

**TOWN OF EAST LYME, CONNECTICUT
ZONING COMMISSION**

IN THE MATTER OF THE :
 :
APPLICATION OF LANDMARK DEVELOPMENT : **May 15, 2015**
GROUP LLC AND JARVIS OF CHESHIRE LLC :
FOR REZONING OF 123.03 ACRES TO :
AFFORDABLE HOUSING DISTRICT AND :
PRELIMINARY SITE PLAN APPROVAL, :
CALKINS ROAD :

**NOTICE OF INTERVENTION OF CONNECTICUT FUND FOR THE ENVIRONMENT
AND SAVE THE SOUND**

1. Connecticut Fund for the Environment, Inc., and its bi-state program Save the Sound (collectively “CFE/Save the Sound”), on behalf of its members, hereby submits the following verified petition and moves to intervene, as of right, as a party in the proceedings on the Application Of Landmark Development Group LLC and Jarvis of Cheshire LLC for Rezoning of 123.03 Acres to Affordable Housing District (“AHD”) and Preliminary Site Plan (“PSP”) Approval, Calkins Road (“Application”), pursuant to the Connecticut Environmental Protection Act (“CEPA”), C.G.S. § 22a-19, for the reasons set forth more specifically below. The Application, if granted, will involve or would permit conduct which is reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water and other natural resources of the State of Connecticut.

2. Connecticut Fund for the Environment, Inc. (“CFE”) is a non-profit environmental organization dedicated to protecting and preserving Connecticut’s natural resources through law, science and public education and represents approximately 5,000 members. Save the Sound is a permanent program of CFE dedicated to the protection, preservation and celebration of Long Island Sound. Save the Sound has continuously existed since 1972 and has been a permanent program of CFE since 2004. CFE/Save the Sound conduct a variety of activities to achieve its goals, including legislative and administrative advocacy for stronger governmental action to protect and restore Long Island Sound and other waters of the state, legal action to assure compliance with environmental laws, cleanups of litter and debris along Long Island Sound and its tributaries and public educational campaigns promoting public appreciation and enjoyment of Long Island Sound and other waters of the state.

3. CFE/Save the Sound members use, enjoy, live adjacent to or near and otherwise benefit from Long Island Sound and other waters of Connecticut, including the Niantic River, and would be directly and adversely impacted by the pollution which would enter the

Niantic River and surrounding wetlands as a result of the development as reflected in the Application. They participate in water quality-related activities in, on, or near these waters, including but not limited to fishing, sailing, rowing, canoeing, kayaking, pleasure boating, sightseeing, hiking, wildlife watching, other forms of recreation, education, conservation work, various scientific endeavors, and aesthetic enjoyment.

4. Pursuant to CEPA, any person, corporation, association, organization, or other legal entity may intervene as of right as a party in any administrative, licensing, or other proceeding upon the filing of a verified pleading which asserts that the proceeding “involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing, or destroying the public trust in the air, water, or other natural resources of the state.” C.G.S. § 22a-19 (a).
5. The proposed Application will violate the public trust in the air, water and other natural resources in that such development, as reflected in the Application, is reasonably likely to unreasonably pollute, impair, or destroy the public trust in water and other natural resources, including, but not limited to, in the following ways:
 - The Application fails to provide sufficient information for the East Lyme Zoning Commission (“Commission”) to make an informed decision about the environmental impacts, as required by statutes, regulations, and case law.
 - The site plan included in the Application was not submitted for a wetlands review at or before the time it was filed with the Commission, as is required by statutes, regulations, and case law, which will prevent the Commission from being able to consider the full impact on the wetlands.
 - The Application fails to provide sufficient information for the Department of Energy and Environmental Protection (“DEEP”) to complete its review under the Connecticut Coastal Management Act (“CCMA”) for consistency of the proposed zone change with the policies of C.G.S. § 22a-92 and the criteria of subsection (b) of C.G.S. § 22a-102.
 - The proposed development would contribute nutrient pollution from fertilizer and landscaping runoff to the wetlands and the Niantic River.
 - The Application fails to provide information about how the sewage would be handled for the site given that the East Lyme Water and Sewer Commission has granted them only 14,434 gallons per day (“GPD”) for a site that requires at least 118,000 GPD.
 - Installing on-site septic sufficient to serve the un-sewered portion of the site would require blasting and construction that would increase the footprint of the developed area and fundamentally change the site plan in a way that would contribute nutrient and bacteria pollution from leachate from on-site septic to the wetlands and Niantic River and contribute sedimentation and other pollutants from the construction and post-construction activity and landscape modification to the wetlands and Niantic River.

- The proposed development would contribute metals, petroleum hydrocarbons, nitrogen, sedimentation, and bacteria, among other pollutants, to wetlands and Niantic River from runoff from the many new impervious surfaces.
 - The influx of new and increased pollutants into the Niantic River would contribute to a decline in water quality which will lead to further decline of important eel grass habitat.
 - The proposed development would divert rainwater away from wetlands south and southwest of the proposed development site, depriving those wetlands of its natural water source.
 - The proposed development would require clearing a substantial amount of existing forest, which currently absorbs and slows the runoff of stormwater, thus increasing the amount and velocity of stormwater runoff adversely impacting wetlands.
 - The clearing of existing forest would adversely affect forest bird migration in the Oswegatchie Hills.
 - The clearing of existing forest and re-grading of the site would contribute to the erosion of the topsoil downhill of the proposed development site, and deposit that eroded material into the wetlands and Niantic River, further polluting those resources.
 - The proposed development would involve blasting away bedrock, clearing away topsoil, and filling in other areas, all of which unreasonably impact downhill wetlands, increase the risk of the sediment runoff and erosion, and divert rainwater away from its natural watershed.
 - The Niantic River is a tidal estuary that leads into the Niantic Bay, which is a bay of Long Island Sound, therefore, the pollutants that enter the Niantic River would, for the most part, end up in the Long Island Sound.
6. CFE/Save the Sound also wishes to protect the rights of its members by responding to claims and evidence set forth by the other intervenors in the proceedings.
 7. CFE/Save the Sound also reserves the right to seek adjudication of other issues that might be raised at public hearing.
 8. Prudent and feasible alternatives exist to the approval of the Application including partial and total protection of the environmental resources on the site.

WHEREFORE, CFE/Save the Sound hereby intervenes as a party in this proceeding.

PETITIONER,
CONNECTICUT FUND FOR THE ENVIRONMENT /
SAVE THE SOUND

BY: _____
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VERIFICATION

I, Zachary R. Bestor, being duly sworn, depose and say that I have read the foregoing Notice of Intervention and that the allegations contained therein are true to the best of my knowledge.

Zachary Bestor
Legal Fellow / Attorney
Connecticut Fund for the Environment / Save the Sound

Sworn and subscribed before me this 15th day of May, 2015.

Commissioner of the Superior Court