



# SMITH GILLIAM WILLIAMS & MILES

September 20, 2024

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Hall County Planning and Development Department  
2875 Browns Bridge Road  
Gainesville, GA 30504

**Reference:** Narrative Regarding Rezoning Application to Planned Industrial Development  
4212 Roy Parks Road, Gainesville, GA 30507 (the "Property")  
Parcel ID No. 15024 000008

Dear Hall County Planning and Development:

Clean Eagle RNG LLC ("Clean Eagle") is a clean energy company that improves the local air quality and repurposes landfill gas to renewable natural gas ("RNG") to replace existing nonrenewable methane energy sources. Clean Eagle is an indirect majority-owned subsidiary of Archaea Energy Inc. ("Archaea"). Archaea is one of the largest RNG producers in the United States with an industry leading RNG platform and expertise in developing, constructing, and operating RNG facilities to capture waste emissions and convert them into low carbon fuel.

Landfill gas ("LFG") is generated at the Eagle Point Landfill located at 8870 Old Federal Road, Ball Ground, GA. The LFG will be treated to remove impurities and turned into RNG by Clean Eagle at its plant located at the Eagle Point Landfill (the "RNG Facility"). Certarus (USA) Ltd. ("Certarus") will then compress the pipeline quality RNG into compressed natural gas ("CNG") and truck the CNG from the RNG Facility to the Property, where it will be unloaded into the local Liberty Utilities Corp. ("Liberty") pipeline system. Clean Eagle has included an educational presentation on the RNG Facility and the Injection Facility as Exhibit A.

Clean Eagle is currently under contract with the ability to purchase the Property from the current owner, the Estate of Joyce Adams Roberts (the "Estate"). Faye Roberts Peck Pass, as Executor of the Estate (collectively, "Owner") has approved of this letter and the application discussed herein. Faye Roberts Peck Pass is the fee owner of the adjacent parcel to the east of the Property as well. Clean Eagle understands that the current use of approximately 7 acres of the Property is as a firearm shooting range with the remaining 15 acres forested unimproved real property.

Clean Eagle, with the approval of Owner, is applying for a rezoning of the Property from H-B and AR-IV to a Planned Industrial Development for the future development and use of the Property as a decanting station to inject RNG into the Liberty pipeline (the "Injection Facility"). The Injection Facility will be constructed, operated, and maintained by Certarus.<sup>1</sup>

The Injection Facility will deliver clean, renewable energy to the Gainesville area via the existing Liberty pipeline operating beneath the Property. The Injection Facility will process CNG from the Eagle Point Landfill, which will be trucked to the Property for decompression and injection into the Liberty pipeline.

Street Address

<sup>1</sup> A link to the Certarus website can be found here: <https://certarus.com>

Smith Gilliam Williams & Miles, P.A.  
340 Jesse Jewell Parkway, Suite 300  
Gainesville, GA 30501

In Your Community. In Your Corner.

The development will be confined to the 6.63 acres depicted in the site plan, preserving the remaining 15.7 acres as forested and unimproved land with all setbacks consistent with the zoning requirements. The development ensures a buffer of approximately 1,000 feet from residential neighbors to the north, maintaining the rural character and natural beauty of the area, while minimizing any disturbance to its residential neighbors. The rezoning request is narrowly focused to ensure the Property remains dedicated to its intended use as an Injection Facility to load RNG into the Liberty pipeline system and unload natural gas from the Liberty pipeline system. Final site plans will prioritize preserving existing vegetation and wooded areas, and Clean Eagle will collaborate with the commission to enhance the area's greenery in line with Hall County's development plans. Attached as Exhibit C are 3D renderings of the proposed Injection Facility, illustrating the tree foliage that will surround it and serve as natural sound and visual buffers.

Below are some additional considerations for further discussion and consideration with respect to the development in connection with the application for rezoning:

- Noise Mitigation Efforts
  - o Clean Eagle will conduct a baseline sound study to determine the existing ensure that the Injection Facility noise levels will remain below County thresholds and will take mitigating measures if needed to ensure the facility is compliant and a good neighbor.
  - o A comprehensive noise study will be conducted during the detailed engineering phase. It will be on-site to determine the current baseline of noise and to assess the location of equipment receptacles and the direction of cooler fan emissions. The noise study will utilize sound level measurements and modeling techniques to evaluate potential noise impacts on surrounding areas. The objective of the noise study is to identify areas of concern and determine the effectiveness of existing noise mitigation measures. The results of the noise study will determine the noise mitigation plan.
  - o Depending on the results of the noise study, Clean Eagle will implement engineering solutions to ensure that the Injection Facility is compliant with the County noise ordinances and Clean Eagle's good neighbor policy. The site entry will be built approximately 90 feet off of Roy Parks Road to reduce noise and light impacts. As noted above, the remaining 15.7 acres will be kept forested, which will act as a natural sound and light reduction barrier to the surrounding area. The access to the site will be moved to not interfere with driveway on the opposite side of Roy Parks Road.
  - o We aim for each individual piece of equipment noise limit not to exceed 85 dBA @ 1 m (3 ft). Building walls and roof will include insulation and perforated liner to mitigate noise. Cooler fan motors will include variable frequency drive (VFD) to allow the fans to be slowed down to reduce noise if necessary.
- Odor
  - o The RNG Facility located at Eagle Point Landfill strips all of the odor causing impurities out of the LFG as part of the RNG generation process. The impurities are incinerated at the

RNG Facility, which improves local air quality for residents. Note that because the methane is odorless by itself, Liberty must comply with natural gas odorization regulations established by the Department of Transportation (“DOT”) or other applicable law for safety purposes. As such, DOT regulated additives may be added for injection and distribution into the Liberty pipeline system for regulatory compliance.

- Trucks and Traffic
  - o Certarus will use high-capacity trailers (T450s) equipped with audible backup alarms for safety at the Property. During normal operations, we anticipate fewer than twenty (20) truck trips per day. However, during high demand periods caused by local utility pipeline outages, ruptures, or natural disasters, additional trucks may enter and exit the Property in connection with Certarus’ loading operations to deliver compressed natural gas to affected customers and businesses.
  - o As part of the project scope, Clean Eagle, will conduct a traffic impact study that will be consistent with the Gainesville Unified Land Development Code Chapter 9-22-4. The study should include data pertaining to existing traffic volume conditions, forecasted opening year traffic volume conditions with/without development, and forecasted design year traffic volume conditions with/without development.
  
- Adequate Lighting
  - o To maintain the lighting within the 6.63 acres being utilized, the Injection Facility will utilize LED downward nonspill lights. The lighting plan will be confirmed once the final design of the site layout is completed during the detailed engineering phase. Tailoring light intensity and quantities to the specific site layout ensures optimal illumination while minimizing energy consumption and light pollution. Consideration will be given to various methods of mitigating light pollution, including the use of solar light switches, LED downlight fixtures, and wireless lighting controls. These devices can help regulate light levels based on ambient conditions, reducing unnecessary lighting output during nighttime hours and minimizing light pollution.
  
- Sanitary/Water Services
  - o Per contact with the Hall County Engineer, Mr. Frank Hall, P.E., with the Hall County Community Development and Infrastructure, public sewer access is not available at the site. As such, Clean Eagle will coordinate and work with the Hall County Environmental Health department in order to evaluate the existing site conditions and develop the appropriate on-site sewage management system for the project.
  
  - o No additional water services are anticipated as the existing service has sufficient supply resourced from the City of Gainesville.
  
- Signage & Fencing
  - o All signage will be compliant with Chapter 17.420.060 of Hall County municipal code.

- The Injection Facility will have a chain link fence surrounding the facilities as depicted in the Site Plan and will include a green mesh as a visual mitigant on the fencing facing Roy Parks Road as depicted in the 3D renderings appended hereto.
- Anticipated Personnel Relating to the Use
  - 1 Regional Operations Manager
    - The Regional Operations Manager will be responsible for managing, mentoring, developing, and leading the operations and technical support teams at the Property.
  - 4 - 7 Regional Technicians
    - The position plays a key role in supporting operations while providing overall technical assistance to Certarus and its customers.
  - 12 – 20 Truck Drivers
    - This position is responsible for the safe transportation of RNG and CNG between the RNG Facility and Property, and between Certarus and its customer locations.
- Parking Spaces
  - Adequate parking spaces for personnel and operations will be provided. No public parking spaces will be provided.
- Access Location
  - The site will be accessed via the existing access drive located along Roy Parks Rd. The existing access drive will be upgraded to facilitate the anticipated traffic conditions for the project. In conjunction with upgrading the existing access drive, an additional access drive is to be constructed in order to provide safe and efficient traffic flows in and out of the proposed site as depicted in the site plan. The access drives are to be designed and constructed in accordance with Chapter 12, Hall County Code of Ordinances, current version, regulations and shall contain recommendations provided as part of the Traffic Impact Study (TIS) being prepared for the project. The access drives will be privately maintained.
- Alternative Locations
  - Clean Eagle, Certarus, and Liberty collaborated to identify the best location for the Injection Facility. Three other locations (two in Hall County and one in Bartow County) were considered, but these alternatives posed significant challenges, including greater earth disturbance, more tree clearing, and increased infrastructure requirements. Additionally, the Liberty pipeline system at these alternate locations was not equipped to handle the additional anticipated gas volumes, which would have necessitated extensive infrastructure upgrades by Liberty. Such upgrades would involve new pipeline right-of-ways, increased construction traffic, locations near high traffic roadways, and facilities that are highly visible from the street. In contrast, the proposed Injection Facility is strategically situated next to the Liberty pipeline, minimizing the infrastructure modifications needed. In addition, the proposed site is offset from the local roads, which gives opportunity to place greenery at the entrance to minimize visibility from the road.

- Conceptual Site Plan
  - o The development of the property shall be controlled by the Conceptual Site Plan (the "Site Plan") attached as Exhibit B. The Site Plan is considered conceptual in nature, and as such may require minor modifications during the engineering and development process. Modifications to the locations and arrangement of lots, roads, amenities, and other improvements that do not conflict with specific standards and requirements of these conditions may be made by applicant, so long as its modifications do not change the land use, increase the overall density of the project, or reduce any established exterior buffers or setbacks.

### **REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE**

Georgia law and the procedures of Hall County require the Applicant / Owner to raise Federal and State constitutional objections during the PID master plan application process. While the Applicant / Owner anticipate a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant / Owner will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Hall County Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant / Owner are unconstitutional in that they would destroy the Applicant's / Owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Hall County Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as proposed by the Applicant / Owner is unconstitutional, illegal, null and void, constituting a taking of Applicant's / Owner's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant / Owner an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Hall County Board of Commissioners to approve the zoning conditions as requested would constitute a taking of the Applicant's / Owner's property.

A denial of this Application would constitute an arbitrary and capricious act by the Hall County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the PID zoning request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the Hall County Board of Commissioners to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant / Owner, to the extent such different conditions would have the effect of further restricting Applicant's / Owner's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth & hereinabove.

Applicant / Owner reserves all due process rights granted to them under O.C.G.A. 36-66-5.1. et. seq, to petition the courts for review of a local government's exercise of zoning, administrative, or quasi-judicial powers, as set fourth in those code sections and statutes.

Clean Eagle appreciates your review and consideration by approving this requested rezoning to PID from the existing H-B and AR-IV. If you have any questions about this zoning application, please reach out to Steven P. Gilliam, Attorney at (770) 536-3381 or [sgilliam@sgwmfirm.com](mailto:sgilliam@sgwmfirm.com). For any technical questions, please do not hesitate to contact Ryan Aubuchon at (314) 304-7922 or [raubuchon@archaea.energy](mailto:raubuchon@archaea.energy).

Sincerely,



Steven P. Gilliam  
Attorney