

**MINUTES
WESTPORT CONSERVATION
SEPTEMBER 13, 2017**

The September 13, 2017 of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 307/309 of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Chair
Anna Rycenga, Vice-Chair
Donald Bancroft
Robert Corroon
Ralph Field, Alternate
W. Fergus Porter

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicky, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the September 13, 2017 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Changes or Additions to the Agenda.

Ms. Mozian noted there were two changes to be made to the agenda.

1. Approval of the September 11, 2017 field trip minutes.
2. **793 Post Road East:** Correct the application # to #IWW,WPL-10460-17

Motion to adopt the changes to the agenda.

Motion:	Shea	Second:	Rycenga
Ayes:	Shea, Rycenga, Bancroft, Field, Porter		
Nayes:	None	Abstentions:	None Vote: 5:0:0

Work Session I: 6:30 p.m., Room 307/309

1. Receipt of Applications

Ms. Mozian stated there was one application to officially receive:

- a. **241 Bayberry Lane:** Application #IWW,WPL/E-10478-17 by William Achilles, AIA, of Achilles Architects on behalf of Frank & Michael Giacobbe for additions and renovations to an existing single family residence including a front entry and dining room addition, an expanded kitchen addition, an expanded garage addition and new and renovated second floor additions. Also, an expanded driveway, rear patio, new a/c units, public water, septic system and site drainage. Portions of the work are within the upland review area.

Motion to receive 241 Bayberry Lane.

Motion:	Rycenga	Second:	Porter
Ayes:	Rycenga, Porter, Bancroft, Field, Shea		
Nayes:	None	Abstentions:	None Vote: 5:0:0

2. Report by Colin Kelly, Conservation Compliance Officer on the status of existing enforcement activity.

Ms. Mozian noted there was nothing new to report from Mr. Kelly.

3. **23 Meadow Lane:** Request for bond release held for plantings and sediment and erosion controls for Permit #WPL-9715-14.

Ms. Mozian reported the plantings have been in for a full growing season and are thriving. Staff recommends release of the bond.

Motion to release the bond.

Motion:	Shea	Second:	Bancroft
Ayes:	Shea, Bancroft, Field, Porter, Rycenga		
Nayes:	None	Abstentions:	None Vote: 5:0:0

4. **6 Sea Spray Road:** Request for bond release held for landscaping and plantings associated with grading for Permit #WPL-10178-16.

Ms. Mozian reported the plantings have been in for a full growing season and are thriving. Staff recommends release of the bond.

Motion to release the bond.

Motion: Shea **Second:** Rycenga
Ayes: Shea, Rycenga, Bancroft, Field, Porter
Nays: None **Abstentions:** None **Vote:** 5:0:0

5. **9 Owenoke Park:** Request for permit modification of Permit #WPL-10184-16 for reconfiguration of the proposed deck.

Ms. Krynicki reviewed a request for permit modification of Permit #WPL-10184-16 for reconfiguration of the proposed deck. She noted that staff felt this did not have a significant impact. Engineering and the Flood Board have approved the deck modification.

Motion to approve the reconfiguration of the proposed deck.

Motion: Shea **Second:** Rycenga
Ayes: Shea, Rycenga, Bancroft, Field, Porter
Nays: None **Abstentions:** None **Vote:** 5:0:0

6. **Approval of July 31, 2017 meeting minutes.**

The July 31, 2017 meeting minutes were adopted with corrections submitted by Ms. Rycenga and Mr. Davis. Ms. Rycenga highlighted 3 additional changes she submitted to staff on August 30, 2017 subsequent to filing with the Town Clerk regarding page 6, paragraph 4, page 7, paragraph 4, and page 7, paragraph 8. Mr. Davis had concurred with these changes via email.

Motion: Shea **Second:** Rycenga
Ayes: Shea, Rycenga, Bancroft, Field, Porter
Nays: None **Abstentions:** None **Vote:** 5:0:0

7. **Approval of July 28, 2017 field trip minutes.**

The July 28, 2017 field trip minutes were adopted as submitted.

Motion: Shea **Second:** Bancroft
Ayes: Shea, Bancroft, Field, Porter, Rycenga
Nays: None **Abstentions:** None **Vote:** 5:0:0

8. **Approval of September 11, 2017 field trip minutes.**

The September 11, 2017 field trip minutes were adopted as submitted.

Motion: Shea **Second:** Field
Ayes: Shea, Field, Porter, Rycenga
Nays: None **Abstentions:** Bancroft **Vote:** 4:0:1

9. **Other Business**

a. Ms. Mozian announced the Annual CACIWC meeting will be held on November 18, 2017.

1. **281 Compo Road South:** Application #WPL-10456-17 by Lucien Vita on behalf of Ray and Indre Johnson for the demolition and removal of the existing single-family dwelling and construction of a new single family dwelling, detached garage, pool and patio. Work is within the WPLO area of Grey's Creek.

Lucien Vita, AIA, presented the application on behalf of the property owners. The project is a proposed demolition and rebuild. The proposal is to build in the general location of the existing residence. The garage will be in the 100-year floodplain but the house will be out of it. The garage is

going to be built to FEMA standards. Deep hole tests were dug below the slab of the proposed basement and did not hit groundwater. The basement slab elevation was set above the observed high groundwater indicators.

Ms. Mozian asked if the test holes were dug at high tide.

Mr. Vita stated he was not certain.

Ms. Krynicky explained she had recommended that they raise the level of the basement slab above the groundwater level indicated on the test holes.

Ms. Rycenga asked about the fuel source.

Mr. Vita stated it is now oil but they would like to convert to natural gas or propane.

Mr. Corroon arrived at 7:00 p.m.

Ms. Rycenga questioned the location of the stockpile area as she has seen it flood in that location.

Mr. Vita noted the garage, pool, drainage and driveway are actually in the WPLO. The driveway stormwater runoff will be intercepted by drywells. The roof leaders will be directed to drywells. The patio and walkway will be permeable. The stockpile location should be moved out of the area that floods. The excavated soil should be minimal for the house as there is already an existing basement. The excavated soil will be used in the pool area. The retaining wall around pool will be built first to act as a sediment and erosion control during construction. The pool fence will be FEMA compliant.

Indre Johnson, property owner, stated they have lived through three significant storm events. The house has never flooded. She experienced the lawn flooding around the driveway but it has receded quickly.

With no comment from the public, the hearing was closed.

Motion:	Shea	Second:	Rycenga
Ayes:	Shea, Rycenga, Bancroft, Corroon, Field, Porter		
Nays:	None	Abstentions:	None
		Vote:	6:0:0

Findings
Application # WPL 10456-17
281 Compo Road South

- 1. Application Request:** Applicant is requesting to raze the existing structures and to construct a new single family dwelling with a detached garage, an asphalt driveway with stormwater runoff directed to planted areas, an inground pool and patio, and a filled area with retaining walls which will surround the garage, pool and the front of the house area. The site is serviced by municipal water and sewer. The proposed lot coverage is 19.3%.

Approximately ½ of the western portion of this parcel lies within the boundaries of the Waterway Protection Line Ordinance.

- 2. Plans reviewed:**
 - a.** "Zoning Location Survey of 281 Compo Road South, Westport, Connecticut, Prepared for Ray C. & Indre L. Johnson", Sheet 1 of 3, Scale: 1" = 20', dated March 3, 2017 and last revised to July 10, 2017, prepared by Accurate Land Surveying, LLC

- b. "Site Development Plan for 281 Compo Road South, Westport, Connecticut, Prepared for Ray & Indre Johnson" Sheet 2 of 3, Scale: 1" = 20', dated June 13, 2017 and last revised to July 11, 2017, prepared by B&B Engineering
- c. Construction Notes & Details of 281 Compo Road South, Westport, Connecticut, Prepared for Ray & Indre Johnson", Sheet 3 of 3, dated June 13, 2017 and last revised to June 11, 2017, prepared by B & B Engineering
- d. Architectural Plans entitled: "281 Compo Road South, Westport, CT", (8 sheets), dated June 28, 2017 Scale: As Noted, prepared by Vita Design Group

3. Property Description:

- **Location of 25 year flood boundary:** 9 ft. contour interval.
- **Property lies within Flood Zone AE (EI. 11)** as shown on FIRM Map #09001C0551G, map revised to July 8, 2013
- **Proposed First Floor Elevation:** 14.10' NGVD
- **Basement floor elevation:** 4.08' NGVD
- **Inland Wetlands and Watercourses:** There are no inland wetlands or watercourses on this property.
- **Aquifer:** The property is not located within the Aquifer Protection Overlay Zone, but is located within an aquifer recharge area defined as fine-grained stratified drift.
- **Coastal Area Management:** Property is located outside the CAM zone.
- **Proposed Vegetation:** Existing evergreen trees line the southerly property line and also a portion of the northerly property line.
- The property is connected to sanitary sewer and water.

The Flood and Erosion Control Board approved the application with conditions on September 6, 2017.

4. Discussion: The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

" An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited to: impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation."

The activities located within the WPLO boundary include a portion of the proposed detached garage, the proposed pool and a portion of the patio, the proposed fill and retaining wall, the driveway and the subsurface infiltration units for the drainage.

The existing residence currently on the site is FEMA compliant and the proposed residence will be FEMA compliant as well. The existing site improvements include an asphalt driveway.

The Commission finds that biofiltration for the addition of a water quality measure is proposed for the driveway runoff through the use of planted areas on either side. Stormwater will be directed to these areas through the use of grading in the driveway. In addition, plantings are proposed along the front property line and at the top and bottom of the proposed retaining walls for the front yard area for biofiltration of the general sheet flow runoff of stormwater across the parcel.

Test holes have been witnessed by the Engineering Department for the proposed subsurface infiltration. The drainage calculations have been reviewed and approved by the Engineering department to assure the drainage provisions meet the town standards. In order to remove stormwater pollutants and provide water quality treatment, the drainage system has been sized to handle the first 1.0" of rainfall from all impervious areas as recommended in the Connecticut Stormwater Quality Manual.

Subsurface infiltration units have been sized and provided to handle any footing drain discharge from the proposed residence. To minimize groundwater intrusion, the basement elevation has been designed to be just at or above the observed groundwater table.

The proposed new residence is totally outside the WPLO boundary and is proposed to be FEMA compliant.

Silt fence is shown at the southerly edge of the proposed disturbance adjacent to Compo Road South and also the southerly edge of the proposed stockpile area. The Commission finds that the proposed retaining walls will be built first so as to minimize erosion and sediment issues for the proposed fill area in the front of the residence.

The Commission finds a detailed landscape plan for the proposed plantings will be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit to assure they are native and non-invasive.

A silt fence will be installed at the perimeter of the parcel. A temporary stockpile area has been identified in the front yard to be surrounded by silt fence.

The Commission finds the proposed structure will be built to all applicable requirements of the FEMA regulations. The proposed first floor will be set 2 feet above the 100 year flood elevation. The proposed garage floor elevation is set at the 100 year flood elevation.

A FEMA compliant pool safety fence will need to be specified by the applicant.

The Commission finds that the retaining wall and fill activity will be completed first and so that excavation will not intercept the groundwater table during excavation for the proposed garage and or pool as the fill raises the level of the existing ground and limits the depth of excavation.

The Commission finds that the potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways primarily is directed to the nutrient loading and storm water quality impacts of the stormwater runoff.

The ecosystems associated with the Gray's Creek estuaries are located approximately 250' ± from this parcel. As this parcel lies in a sideslope landscape position, impacts due to runoff rates and storm water infiltration are increased and provides the potential for erosion of unstabilized soils to occur. The Commission finds it is important that the erosion and sediment controls are maintained in good order throughout this project and disturbed soils are stabilized as soon as is possible as there is potential for sediment issues to be problematic even during the smaller storm events.

The 2004 Connecticut Stormwater Quality Manual prepared by the DEP discusses impervious cover relating to the health of a watershed as follows:

"Impervious cover has emerged as a measurable, integrating concept used to describe the overall health of a watershed. Numerous studies have documented the cumulative effects of urbanization on stream and watershed ecology. Research has shown that when impervious cover in a watershed reaches between 10 and 25 percent, ecological stress becomes clearly apparent. Beyond 25 percent stream stability is reduced, habitat is lost, water quality becomes degraded, and biological diversity decreases (NRDC, May 1999)."

The percentages documented above (impervious cover in a watershed 10-25%) concerning ecological stress relate to imperviousness in a watershed overall. The report continues that "developed watersheds with significant residential, commercial and industrial development, overall watershed imperviousness often exceeds the ecological stress thresholds."

This site development plan proposes an impervious coverage percentage at 19.3% and falls within the range of potential watershed impairment. The Commission finds the proposed asphalt driveway addresses stormwater runoff with grading to a planted area for biofiltration. Runoff will be directed to planted areas on each side of the drive. Biofiltration is also provided through perimeter plantings both existing and proposed.

The Commission finds this use of the biofiltration efforts as they are proposed for this property is acceptable.

Perimeter trees for screening exist along the easterly and westerly property lines. The Commission finds that any existing trees within the parcel boundary to remain or those near or on any property line will have tree protection fencing installed and any or all of the perimeter trees will be respected to avoid impact to any existing tree root systems.

The Owner of Record is assigned the responsibility for implementing the Erosion and Sediment Control Plan. The Commission finds an annual maintenance program will assure all stormwater measures and subsurface infiltration units receive inspection on an annual basis.

The homeowner will be apprised of the proper fertilizer and pesticide management and household pet waste management to be observed in this area of the watershed.

**TOWN OF WESTPORT
CONSERVATION COMMISSION
RESOLUTION #WPL-10456-17
281 Compo Road South
Assessor's Map: D 04, Lot 37
Date of Resolution: September 13, 2017**

Project Description: For the demolition and removal of the single family dwelling and construction of a new single family dwelling, detached garage pool and patio. Work is within the WPLO area of Grey's Creek.

Owner of Record: Ray and Indre Johnson **Applicant:** Lucien Vita

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10456-17** with the following conditions:

Standard Conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
5. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
6. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.

7. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
8. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
14. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
15. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
16. Any dumpster used during demolition or construction must be covered at the end of each work day.
17. Conformance to the previously adopted "Standard Pool Conditions" for pools located near wetlands or watercourses as applicable and as enumerated below:
 - a. The pool is to be serviced by a diatomaceous earth, sand/cartridge or some other kind of re-circulating, closed filter system.
 - b. Pool chemicals should be stored in an enclosed container in an enclosed area preferably above the 100 year flood elevation. Pool equipment should be located at or above the 100 year flood elevation.
 - c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer should be maintained between the pool and the waterway or wetland.
 - d. Alternative use of chlorine for sanitation should be sought from the pool company. These include: salt chlorine generators, ozonators, ionizers, or mineral purifiers.
 - e. Pools should be covered over the winter or when they will not be in use for long periods of time, i.e three (3) or more months.
 - f. When discharging pool water at the end of the season for winterization, no direct discharge to a watercourse or wetland is allowed; a 50ft separating distance with some kind of energy dissipation at end of hose is required.
 - g. The pool water to be discharged shall have a pH between 6.5 and 8.5. The chlorine level shall be less than 0.1 mg/l and not cause foaming or discoloration of the receiving waters.

SPECIAL CONDITIONS OF APPROVAL

18. Conformance to the plans entitled:
 - a. "Zoning Location Survey of 281 Compo Road South, Westport, Connecticut, Prepared for Ray C. & Indre L. Johnson", Sheet 1 of 3, Scale: 1" = 20', dated March 3, 2017 and last revised to July 10, 2017, prepared by Accurate Land Surveying, LLC
 - b. "Site Development Plan for 281 Compo Road South, Westport, Connecticut, Prepared for Ray & Indre Johnson" Sheet 2 of 3, Scale: 1" = 20', dated June 13, 2017 and last revised to July 11, 2017, prepared by B&B Engineering
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 - d. Architectural Plans entitled: "281 Compo Road South, Westport, CT", (8 sheets), dated June 28, 2017 Scale: As Noted, prepared by Vita Design Group

19. Conformance to the Flood and Erosion Control Board resolution of approval dated September 6, 2017.
20. Any excess fill material shall be hauled off-site.
21. Submission of a detailed landscape plan for the perimeter plantings, the biofiltration planting areas and the planting areas at the top and bottom of the proposed retaining walls to be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
22. A bond to cover the cost of plantings and all sediment and erosion controls shall be submitted to the Conservation Department prior to the issuance of a zoning permit.
23. Proposed retaining walls shall be built first and prior to the deposition of fill material to raise the existing grade adjacent to the pool and patio and detached garage.
24. Care shall be taken to prevent heavy trucks and machinery from driving over or stockpiling material on top of any of the proposed drainage systems for the project.
25. All existing perimeter trees to remain or those in or on the property line shall be protected from damage during construction and/ or screening planting.
26. Pool patio and walkways shall be pervious in perpetuity with said restriction placed on the Land Records prior to the issuance of a Conservation Certificate of Compliance.
27. The design engineer shall prepare a document specifying homeowner instructions for annual maintenance of all stormwater appurtenances prior to the issuance of a Conservation Certificate of Compliance.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.

Motion: Rycenga

Second: Shea

Ayes: Rycenga, Shea, Bancroft, Porter, Field, Corroon

Nays: 0

Abstentions: 0

Vote: 6:0:0

2. **793 Post Road East:** Application #IWW,WPL-10460-17 by Barr Associates on behalf of DMC Westport LLC for 14 townhouses plus 2 mixed use buildings for commercial and multi-family units with parking, drainage, landscaping and related site improvements. Portions of the work are within the WPLO area and the upland review area of an unnamed watercourse.

Mel Barr presented the application on behalf of the property owner. He described the proposal including five townhouse buildings and two mixed-use buildings. There is drainage proposed and a landscaping plan submitted. The Flood and Erosion Control Board and the Engineering Department have approved the drainage plan.

Beth Evans, Principal of Evans Associates, stated they are the environmental consultants and engineers on the project. The property is 2.4 acres. It is a combined lot of 5 Long Lots Road and 793 Post Road East. She explained the wetland boundary. It had been reviewed in the early 2000's but she re-examined it. It was reflagged and previously adopted by the Conservation Commission. The area in the vicinity of the old pool was filled with hydric soil. An isolated pocket wetland also exists. She submitted aerial photos. The pipe that comes across the property is a 24-inch pipe and is filled with sediment. She acknowledged that the pocket wetland is hydric soil, though it is her opinion, it is of no value with no function.

Ms. Rycenga noted that although Ms. Evan presented that the pocketed wetlands is of no value with no function, it is still regulated.

Mr. Field asked what might be coming out of the pipe from the August 2016 pictures.

Ms. Evans stated Triton Environmental will expand on that later in the presentation. It does not originate on their property.

Ms. Shea asked about the invasive species.

Ms. Evans listed the many invasive species on the site.

Ms. Rycenga asked what the square footage of the wetland disturbance is.

Ms. Evans stated 2,140 s.f. or .05 acres of wetland disturbance in the old pool area.

Ms. Rycenga asked about the area where the drainage and retaining wall construction will take place.

Ms. Evans stated it is in the 20-foot non-disturbance buffer and is 11,498 s.f.

Ms. Evans reviewed the proposed Wetland Mitigation Plan. There is a proposed raingarden on the west side of the entry road, which will discharge to a planted detention basin. They will remove invasives and re-plant with natives.

Ms. Krynicki asked about the classification of the wetlands as Udorthent wet substratum. She noted the soil used for the wetland enhancement plantings should be confirmed it is appropriate.

Ms. Evans indicated the top soil had been stripped, which was typical. However, she feels the plantings can be done without bringing in soil. Garbage debris needs to be removed. Minor machinery and hand work will accomplish this along with chemical treatment of Stilt grass. If chemical treatment is not preferred, they can continually cut. The area behind the townhouses will be planted for screening.

Carter Gleason of Triton Environmental stated their firm did testing in 2007 plus another firm did groundwater testing. There is historic fill material on the property. Petroleum hydrocarbons, aromatic hydrocarbons, and arsenic were found. There are no isolated pockets; it is widespread. It is assumed that fill material was spread across the entire site. Remedial plan is conservative in that they are acting as if the contamination is across the entire site. There is no evidence of groundwater contamination. The remedy does not need to take into account groundwater remediation. The excess soils that cannot be capped will be removed off site. Triton Environmental will oversee the remediation.

Mr. Corroon asked what the off-site source of contamination is.

Mr. Gleason stated he is not sure. However, groundwater flow and history indicates there were two gas stations to the west that most likely flowed onto this site. He noted each of the buildings will have a soil vapor barrier system.

Mr. Field asked if the effluent from the concrete pipe been tested.

Mr. Gleason stated no.

Mr. Field asked if he was concerned about it.

Mr. Gleason indicated he does not believe people will be exposed to it. He does not know where it is emanating from.

Ms. Shea asked if children will be playing around it. Where is the pipe coming from? What is there?

Mr. Gleason indicated he suspects residual hydrocarbons. He submitted an updated table from the 2007 report.

Mr. Corroon asked if chlorinated solvents was tested.

Mr. Gleason stated no chlorinated solvents were detected. The levels were below the state threshold.

Mr. Bancroft asked what the acceptable level for arsenic is.

Mr. Gleason stated it less than 10 ppm. The arsenic plume is concentrated in the southwest corner but groundwater monitoring confirmed it was not moving toward the wetland. They could not locate the former monitoring wells, so they installed 6 new ones.

Mr. Field asked how groundwater flow is measured.

Mr. Gleason indicated it is measured using elevations.

Ms. Krynicki asked what the average groundwater elevation is.

Mr. Gleason indicated the depth below grade is about 2 to 8 feet. The depth to fill was up to 10 feet.

Mr. Corroon asked if long-term monitoring wells were needed.

Mr. Gleason indicated he did not believe they were.

Ms. Shea asked if the water was tested in the culvert.

Ms. Evans stated no. All the groundwater wells are in the upland.

Ms. Rycenga questioned Mr. Gleason about the August 7, 2017 report, specifically page 4 of 5 about ownership regarding deed restriction.

David Mann, developer of the property, stated he does not believe he is required to put a deed restriction on the property but will if the Commission asks.

Ms. Mozian presented a map connecting the watercourse to contamination concerns.

Bob Simmons of HRP, hydrogeologist, LEP, and consultant to the Commission, stated the initial data was outdated and felt it should be updated, which it was. Sub-slab venting is not warranted based on levels found based on State regulations. However, LEP's want to do what is the best thing to do. HRP did not look at the pipe discharge, as there is no obvious connection. However, he suspects there would be some low level of contamination detected but most likely from off-site sources. He concurs with historical research and conclusions. He does believe that the applicant has submitted enough data that human health will be protected. In addition, the direction of groundwater flow as it is entering the wetland and watercourse is below state level criteria. All three areas of concern identified by him have been met and included in his September 8, 2017 report:

- Deed restriction;
- Triton Environmental will be retained for oversight; and
- Plans will be rectified into one set.

Ms. Krynicki reviewed an article from **The Habitat** Summer 2015 regarding information to be looked at in reviewing applications.

Ms. Mozian and Ms. Krynicki showed a colored site plan depicting the encroachments into the wetland, 20-foot non-disturbance, 30-foot parking, driveway, and retaining wall upland review area and the 75-foot upland review area for multi-family and commercial structures.

Ms. Mozian noted the Commission would need to make a finding as to whether this project has a significant impact to then have Feasible and Prudent Alternatives considered.

Ms. Krynicki stated she has reached out to Darcy Winther of CT DEEP regarding the impact. She e-mailed the Commission Ms. Winther's response. In essence, the law does not differentiate between a small or large wetland impact.

All the Commissioners agreed that the project may have a significant impact.

Ms. Rycenga made a motion to make a finding that the activity may pose a significant impact to the wetland, which requires exploration of feasible and prudent alternatives.

Motion: Rycenga Second: Shea
Ayes: Rycenga, Shea, Bancroft, Corroon, Field, Porter
Nayes: None Abstentions: None Vote: 6:0:0

Motion to continue to October 18, 2017 to allow for submission of feasible and prudent alternatives.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Bancroft, Corroon, Field, Porter
Nayes: None Abstentions: None Vote: 6:0:0

- 3. **54 Wilton Road:** Application #WPL-10438-17 by William J Fitzpatrick on behalf of STC Green, LLC for site improvements accompanying renovation of southerly portion of existing building, demolition of northerly portion of existing building and construction of residential housing. Work is within the WPLO area of the Saugatuck River.

Atty. Bill Fitzpatrick presented the application on behalf of the property owner. The application has been presented to the Flood and Erosion Control Board and was approved at the September 6, 2017.

Tim Anderico of Langan Engineering reviewed the existing conditions. The southern portion will be retained for office space. Two thirds of the northern part of the lot will be demolished. There will be new residential buildings with parking and a new boardwalk. There is currently 89% existing impervious coverage. The proposed impervious coverage is 76%. That is approximately 1/2-acre difference in green space. The grading and drainage plan was update since the site walk on Monday, September 11, 2017. The first flush and new roof is being treated. They are taking the State discharge into river and disconnecting it by putting some into two rain gardens. There is some sheetflow to impervious asphalt in three areas. They have added two hydrodynamic separators for treatment of overflow of both of these LID features. The proposed boardwalk is granular similar to that which is around the Levitt Pavilion. The limit is the existing guiderail. The walkway would be a 6-foot minimum and in some areas will be reinforced turf for Fire Department access. Maintenance will be minimal.

Mr. Corroon asked what the bulkhead is made of.

Mr. Anderico stated it is a riprap slope.

Ms. Shea asked about the impervious parking.

Mr. Anderico noted that 58 of the 118 parking spaces are porous. 34 of the spaces are under the building. The porous pavement should be cleaned twice a year.

Mr. Corroon asked about the contamination.

Mr. Anderico stated he would defer comment to their LEP. He did say they are doing something rather than nothing. They are removing the contaminated soil.

Mr. Corroon asked what the depth of fill being removed to install the porous pavement is.

Mr. Anderico stated the porous pavement does have an underlayment for the drainage component. He noted the hydrodynamic separator will collect oil before going into the river.

Mr. Corroon asked if the proposed parking garage is open to allow air exchange.

Mr. Anderico stated yes.

Ms. Rycenga indicated maintenance of the hydrodynamic separator should be included in the Operation and Maintenance Plan.

Mr. Anderico stated the hydrodynamic separator was just added to the plan but will be added to the Operation and Maintenance Plan. He added 10 honeycomb spaces will be provided for public access along Wilton Road.

Ms. Rycenga asked if the guardrails will need to be replaced.

Mr. Anderico stated they will work to minimize the number of posts that need to be removed.

Ms. Rycenga stated that during the site walk, the Commission noted four large trees inside and adjacent to the guide rail that may need to be removed.

Mr. Anderico stated they would prefer not to have to save these trees.

Ms. Rycenga stated they should reduce the width of the boardwalk in those areas instead of removing the trees to prevent any bank destabilization and erosion.

Mr. Anderico stated that there is 1 tree that will have to be removed.

Ms. Rycenga requested the others remain.

Ms. Rycenga asked about CT DOT Enchroachment permits.

Mr. Anderico stated that they are working with CT DOT for the permits currently.

Mr. Field asked who is charged with bank stabilization.

Mr. Anderico stated the owner is.

Ms. Krynicki added that when the Commission approved the Levitt Pavilion, it allowed vegetation to be copied instead of removed.

Ms. Mozian expressed concern with slope destabilization if large trees were removed because of their root structure.

Atty. Fitzpatrick submitted two reports and one resume.

Jaime Barr, LEP with Langan Engineering, stated he believes the four underground storage tanks are gone. They used ground-penetrating radar and found no evidence but the Materials Management Plan provide contingency in case one is found, including:

- If chemical release contingency outlined;
- Excavated and re-use of site soils; and

Ms. Mozian entered all information received into the record since July 31, 2017 including Alicia Mozian's and Lynne Krynicki's professional resumes.

Ms. Rycenga made a motion to declare the activity as a Regulated Activity and involves a Significant Impact to the wetland.

Motion:	Rycenga	Second:	Bancroft
Ayes:	Rycenga, Bancroft, Corroon, Field, Porter		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Rob Pryor, PE of LandTech, stated the 2 & 3-lot alternative plan have no difference to impacts to the wetland. He believes the Commission does not have the authority to regulate the area outside of its jurisdiction.

Mr. Corroon asked how big the house could be for a single lot development.

Mr. Pryor stated he was not sure. The coverage is 25% of the lot. The only alternative is the single lot development.

Eric Bernheim, Atty., noted the Fire Marshal notes that the Fire Code calls for a 12-foot driveway for a single-family residence.

Mr. Pryor stated they still need to clear for a shoulder.

Atty. Bernheim stated whether this is one lot or 4-lots, there is still a road. What is relevant is the driveway. There is a 4,512-s.f. impact to the wetland with one lot and 603-s.f. impact to the wetland with the 4-lot proposal.

Ms. Rycenga clarified that Section 5.1(b) stated the Commission has to consider less or no wetland impact.

Mr. Bernheim continued that the social benefits are many. There is a reduced thermal impact to the wetland. There is an improvement to the flooding concerns. They are proposing to remove invasive plants and install native plantings. There is a conservation easement of over 2 acres. There is a hydraulic connection of the wetlands on either side of the driveway. These improvements are only possible if there is the money to do it. If there are less than 4 lots, they will not have to do it. The wet basin alternative will have an adverse impact.

Mr. Pryor says that one-lot alternative requires the wet basin. The driveway increases in width. The cost for the pervious Pave Drain for the four houses is \$225,000 to \$250,000 and \$135,000 to \$150,000 for one-lot.

Mr. Pryor submitted written testimony.

Chris Allan, professional soil scientist and wetland scientist of LandTech, answered questions presented by Mr. Pryor.

1. Mr. Pryor asked if the 4-lot subdivision minimizes the wetland impact to the greatest extent possible. Mr. Allan stated yes and reviewed the reasons.
2. Mr. Pryor asked if there are any other wetland impacts with anything other than the driveway crossing based on review of Ed Pawlak's reports. Mr. Allan stated no, all other impacts have been mitigated. He stated that he believes the driveway crossing impacts have been minimized through best management practices.
3. Mr. Pryor asked do you concur with Mr. Pawlak's findings that there will be no loss of wetland function and values. Mr. Allan agreed there is no loss of wetland function and values.

4. Mr. Pryor asked if the proposed 4-lot plan provide compensation. Mr. Allan stated that the wetland fill is offset by the benefits. Compensation is more than made up for the loss of wetland in this plan.
5. Mr. Pryor asked which plan provides greater impact 1-lot or 4-lot. Mr. Allan stated that the 1-lot proposal will have a longer-term wetland impact.

Ms. Mozian noted the Fire Marshal stated the roadway does not need to be asphalt in the 1-lot proposal.

Mr. Pryor stated the Flood & Erosion Control Board approved the application at its September 6, 2017 meeting. They required weekly inspections during construction and after ½-inch rain events.

Ms. Rycenga asked Atty. Pete Gelderman of the Town Attorney's office to comment on the definition of Social Benefit. She noted that Atty. Bernheim also commented that the Commission may consider monetary considerations.

Atty. Pete Gelderman stated he could not find a definition or a case that defines them. He believes those instances cited by Atty. Bernheim could most likely be considered Social Benefits. Monetary factors may be considered in determining feasible and prudent alternatives.

Ms. Mozian noted the wetlands are a social benefit in and of themselves.

Mr. Gelderman stated that is one of the things to consider. It is a balancing of the evidence in the record.

Ms. Mozian stated there are three alternatives to consider including:

- Rehabbing the existing house, which requires no improvement of the existing driveway;
- 4-lot subdivision with the Pave Drain system and protection of the stormwater conveyance swale; and
- A variance from the State Fire Marshal.

Ms. Mozian noted staff's concern with moving the existing stormwater conveyance swale. She referred to the site plan and wetland maps showing the wetland system and how they are connected. She noted staff's concern with the quality of and rate of flow of water entering the wetland pocket on the site and how it could affect the wetland to the east.

Mr. Pryor noted the stormwater conveyance swale as it stands is filled with leaf litter. In storm events, the leaf litter is washed away and it is a dirt-lined channel. There is evidence of scour, which does get to the lower wetland. Under the proposed conditions, the channel will be stone lined, which will slow the run off rate and lessen the sediment getting to the lower wetland. He noted Ed Pawlak and Brian Curtis, the Commission's consultants, both agree that the proposed channel will not impact the wetlands.

Mr. Corroon stated there is no adverse impact to the wetland with the conveyance swale. A major rehab will also require road improvement.

Mr. Bancroft asked how they know the Fire Marshal will not grant a variance if they have not asked.

Atty. Bernheim stated the Fire Marshal is looking at safety as the most important consideration.

John Tschirhart, intervener and property owner of 113 Old Road, showcased the alternative of rehabbing the existing house. Ed Pawlak supports this in his memo of June 22, 2017 and the Town Attorney in a memo dated September 6, 2017. He stated the owner bought the house in the 1964 for \$50,184. The real estate value now is \$1.35 million. That is a 6.4% return on investment over the 50+ years, which is about the same return on investment as the S&P over the same period.

Tim Lester of 8 Forest Drive noted that this proposal is a major change to the property. He does not agree with the social benefit to removing the trees that act as habitat and acoustic barrier to the neighboring properties. There is a feasible alternative to the 4-lot subdivision as pointed out by the Commission's consultant in the renovation of the existing structure. He urged denial of the proposal.

Joanne Heller of 6 Forest Drive stated her opposition to the project. She noted Pave Drain is not proven over time. Maintenance is going to be a major issue for the four homeowners.

Susan Tschirhart, intervener and property owner of 113 Old Road, stated the 4500 s.f. impact to the wetland comes from the wet basin proposal, which Mr. Pryor deems will still be required for the 1-lot alternative. She said if the house were proposed now, it may not have been approved. Also, how can the wetland be considered a gift when it cannot be built on. She asked the Commission to vote for denial. She submitted a written statement.

Nickolas Zografos of 10 Forest Drive indicated he supported the other neighbor's testimony.

Mr. Field noted the lots will be sold individually. The Commission does not know how these lots will be developed. The development put forth is good but can only work if the four property owners work together over a long period of time. There is no guarantee that the maintenance will be implemented. He indicated this is a dilemma.

Ms. Rycenga stated the Commission cannot speculate on what ifs.

Ms. Mozian submitted into the record a statement from Terry & Eric Armour, 8 Hunt Club Lane.

Mr. Corroon acknowledged the concerns of the neighbors. He noted the impact of a 20,000-s.f. house without the benefit of improvements should be weighed against the proposed activity. He feels the four lots is a net benefit to the wetland including hooking up to the Town sewer.

Atty. Bernheim addressed the maintenance concern. The new property owners will have to agree to the maintenance conditions. They will not be able to sell a house if the property is not in compliance. He disagreed with the statement that no house could now be built; he indicated that the Town cannot deny access.

Mr. Pryor thanked the Commission for their time.

With no further comment from the public, the hearing was closed.

Motion:	Rycenga	Second:	Bancroft
Ayes:	Rycenga, Bancroft, Corroon, Field, Porter		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Work Session II:

1. Begin Deliberation of **107 Old Road**: Application #IWW, WPL-10450-17 by LANDTECH on behalf of the Estate of Catherine D. Fleming for a proposed 4-lot open space residential subdivision served by a private road, public sewer and public water. The site contains an unnamed tributary to Sasco Brook and associated wetlands.

Ms. Mozian stated there is a Special Meeting on September 25, 2017. The staff is hoping for insight as to which direction they are leaning.

Atty. Gelderman noted for the record, Mr. Lobdell and Mr. Perlman may participate in the decision if they familiarize themselves with the record. They must make that representation on the record.

Ms. Rycenga noted that the Commission has expert testimony in the record that relocating the stormwater conveyance channel is not an impact. The Commission has the staff's resumes, who have indicated that there is an impact to flow rate, volume and water quality.

Salt

Mr. Corroon noted that a narrower roadway is more likely to have an impact because of salting.

Ms. Mozian noted the Pave Drain materials indicate that salting is not necessary.

Mr. Corroon noted that most plowers would likely use salt. In a wider driveway, the material would sit at a side of the driveway and slowly dissipate rather than being pushed directly into the wetland in a narrower driveway.

Mr. Bancroft indicated that the applicant had not pursued an attempt for Fire Marshal variance.

Mr. Porter noted that there are four houses, more traffic, and more impact.

Mr. Bancroft stated there is significant wetland filling and there is a potential for construction impact. Is it feasible? Yes. Is it prudent? That is unclear. There is significant mitigation. Looking at alternatives other than house just being renovated, which amounts to a denial.

Ms. Rycenga asked is the proposed Pave Drain system a viable alternative to the wet basin.

Ms. Mozian reviewed comments relating to the one-lot driveway requirements per Pete Ratkiewich relating to drainage.

It was the consensus that the Pave Drain system was an acceptable alternative to infiltrating stormwater.

Mr. Corroon noted conditions should include the conservation easement, maintenance plan, and a landscaping bond.

Ms. Mozian noted the applicant needs to notice the neighbors under the WPLO of the Special Meeting.

Motion to continue deliberations to September 25, 2017

Motion: Rycenga Second: Porter
Ayes: Rycenga, Porter, Bancroft, Corroon, Field
Nayes: None Abstentions: None Vote: 5:0:0

2. Other business. - **None**

The September 13, 2017 Public Hearing of the Westport Conservation Commission adjourned at 11:50 p.m.

Motion: Rycenga Second: Corroon
Ayes: Rycenga, Corroon, Bancroft, Field, Porter
Nayes: None Abstentions: None Vote: 5:0:0