhima, Elvis

From: Ian Bowker <ian.littlebay@gmail.com>
Sent: Monday, January 25, 2021 1:46 PM
To: ~BoS
Cc: Dhima, Elvis; Groth, Brian; Planning; robert.scott@des.nh.gov; victoria.sheehan@dot.nh.gov; info@hudsonlogisticscenter.com
Subject: Support Of Hudson Logistics Center

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Sirs

I wish to express my support of the Hudson Logistics Center not only as a small business owner but as a home owner in Hudson.

This facility will help our Town with valuable Tax revenue that will keep the town affordable to its residence for many years to come.

Please support this facility as well with your vote.

Yours truly,
Ian Bowker

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Dhima, Elvis

From: Debra Bock <the2box@msn.com>
Sent: Monday, January 25, 2021 5:11 PM
To: Dhima, Elvis
Subject: Hudson Logistic

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I would like to express my support for the Hudson Logistic Center. Our town and townspeople could use some help with our tax base. I was for the first Green Meadow plan and they went down hill from there until this plan. While the entire town sat in traffic the neighborhoods objecting to the "traffic " caused by AMAZON have been driving by cars sitting in traffic for decades. Their sense of entitlement is amazing. I welcome some industry in our down and I feel the location is of little impact proportionately. Since the lockdown and people working from home the traffic is not that bad at all. I support the Logistic Center!

Debra Bock



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 31, 2020

TOWN OF HUDSON
C/O DONALD KIRKLAND PE
12 SCHOOL ST
HUDSON NH 03051

Re: Received Shoreland Permit Application (RSA 483-B)
NHDES File Number: 2020-03279
Subject Property: 74 Musquash Rd., Hudson, Tax Map #239, Lot #019-000

Dear Applicant:

On December 30, 2020, the New Hampshire Department of Environmental Services (NHDES) Shoreland Program received the above-referenced Shoreland Permit Application (Application). Pursuant to RSA 483-B:5-b, V, within 30 days of receipt, the NHDES Shoreland Program will either request any additional information that is required to complete its evaluation of the Application or approve or deny the Application. The status of the Application is available on OneStop at <https://www4.des.state.nh.us/lrmonestop/>.

If you have any questions, please contact the Shoreland Program at (603) 271-2147.

Sincerely,

Linda S. Lester
Application Receipt Center, Shoreland Program
Wetlands Bureau, Land Resources Management
Water Division

cc: Elvis Z. Dhima, P.E. c/o Town of Hudson
Hudson Municipal Clerk