

Good Afternoon,

Regarding 25 Talbot Lane Site Plan Review / Approval for a fulfillment center on (4) parcels consisting of approximately ~33 acres containing old-growth forest, wetlands and watercourses containing wildlife and wildlife habitat.

We are very concerned about the effect this may have on the local Bald Eagle population, that inhabits the area and may rely on it for wintering or foraging activities. As you can see from the Affidavits, corroborated by photographic and video evidence from multiple sources, there is significant, recurrent, and predictable, Bald Eagle activity in the immediate vicinity of the applicants proposed development area. All photos and video have been provided to each member of the Commission on a compact disc (CD) and/or USB Drive.

The local field office for the US Fish & Wildlife Service (USFWS) and the Connecticut Department of Energy and Environmental Protection (CT-DEEP) Wildlife Division should be consulted prior to any project approvals to determine what impact the clear-cutting of timber and change in topography of the 33 acres will have on the Bald Eagle population which may rely on this area as an established foraging site.

### **Discussion:**

#### **a. Legal Protections of Bald Eagles & Their Habitats:**

Bald Eagles are enjoying a healthy rebound in their population across North America and are no longer listed on the Federal Endangered Species Act List (50 CFR 17.11). However, they are still considered “Threatened” by the State of Connecticut, and a species of Greatest Conservation Need (GCN) in the Connecticut Wildlife Action Plan<sup>1</sup> (CT-WAP) of 2015. “*Connecticut Wildlife Action Plan*”, at 4-10. The CT-WAP establishes the State’s framework for proactively conserving its wildlife resources, including their habitats for the decade spanning 2015-2025 and was approved by the U.S. Fish and Wildlife Service (USFWS) in January 2016.

Bald Eagles are still protected by Connecticut law pursuant to Conn. Gen. Stat. Ch. 490 § 26-93. Federal Law also extends protections under the “Bald and Golden Eagle Protection Act” (Eagle Act) (16 U.S.C. §§ 668-668c), the “Migratory Bird Treaty Act” (MBTA) (16 U.S.C. §§ 703–712), and the “Lacey Act” (16 U.S.C. §§ 3371-3378).

For purposes of the discussions surrounding the site application for 25 Talbot Lane, we will only be referencing the Eagle Act and other relevant federal and state materials.

#### **b. “Taking” a Bald Eagle:**

The Eagle Act defines a “take” as any action that would “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.”

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<sup>1</sup> “*Connecticut Wildlife Action Plan*” (2015); Conn. Dept. of Environmental Protection; Bureau of Natural Resources. (<https://portal.ct.gov/DEEP/Wildlife/CT-Wildlife-Action-Plan/Connecticut-Wildlife-Action-Plan>)

“Disturb” means:

“... to 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, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.***”

Disruption, destruction, or obstruction of roosting and foraging areas can negatively affect Bald Eagles. Especially when human activities permanently alter important foraging areas (such as those proposed by the Applicant), can altogether eliminate the elements that are essential for feeding and sheltering eagles. *Nat’l Bald Eagle Mgm’t Guidelines* at 9.

Where a human activity agitates or bothers roosting or foraging bald eagles to the degree that causes injury or ***substantially interferes with breeding, feeding, or sheltering behavior and causes, or is likely to cause, a loss of productivity*** or nest abandonment, the conduct of the activity constitutes a violation of the Eagle Act’s prohibition against disturbing eagles. *Id.*, at 11.

#### **c. Roosting Areas:**

Eagles are easily disturbed by unpredictable human activity, making delineated protected zones necessary around areas of high eagle use, particularly nest sites and winter roosts. “*CT-DEEP Bald Eagle Fact Sheet*”<sup>2</sup> (Oct. 2010), at 2.

#### **d. Foraging Areas:**

Disruptive activities in or near eagle foraging areas can interfere with feeding, reducing chances of survival. Interference with feeding can also result in reduced productivity (number of young successfully fledged). *Nat’l Bald Eagle Mgm’t Guidelines* at 10. Because winter is a stressful time for Eagles, it is important that preferred winter-feeding areas be protected. “*CT-DEEP Bald Eagle Fact Sheet*” (Oct. 2010), at 2. If the birds are frequently disturbed from feeding and forced to travel to a different area for food, their lives may be threatened. *Id.*

The U.S. Fish & Wildlife Service defines a “*Foraging Area*”<sup>3</sup> as:

“An area where eagles feed, typically near open water such as rivers, lakes, reservoirs, and bays where fish and waterfowl are abundant, or in areas with little or no water (i.e., rangelands, barren land, tundra, suburban areas, etc.) where other prey species (e.g., rabbit, rodents) or carrion (such as at landfills) are abundant.” *Nat’l Bald Eagle Mgm’t Guidelines*, at 19.

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<sup>2</sup> “Bald Eagle Fact Sheet” (Oct. 2010); Connecticut Department of Energy & Environmental Protection (CT-DEEP) ([https://portal.ct.gov/-/media/DEEP/wildlife/pdf\\_files/outreach/fact\\_sheets/bldeaglepdf.pdf](https://portal.ct.gov/-/media/DEEP/wildlife/pdf_files/outreach/fact_sheets/bldeaglepdf.pdf))

<sup>3</sup> “National Bald Eagle Management Guidelines” (May 2007); pp. 19; U.S. Fish & Wildlife Service (<https://www.fws.gov/migratorybirds/pdf/management/nationalbaldeaglenanagementguidelines.pdf>)

The evidence clearly shows that Bald Eagles (and other raptor species) are utilizing the vicinity surrounding the Applicant's property as an established foraging area and possibly have nest or roost sites somewhere in the area in the winter months. Eagles may travel 12 or more miles from feeding area to a roost site. "*CT-DEEP Bald Eagle Fact Sheet*" (Oct. 2010), at 2.

As the evidence shows, the Applicant's proposed development site is teeming with cottontail rabbits, squirrels, turtles, and wild turkeys, all of which are consumed and relied on by Bald Eagles (and other predator species) as a readily available food source. Such a sudden disturbance and removal of such resources would negatively impact multiple species to include the Bald Eagle population.

The Application should be denied, and the area should remain undisturbed until a determination can be made that the proposed activity will pose no conflict with the Bald Eagle population.

**e. Chronology of Typical Reproductive Activities of Bald Eagles in the Northeast Region<sup>4</sup>**

Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	July	Aug.
NORTHERN U.S. (ME, NH, MA, RI, CT, NY, northern 2 of NJ, western 2 of PA, OH, WV exc. panhandle, IN, IL, MI, WI, MN, IA, MO, ND, SD, NB, KS, CO, UT)											
			Nest Building								
					Egg Laying/Incubation						
						Hatching/Rearing Young					
									Fledging Young		

As the above chart illustrates, Eagle activity in Connecticut during the relevant time period and the provided photographic and video evidence occurs around the time at which Nest Building and Egg Laying / Incubation overlap. The immediate area around the proposed development site may represent an important foraging area which may warrant further consultation with CT-DEEP Wildlife Division and the USFWS.

**f. Add'l US Fish and Wildlife Service Recommendations:**

The USFWS recommends several actions to reduce impact of human disturbance to local Eagle populations including: (1) the protection and preservation of potential roost and nest sites by retaining mature trees and old growth stands (like those present on the Applicant's proposed development site). *Id* at 17. (2) Minimize potentially disruptive activities and development in the eagle's direct flight path between their nest, and roost sites or foraging areas. *Id* at 16.

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<sup>4</sup> "National Bald Eagle Management Guidelines" (May 2007); pp. 6; U.S. Fish & Wildlife Service (<https://www.fws.gov/migratorybirds/pdf/management/nationalbaldeaglenanagementguidelines.pdf>)

**g. Photo & Video Evidence:**

All photo and video evidence along with lay statements and sworn Affidavits have been provided to the Committee / Commission via CD and Flash Drive. All originals are available for inspection upon request.





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<sup>5</sup> Bald Eagle Photo – Taken by Mr. David Mills on Edgewood Drive on 6 February 2020 (See provided sworn Affidavit).





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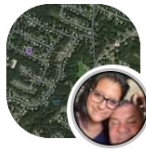
<sup>6</sup> Bald Eagle Photo – Courtesy of Mrs. Amy Costa on Edgewood Drive on 3 February 2020. (See attached statement of Amy Costa).



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<sup>7</sup> Photo and Video of Bald Eagle, Courtesy of Mrs. Amy Costa. (Taken on 1 October 2020)





## East of John Fitch Between Governor and Pleasant Valley Neighborhood



Ursula Giroux · 24m ·

Bald eagle on Hilton Drive



18

18

2



**Nicole Polino** That's so awesome!!!!



<sup>8</sup> Photo Courtesy of Ms. Ursula Giroux taken on Hilton Drive on 12 September 2021 (Posted to the neighborhood Facebook group page).



### **Conclusion:**

In conclusion, the Applicants' application is incomplete, and further information is required. The Planning & Zoning Commission should deny the application, until a more complete Wildlife Inventory can be established, and adequate consultations have been made with the CT-DEEP Wildlife Division and the U.S. Fish & Wildlife Service. Depending on the result, an "Incidental Take" Permit (included in package) may be required from USFWS prior to any clearing of trees or permanent change in topography. Any studies and findings regarding impacts to Bald Eagle activity should be included in any Environmental Impact Assessment reviewed by the Commission.

Thank you for your time and consideration.

Respectfully,

Karen Viklinetz  
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