

**MINUTES  
WESTPORT CONSERVATION COMMISSION  
JUNE 21, 2017**

The June 21, 2017 of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 201/201A of the Westport Town Hall.

**ATTENDANCE**

**Commission Members:**

Pat Shea, Esq., Chair  
Paul Davis, Secretary  
Donald Bancroft  
Paul Lobdell, Alternate  
W. Fergus Porter

**Staff Members:**

Alicia Mozian, Conservation Department Director  
Lynne Krynicki, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the June 21, 2017 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

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Alicia Mozian  
Conservation Department Director

## Changes or Additions to the Agenda.

Ms. Mozian noted there was one item to add to Work Session I.

- a. **7 Lakeview Road:** Request for AA,WPL/E for an on-grade patio within the WPLO and the 30-foot upland review area.

Motion to amend the agenda to include 7 Lakeview Road.

<b>Motion:</b>	<b>Rycenga</b>	<b>Second:</b>	<b>Bancroft</b>
<b>Ayes:</b>	<b>Rycenga, Bancroft, Davis, Lobdell, Porter</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
			<b>Vote: 5:0:0</b>

### Work Session I: 7:00 p.m., Room 201/201A

## 2. Receipt of Applications

Ms. Mozian stated there were three applications to officially receive including:

- a. **20 & 26 Morningside Drive South:** Application #IWW/M-10436-17 by Barr Associates on behalf of Leslie Chase & Hilary Newby Trustees to amend wetland boundary maps #G8 and #G9.
- b. **27 Darbrook Road:** Application #IWW,WPL-10421-17 by LandTech Consultants on behalf of Robert & Jennifer Bowman for the construction of a 43' X 61' sports court with associated stormwater drainage system. Portions of the work are within the upland review area and the WPLO area of a tributary to Deadman's Brook.
- c. **793 Post Road East:** Application #IWW,WPL-10379-17 by Barr Associates on behalf of DMC Westport LLC for 14 townhouses plus 2 mixed use building 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.

Ms. Mozian noted the applications were complete and could be placed on the upcoming agenda.

<b>Motion:</b>	<b>Shea</b>	<b>Second:</b>	<b>Porter</b>
<b>Ayes:</b>	<b>Shea, Porter, Bancroft, Davis, Lobdell</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
			<b>Vote: 5:0:0</b>

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

Ms. Mozian gave an update on the clearing violation at **63 Morningside Drive South**.

4. **17 Burritt's Landing South:** request by Frank Vener for release of bond monies being held for plantings and sediment and erosion controls as part of conditions of Permit #WPL-9724-14.

Ms. Mozian reviewed a request for bond release held for plantings and sediment and erosion controls. This was a slope stabilization project. The plantings have been in for more than a year and staff recommends release of the bond.

Motion to release the bond.

<b>Motion:</b>	<b>Shea</b>	<b>Second:</b>	<b>Davis</b>
<b>Ayes:</b>	<b>Shea, Davis, Bancroft, Lobdell, Porter</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
			<b>Vote: 5:0:0</b>

5. **21 Grove Point Rd.:** request by Elizabeth Daines for release of bond monies being held for plantings and sediment and erosion controls as part of conditions of Permit #IWW,WPL-8769-11.



Ms. Krynicki stated the Town line was adjusted to more accurately depict where the toe-of-slope ends and the floodplain begins.

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

<b>Motion:</b>	<b>Shea</b>	<b>Second:</b>	<b>Bancroft</b>
<b>Ayes:</b>	<b>Shea, Bancroft, Davis, Lobdell, Porter</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>

**Findings**  
**Application #IWW/M 10419-17**  
**41 Little Fox Lane**

1. **Application Request:** Applicant is requesting to amend wetland map #C 14.
2. **Soil Scientist for Applicant:** Chris Allan of LandTech
3. **Soil scientist for the Town of Westport:** Bill Kenny of William Kenny Associates LLC
4. **Plan reviewed:** "Zoning Map of Property prepared for Chad Kopp & Caroline Kopp, 41 Little Fox Lane, Westport, Connecticut", Scale 1"=30', dated March 24, 2017, prepared by Dennis A. Deilus-Land Surveying
5. **Soils Description:**  
Soil Report Summary- prepared by Chris Allan of LandTech dated February 13, 2017 describes the following wetland soils occurring on the property:

**Pootatuck fine sandy loam:**

These on site wetlands are associated with the floodplain of the Saugatuck River. The Pootatuck series consists of very deep, moderately well drained loamy soils formed in alluvial sediments. They are nearly level soils on floodplains subject to frequent to occasional flooding.

The sites non-wetland soils were not evaluated in detail. Observations regarding non-wetland soils were made in the process of identifying and delineating the wetland soils. Upland soils on the site are identified as Agawam fine sandy loam and Hinckley loamy sand. The Agawam series consists of very deep, well drained soils formed in sandy, water deposited materials. They are level to steep soils on outwash plains and high stream terraces. The Hinckley series consists of very deep, excessively drained soils formed in glaciofluvial materials. They are nearly level through very steep soils on outwash terraces, outwash plains, outwash deltas, kames, kame terraces and eskers.

6. **Property Description and Facts Relative to the Map Amendment Application:**

- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "streamside floodplain, with a wooded swamp present." The wetland outlets to the Saugatuck River.
- Landscape position of this parcel is a backslope and land surface shape is linear/linear.
- The FEMA maps indicate that the property is located within the 100 year floodplain determined as Zone AE Elevation 26.0'.
- The Waterway Protection Line occurs 15' from the 25 year floodplain boundary.
- Property does not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
- Property does not exist within the Coastal Areas Management Zone.

The Town of Westport retained the services of Bill Kenny of William Kenny Associates to review the boundary as determined by Chris Allan of LandTech.

In a letter dated June 12, 2017, Mr. Kenny states that he agrees with wetland boundary as delineated.

The Commission finds it will accept the flagged line as delineated on the map as referenced above and amend the town wetland map.

**Resolution**  
**Application #IWW/M-10419-17**  
**41 Little Fox Lane**

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-10419-17 by Caroline Kopp to amend the wetland boundary on Map #C 14 on the property located at 41 Little Fox Lane with the following conditions:

1. Conformance to the plan titled: "Zoning Map of Property prepared for Chad Kopp & Caroline Kopp, 41 Little Fox Lane, Westport, Connecticut", Scale 1"=30', dated March 24, 2017, prepared by Dennis A. Deilus- Land Surveying
2. An electronic file of the above referenced plan in a format acceptable to the Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.
3. 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.

**Motion:** Porter

**Second:** Shea

**Ayes:** Porter, Shea, Davis, Bancroft, Lobdell

**Nays:** 0

**Votes:** 5:0:0

2. **201 Main Street and 7 & 15 Belden Place:** Application #WPL-10398-17 by Barr Associates LLC on behalf of Anna Nappa to consolidate 3 lots; relocate 5 apartment units from Building B to Building A; remove building B; extend and renovate building A for retail and 12 apartment units; elevate, renovate and convert building C and convert to 2 apartment units; all with associated site improvements. Work is within the WPLO area of the Saugatuck River.

Mel Barr presented the application on behalf of the property owner. He noted the contract purchaser, architect and engineer were also present. There are currently 13 apartments and 1,000 s.f. of office space on the property. 80% of the site is in the 100-year floodplain. There is a fringe of tidal wetlands. The proposal is to consolidate the lots and demolish the middle building. The front building will be modified, preserved, restored and added onto. They will go from 7 apartment units to 12 units. The rear building will be modified and go from single family residence to a two family residence. There will be 900 s.f. + of commercial space in the front building. The fire access, driveway, drainage, and landscaping will all be improved. The site drains towards the Saugatuck River. Drainage will be collected into galleries and the permeable pavers. The coverage will be reduced from 81% to 76%. The driveway will be widened to accommodate two-way passage of cars. Fire trucks will be able to turn around. Pavers will also serve as turnaround for fire trucks. There will be landscaping in the planting islands and a small public access park. The front building will be brought into FEMA compliance. The rear house will be elevated. He stated the Historic District Commission was adamant about saving the red house. Mr. Barr submitted the HDC's approval letter.

Ms. Shea asked if they considered moving the building further from the wetland.

Mr. Barr indicated they did. He noted that they could not meet the parking standards and the turnaround for the Fire Department. Also, the HDC did not support that since its location is integral to its historic nature.

Mr. Barr reviewed the staff report. The existing foundation is adequate to use and be retrofitted with the flood vents. Variances have been granted by the Zoning Board of Appeals. There will be one and two bedroom units. 12 of the 14 units will have elevator access. As to the fuel source, Mr. Barr noted gas is available but they are looking at electric heat pumps. He noted the park access got a variance for not having to span the entire length of the property. Access will be via the driveway.

Ms. Krynicki reviewed a letter that was submitted into the record from Mr. Barr from the structural engineer regarding the foundation and its ability to support the lifting of the house.

Mr. Barr explained the roof runoff from the rear house will go into gutters, then underground into galleries.

Brian Nysteriak, PE, explained the drainage. He indicated the plans need to be revised to show the rear gutter going underground and routed to the galleries in the front. The front building and the parking will drain to the gallery. The pavers will pick up excess flow and further treat runoff. The gallery will be 60 feet wide by 20 feet deep. There are no catchbasins. Hydrodynamic separators are not needed since they have pavers. The hydraulic separator require more maintenance than having to vacuum the pavers twice a year. He will provide a maintenance plan for the stormwater system.

Ms. Krynicki asked how the paver system treats the oil.

Mr. Nysteriak stated the medium in the stone reservoir supposedly supports microbes that feed on hydrocarbons.

Mr. Barr stated there are 29 parking spaces provided and 32 are required. They will be seeking approval from the P&Z Commission.

Mr. Lobdell asked if the fire truck turnaround had not been needed, would the paver turnaround have been included in the plans.

Mr. Nysteriak indicated it would because the pervious pavers allow the stormwater to enter into the drainage system.

Bob Storm, architect, stated they will be raising the houses on three blocks of concrete, and then steel will be poured inside the cavities of the block. The rear of the building in the front will be elevated using helical piles.

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

<b>Motion:</b>	<b>Shea</b>	<b>Second:</b>	<b>Bancroft</b>
<b>Ayes:</b>	<b>Shea, Bancroft, Davis, Lobdell, Porter</b>		
<b>Nays:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>

**Findings**  
**201 Main Street and 7 & 15 Belden Place**  
**Application #WPL 10398-17**

**Receipt Date:** N/A  
**Application Classification:** N/A

**Application Request:**

Applicant is requesting to consolidate three lots, relocate 5 units from Building B to Building A; remove Building B; extend and renovate Building A for retail and 12 units; lift, renovate and convert Building C to 2 units with related site improvements. Work is within the WPLO of the Saugatuck River. The site will be serviced by municipal water and sewer.

**Plans Reviewed:**

1. Title Sheet: "Proposed Multi-Use Development, 201 Main Street, Westport, Connecticut, Site Development Plan Drawings", Sheet 01-01, Scale: 1"= 40', prepared by B & B Engineering
2. "Existing Conditions Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company" (Sheet 03-01), Scale: 1"= 20', dated January 3, 2017, prepared by Accurate Land Surveying, LLC

3. "Lot Consolidation Plan of 7 & 15 Belden Place & 201 Main Street, Westport, Connecticut Prepared for Pen Building Company" (Sheet 04-01), Scale: 1"= 20', dated January 3, 2017, prepared by Accurate Land Surveying, LLC
4. "Demolition Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 08-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
5. "Site Development Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 11-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
6. "Grading, Drainage and Utility Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 12-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
7. "Soil Erosion & Sediment Control Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 13-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
8. "Site Lighting and Planting Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 19-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
9. "Construction Details of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 20-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering

#### **WPLO & FEMA Designation**

The 25 year flood boundary is established at the 9' contour interval. The Waterway Protection Line boundary is located 15' from the 9' contour. A portion of the subject parcels are within the Waterway Protection Line jurisdiction as the 9' contour traverses through the parcel.

The base flood elevation for the 100 year storm event is Zone AE elevation 10' NGVD.

#### **Facts Relative to this application:**

1. Permits and Applications: No previous permits have been issued on this property.
2. Aquifer and Primary Recharge Area: Site is within a groundwater recharge area further identified as coarse-grained stratified drift.
3. Site is outside the aquifer protection overlay zone.
4. Coastal Area Management Zone: The property occurs within the Coastal Areas Management Zone. Specifically the coastal areas identified include "**coastal flood hazard areas**" and "**tidal wetlands**".

**Coastal flood hazard areas** are those land areas which are inundated during coastal storm events or subject to erosion induced by such events. Coastal hazard areas encompass most other important coastal resources, can serve as flood storage areas and provide numerous open space and recreational opportunities. They are by their nature, hazardous areas for structural development, especially residential-type uses.

**Tidal wetlands** are those areas of high nutrient and biological productivity that provide detrital products forming the base of the food web in Long Island Sound. Tidal wetlands improve water quality by trapping sediments, reducing turbidity, restricting the passage of toxics and heavy metals, decreasing biological oxygen demand, trapping nutrients and buffering storm and wave energy. Tidal wetlands are a major source of coastal open space.

5. Sewage Disposal: The property is serviced by a public sanitary sewer.
6. The Web Soil Survey classifies the soils on site as Udorthents-Urban land complex. These units consist of areas that have been altered by cutting or filling. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas of soils that have not been cut or filled. The properties and characteristic of this unit are variable, and the unit requires on-site soil investigation and evaluation for most uses.

### *Consistency with the Waterway Protection Line Ordinance and Staff Recommendation*

Section 30-93 of the WPLO ordinance states the following: 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 waters, 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.

### **Discussion**

The site currently supports a mixed-use building with 7 apartments, a building with 5 apartments and a residence in the house next to the Saugatuck River.

Both Building "A" and Building "C" currently have above ground oil tanks that are proposed to be removed. The applicant has suggested that each individual unit as proposed will be serviced with an electric heat pump.

The Commission finds there is to be no stockpiling of material on site. All excess material must be taken immediately off site. Any import material is to be installed immediately upon delivery.

There are currently no formal drainage provisions for stormwater runoff on the property.

The Commission finds this redevelopment provides an opportunity to retrofit existing conditions and to provide stormwater management systems to help minimize adverse impacts to water quality.

The proposed plan will provide an underground drainage detention system for roof runoff and the impervious surface of the parking lot will also be directed to the subsurface infiltration units. Pervious concrete pavers are proposed at the toe of slope of the parking area to provide a low-impact development concept and biofiltration utilizing the native on-site soils. The Engineering Department has reviewed and approved the drainage design to assure it meets Town standards.

Maintenance of the permeable pavers will be critical to ensure long term functioning of the pavers and protection of water quality. The Commission finds a stormwater maintenance plan for the pavers be provided.

The applicant has provided a Construction Sequencing narrative and a Sediment and Erosion Control Inspection and Maintenance narrative.

The Commission finds that specifics to each individual material and method will be helpful for proper maintenance.

Due to the close proximity to the river and the abutting tidal wetlands, the Commission finds that a site monitor be employed to conduct inspections and to maintain contact with the Conservation Department through the construction process.

The total lot coverage is being reduced from 81% to 76.0%.

The property lies within a special flood hazard area designated by FEMA. The existing and proposed new construction on the site will be required to be FEMA compliant.

The property is underlain by an aquifer recharge area identified as coarse grained stratified drift. The fuel source for the buildings is identified as natural gas on the submitted site plans.



A small “green space” park is proposed in the southwest portion of the property next to the Saugatuck River. A permeable walkway with a bench is also proposed in this area.

A mud tracking pad is proposed for the construction entrance off Main Street and silt fence is to be installed along all property lines. Silt fence backed with haybales is proposed as the erosion and sediment control at the toe of slope of the parcel adjacent to the tidal wetlands.

Material and equipment staging will take place just east of Building “C”. The Commission finds that construction fencing will be placed around this area to avoid a possible debris field being directed into the Saugatuck River.

The Conservation Department staff originally requested that the applicant move Building “C” further landward from the tidal wetlands. However, the Historic District Commission reviewed this project and came to the conclusion that they wanted the “red house” to remain where it was as it was an important historic river vista.

Going forward, the residence is to remain in its present location, it is proposed to use the existing foundation and will raise the first floor to be above the 100 year floodplain elevation. A report from a structural engineer was submitted at the public hearing on the status of the existing foundation and the conclusion is that the existing foundation is able to support the renovated residence. There is no excavation activity proposed with the existing foundation being expanded upon.

A 3.4’ high reinforced concrete retaining wall is proposed along the northerly boundary and within the 100 year floodplain boundary to accommodate the change in grading required for the drive access. As this wall is parallel to the flooding action of the Saugatuck River, the Commission finds it will not impede the rise and fall of floodwaters during storm events.

It is perpendicular to the flow of the river, however, the wall is outside the floodway and should not be problematic during the larger storm events.

The addition to Building “A” will be built on piers so that the first floor elevation is above the 100 year flood elevation. Four parking spaces will be included in the area beneath the building at approximately elevation 10.0’.

Permanent measures are proposed for the long-term treatment of stormwater runoff. These measures include permeable pavers for the parking lot area adjacent to the Saugatuck River. In an email dated June 20, 2017, Brian Nesteriak, P.E. shared the University of New Hampshire document on the general performance of pervious pavement. The pervious pavers provide excellent treatment of the typical measurements such as TSS, COD, BOD, TP, TN and oils. Oils are treated by adhering to the stone reservoir media and then are broken down through the natural process of consumption by micro-organisms, bacteria and fungi. He expressed his support for this method as well due to the easier maintenance and due to the parking lot being residential, the quantity of oils should be minimal.

Building “C” is in very close proximity to the Saugatuck River. The Commission finds the roof runoff from this building will be distributed to the subsurface infiltrators in the parking lot.

As site location and parcel size can have an impact on the type of stormwater treatment that can be proposed, it is the opinion of staff that the applicant further consider alternatives in design, such as a best management practice to improve the water quality “treatment train” with discharge into a hydrodynamic separator prior to discharge to the subsurface infiltrators.

The Commission finds that several large deciduous trees will need to be removed for the installation of the parking lot, however, numerous replacement trees are proposed which will meet the requirement of parking lot trees of the Planning and Zoning regulations.

The Flood and Erosion Control Board reviewed and approved this application with conditions at its June 7, 2017 hearing.

Provided the stormwater measures are installed as designed and the erosion and sediment controls are installed and maintained, the Commission finds the project will not adversely impact the natural resources as they are protected under the Waterway Protection Line Ordinance.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application # WPL 10398-17**  
**Street Address: 201 Main Street and 7 & 15 Belden Place**  
**Assessor's: Map C 10 Lots 91 & 93**  
**Date of Resolution: June 21, 2017**

**Project Description:** To consolidate 3 lots; relocate 5 apartment units from Building B to Building A; remove Building B; extend and renovate Building A for retail and 12 apartment units; elevate, renovate and convert Building C to 2 apartment units; all with associated site improvements. Work is within the WPLO area of the Saugatuck River.

**Owner of Record:** Anna Nappa  
**Applicant:** Barr Associates LLC

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 10398-17** with the following conditions:

1. Permits are not transferable without the prior written consent of the Conservation Commission.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
11. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
12. 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.

13. 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.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of June 7, 2017

#### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the following plans:
  - a) Title Sheet: "Proposed Multi-Use Development, 201 Main Street, Westport, Connecticut, Site Development Plan Drawings", Sheet 01-01, Scale: 1"= 40', prepared by B& B Engineering
  - b) "Existing Conditions Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company" (Sheet 03-01), Scale: 1"= 20', dated January 3, 2017, prepared by Accurate Land Surveying, LLC
  - c) "Lot Consolidation Plan of 7 & 15 Belden Place & 201 Main Street, Westport, Connecticut Prepared for Pen Building Company" (Sheet 04-01), Scale: 1"= 20', dated January 3, 2017, prepared by Accurate Land Surveying, LLC
  - d) "Demolition Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 08-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
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  - g) "Soil Erosion & Sediment Control Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 13-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
  - h) "Site Lighting and Planting Plan of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 19-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
  - i) "Construction Details of 201 Main Street, Westport, Connecticut Prepared for Pen Building Company", (Sheet 20-01), Scale: 1"= 20', dated January 3, 2017 and last revised to March 24, 2017, prepared by B&B Engineering
17. Revision to the site plan to show the discharge location and method for the roof leaders for Building C shall be submitted to the Conservation Department prior to the issuance of a Zoning permit.
18. Submission of a detailed Construction Phasing Plan to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
19. A construction fence shall be installed along the top of bank of the Saugatuck River to prevent debris from entering the Saugatuck River prior to the initiation of any construction activity.
20. A permanent long term maintenance schedule for all drainage structures shall be prepared by the site engineer and submitted to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance. Said plan to be recorded on the Westport Land Records. A log book recording compliance with the maintenance schedule shall be held on site and made available for reviewing by Town Officials.
21. All proposed retaining walls shall be constructed first and prior to the placement of any proposed filling.
22. A site monitor shall be retained by the owner to inspect the sediment and erosion controls on a bi-weekly basis and after storm events greater than 1".

**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:** Shea   **Second:** Davis  
**Ayes:** Shea, Davis, Bancroft, Porter, Lobdell  
**Nays:** 0   **Abstentions:** 0   **Vote:** 5:0:0

- 3. **11 Old Mill Road:** Application #WPL-10412-17 by David Ginter of Redniss & Mead, Inc. on behalf of Joe Feinlieb to demolish the existing residence and construct a new FEMA-compliant residence in approximately the same location and dimensions. Work is within the WPLO area of the Sherwood Mill Pond.

Dave Ginter, PE of Redniss & Mead, presented the application of behalf of the property owner. Mr. Ginter noted there are two structures on the site. The house in the rear was already renovated and elevated with staff permits. The front house is now under review for a demolition and rebuild. The Zoning Board of Appeals variance for coverage and setbacks was approved in part and denied in part. A proposed rear deck was denied. The new house will be built further back on the lot will be built higher to meet FEMA requirements and to accommodate parking under the house. He stated since the deck was denied, they are proposing a patio 18 inches above grade with a sitting wall less than 30 inches above grade around it. A raingarden will collect roof leaders from the house and will also run to the planted area beneath the rear cottage. The raingarden is sized to accommodate a 25-year storm. The parking will be in tandem beneath the raised house. Also, the gravel driveway will be 13 inches thick for infiltration. They are proposing 46.5% coverage. The heat source is natural gas.

Mr. Davis asked why the raingarden will not be depressed.

Mr. Ginter stated the lot is flat. The roof runoff will be directed into the raingarden directly.

Ms. Krynicki noted there is a crown on the lot now that sheds water from east to west.

Mr. Ginter stated about 9 inches of fill will be removed that was placed there when the rear cottage was renovated and the lot will be returned to its original grade as part of the ZBA conditions. Therefore, new drainage pattern will be a north-south pattern and vice-versa.

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

**Motion:**    **Shea**   **Second:**                 **Bancroft**  
**Ayes:**       **Shea, Bancroft, Davis, Lobdell, Porter**  
**Nays:**       **None**   **Abstentions:**    **None**   **Vote:**    **5:0:0**

**FINDINGS**  
**11 Old Mill Road**  
**Application # WPL 10412-17**

- 1. **Application Request:** Applicant is proposing to demolish the existing two-story residence on site and construct a new residence in approximately the same location and to the same dimensions. The new residence will meet local and FEMA flood requirements. The existing residence and deck on the northerly property line are to remain. The work is within the WPLO of Sherwood Mill Pond.
- 2. **Plans reviewed for this application:**
  - a. "Zoning Site Plan Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet ZSP-1, Scale: 1" = 10', dated February 6, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
  - b. "Site Development Plan Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet SE-1, Scale: 1" = 10', dated February 6, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead

- c. "Notes and Details Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet SE-2, dated April 21, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
  - d. Architectural Plans prepared by Adam J. Klyver Architects, LLC for Coastal Construction (4 sheets) Scale: 1/4" = 1.0', dated May 8, 2017,
  - e. Site Coverage Exhibit, 11 Old Mill Road, Westport, CT, dated June 20, 2017 Scale: 1"= 15', prepared by Redniss & Mead
  - f. Drainage Impact Statement, dated April 21, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
- 3. Property Description and Facts**
- a. **Location of 25 year flood boundary:** 9 ft. contour interval. Currently, property is located entirely within the WPLO boundary.
  - b. **100 year flood boundary** is elevation 13 ft.
  - c. **Proposed First Floor Elevation:** 14.80 ft.
  - d. **Proposed garage floor at grade with flood vents in garage doors.**
- 4. Aquifer:** Property underlain by Canfield Island Aquifer which is a fine-grained stratified drift aquifer. The property is NOT within either of the Town's wellfield protection zones.
- 5. Coastal Area Management:** Property located within CAM zone. The coastal resources identified are coastal flood hazard area and estuarine embayment. Coastal hazard areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during "100-year" flood events. Coastal hazard areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential-type uses.
- Estuarine embayments are semi-enclosed bodies of coastal waters, such as tidal rivers or coves which are measurably diluted by freshwater inputs. They have high biological productivity and provide significant habitat for shellfish, finfish and waterfowl.
- 6. Proposed Storm Water Treatment:** Due to the size constraints of the existing parcel there are numerous methods being utilized throughout. Twelve inches of crushed stone beneath the proposed deck was previously proposed, two depressed planting areas are provided, as well as a rain garden and native groundcover next to the existing house. All proposed methods are proposed as surface drainage most specifically biofiltration through the use of plants. Provisions need to be considered and redesigned to make up for the previously proposed layer of crushed stone beneath the deck.
- 7.** The Flood and Erosion Control Board approved the application with conditions on June 7, 2017.

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 potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on storm water quality impacts and nutrient loading in close proximity to an estuarine embayment.

This site is generally level with little to no topographical change. The proposal for this small parcel is to employ the LID surface bioretention and infiltration for optimum nutrient removal during the smaller storm events.

Brian L. Howes, manager of the Coastal Systems Program, School of Marine Science and Technology at U Mass, Dartmouth (January 2006) states that increased levels of nitrogen in estuaries is resulting in the loss of fisheries habitat, submerged aquatic vegetation and a general disruption of

benthic communities and the food chain all along the Eastern Seaboard. At high levels, nitrogen causes aesthetic degradation and even inhibits recreational uses of coastal waters.

The Commission finds these potential environmental impacts and their removal can best be managed through the use of biofiltration utilizing the upper soil horizon and vegetation in combination.

The Zoning Board of Appeals recently denied the applicants' request to construct a proposed deck. The crushed stone reservoir beneath the proposed deck was to act as a drainage structure for the site redevelopment. That has been eliminated with the ZBA decision. The Commission finds the surface stone with select soil and the planting bed proposed south of the stoned area as well as a crushed stone reservoir beneath the proposed patio will serve as an alternative and effective means to handle the storm water runoff and help to minimize nutrient introduction which may have an adverse impact to the Sherwood Mill Pond.

The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Old Mill Road area is densely developed, the coverage exceeds the percentage in which water quality can be assumed to be impacted.

To compensate or mitigate for the impervious coverage, biofiltration is recommended. Organic matter, plant roots and biologically active soil help remove nutrients and pollutants at the surface or in the upper biologically active soil horizons prior to discharge to the inert parent material and eventually ground and surface waters.

The application proposes to remove the existing structure and to reconstruct a new residence that will be FEMA compliant. The driveway is to be permeable through the use of grass pavers. Proposed site coverage is to be 48.7% which is an increase of 9.5% increase from existing coverage.

The Commission finds that the house roof leaders be directed toward the biofiltration measures proposed as these are the **best management practices** for stormwater treatment on this property.

The Commission finds the installation of grass pavers in the driveway for stormwater runoff is an acceptable surface infiltration method.

The property will be connected to the municipal sewer service.

The entire property lies within the WPLO boundary. The house will be rebuilt to conform to FEMA standards with the first habitable floor constructed above the 100 year base flood elevation. Flood openings are proposed for the garage doors.

The Commission finds the test hole data submitted with this application reinforces the need for surface infiltration as groundwater was observed at 22" below grade.

The Commission finds that the sediment and erosion controls proposed around the perimeter of the parcel will provide adequate protection as this parcel is very level. An anti-tracking bed is shown in the location of the existing drive. Construction access appears limited.

The heating fuel source is identified by the applicant to be natural gas.

The Commission finds that the site development proposal as designed with the low impact development concepts and the FEMA compliance being achieved will help protect the natural resources and ecosystems of the waterway as protected under the Waterway Protection Line Ordinance.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application # WPL 10412-17**  
**Street Address: 11 Old Mill Road**  
**Assessor's: Map E 04 Lot 058**  
**Date of Resolution: June 21, 2017**

**Project Description:** To demolish the existing residence and construct a new FEMA-compliant residence in approximately the same location and dimensions. Work is within the WPLO area of the Sherwood Mill Pond.

**Owner of Record:** Joe Feinlieb

**Applicant:** Dave Ginter of Redniss & Mead, Inc.

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 10412-17** with the following conditions:

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. All exterior heating oil tanks shall be elevated above the 100 year flood elevation, shall be anchored and shall be provided with a containment area for possible leaks.
12. All proposed decks shall be provided with a 6" gravel bed beneath.
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. Conformance to the conditions of the Flood and Erosion Control Board of June 7, 2017. When a Contractor Compliance Agreement is enclosed with a permit, the agreement must be appropriately executed and returned to the Conservation Department staff prior to the issuance of a zoning permit.

### **SPECIAL CONDITIONS OF APPROVAL**

17. Conformance to the plan entitled:
  - a. "Zoning Site Plan Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet ZSP-1, Scale: 1" = 10', dated February 6, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
  - b. "Site Development Plan Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet SE-1, Scale: 1" = 10', dated February 6, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
  - c. "Notes and Details Depicting 11 Old Mill Road, Westport, CT, Prepared for Joe Feinlieb", Sheet SE-2, dated April 21, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
  - d. Architectural Plans prepared by Adam J. Klyver Architects, LLC for Coastal Construction (4 sheets) Scale: 1/4" = 1.0', dated May 8, 2017
  - e. Site Coverage Exhibit, 11 Old Mill Road, Westport, CT, dated June 20, 2017 Scale: 1"= 15', prepared by Redniss & Mead
  - f. Drainage Impact Statement, dated April 21, 2017 and last revised to June 20, 2017, prepared by Redniss & Mead
18. Patio hardscape material shall be set in sand or stone aggregate with a minimum of a 2" spacing to assure permeability and stormwater infiltration.
19. Driveway and patios shall remain permeable in perpetuity with said restriction placed on the land records prior to the issuance of a Conservation Certificate of Compliance.
20. The design engineer shall certify the proper installation of the proposed permeable patio, rain gardens and grass paver driveway surface prior to the issuance of a Conservation Certificate of Compliance.
21. Receipt of "as-built" topographic survey with certificate from Engineering Department evidencing that the lot was restored to pre-filling conditions when the rear cottage was renovated prior to the issuance of a Conservation Certificate of Compliance.
22. Revision to sheet SE-1 to remove planters from planting plan but maintain plants within rain garden in front of rear cottage and rear of front house.

**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:** Shea    **Second:** Bancroft  
**Ayes:** Davis, Bancroft, Shea, Porter, Lobdell  
**Nayes:** 0    **Abstentions:** 0    **Vote:** 5:0:0

4. **275 North Avenue (aka 39 Coleytown Road):** Application #IWW,WPL-10417-17 by Barr Associates, LLC on behalf of ELDA Capital Corp. for a proposed two-lot subdivision with Lot A comprised of a 1.25-acre parcel comprised of an existing cottage and barn and Lot B being a vacant 1.87-acre lot for a new house. Portions of the property are within the upland review area and the WPLO area of the Aspetuck River.

Mel Barr presented the application on behalf of the property owners, who were also present. He presented a plan that had previously been approved by the staff and Commission for a new house on the north side of the river and cottage renovations. This arrangement was difficult to sell to a potential buyer. Coming in with a 2-lot subdivision proposal was supported by recent Planning & Zoning text



amendments. The barn will remain as is. The cottage remains as is and they are no longer asking for additions. They intend for the house plan to remain as previously approved.

Ms. Krynicki noted a revised subdivision plan needs to be submitted to show the established 50-foot upland review area from the wetland before recording on the land records.

Wendy Van Wie of 188 Cross Highway spoke on behalf of the project. She commended the owners for trying to save the historic structure.

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

<b>Motion:</b>	<b>Shea</b>	<b>Second:</b>	<b>Davis</b>
<b>Ayes:</b>	<b>Shea, Davis, Bancroft, Lobdell, Porter</b>		
<b>Nays:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
			<b>Vote: 5:0:0</b>

**Findings**  
**Application # IWW, WPL 10417-17**  
**275 North Avenue (aka 39 Coleytown Road)**

- 1. Receipt Date:** **May 17, 2017**
- 2. Application Classification:** **Summary**
- 3. Application Request:** Applicant is requesting to subdivide a 3.12 acre parcel to create a 1.25 acre lot identified as Lot A (with the existing residence, barn and site amenities to remain) and a 1.87 acre lot identified as Lot B which is currently vacant (site improvements previously approved by the

Conservation Department under Application # AA, WPL/E 9690-13) to be developed in the future with a single family residence, septic system, drainage and other site amenities.

The parcels will be served by municipal water and individual on-site septic systems.

No site improvements are proposed for Lot A. The proposed development activity for Lot B as currently depicted, meets or exceeds the IWW upland review areas as determined by the Conservation Commission. A 50' non-disturbance buffer is shown on Lot B.

The Conservation Commission is not authorizing any construction activity at this time. The purpose of this application is to depict the areas of proposed development that will not cause adverse impacts to the wetlands and watercourses and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway.

The Conservation Commission is reviewing the subdivision pursuant to Connecticut State Statute 8-26 governing Planning and Zoning Commissions. Said statute reads as follows:

*"If an application involves land regulated as an inland wetland or watercourse under the provisions of chapter 440, the applicant shall submit an application to the agency responsible for administration of the inland wetlands regulations no later than the day the application is filed for the subdivision or re-subdivision. The commission shall not render a decision until the inland wetlands agency has submitted a report with its final decision to such commission. In making its decision the commission shall give due consideration to the report of the inland wetlands agency."*

Section 5.1(f) allows the Commission to take into consideration impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed activity which may have an impact on wetlands or watercourses.

- 4. Plans Reviewed:**

- a. "Proposed Lot "A" and Lot "B" Plot Plan Prepared for Elda Capital Corporation, 39 Coleytown Road, Westport, Connecticut", Scale: 1" = 20', dated January 6, 2012 and last revised to March 6, 2017, prepared by Leonard Surveyors LLC
  - b. "Site Plan, Site Preparation Plans for a Proposed 2-Lot Subdivision, Elda Capital Corporation, 39 Coleytown Road, Westport, CT (Map D16, Lot 22), (Sheet 1 of 2) Scale: 1"= 20', dated April 8, 2017, prepared by Richard Bennett & Associates, LLC
  - c. "Details & Notes, Site Preparation Plans for a Proposed 2-Lot Subdivision, Elda Capital Corporation, 39 Coleytown Road, Westport, CT (Map D16, Lot 22), (Sheet 2 of 2) Scale: as shown, dated April 8, 2017, prepared by Richard Bennett & Associates, LLC
5. **Permits/Applications filed:**
1. AA, WPL/E 9690-13 for a new single family residence and associated site improvements
6. **WPLO**  
The Waterway Protection Line is located 15' from the 25 year floodplain boundary.
7. **Wetland Soils**  
Soil Report Summary- prepared by Henry Moeller on January 27, 2012 describes the following wetland soils occurring on the property:

**Pootatuck fine sandy loam:**

This soil is a moderately well drained alluvial soil developed in recent deposits on floodplains or depressions subject to sedimentation. They have a thick topsoil layer ranging from 20 to 40 inches or more of dark grayish brown fine sandy loam. The underlying substratum at 30 to more than 40 inches is highly variable in color and textures that range from loamy fine sand to sand. Permeability ranges from moderately rapid to rapid throughout the soil solum. This soil is flooded or ponded for several days to a week or more in most years.

Mr. Moeller describes the non-wetland soils as described by the National Resources Conservation Service by the following:

**Udorthents-Urban land complex :** This unit consists of areas that have been altered by cutting or filling. The areas are commonly rectangular and mostly range from 5 to 100 acres. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas of soils that have not been cut or filled. Also included are a few larger urbanized areas and a few small areas containing material such as logs, tree stumps, concrete, and industrial waste. A few areas have exposed bedrock. Included areas make up about 30 percent of this map unit. The properties and characteristic of this unit are variable, and the unit requires on-site soil investigation and evaluation for most uses.

**Charlton fine sandy loam:** This soil is a well drained, very deep upland soil developed in very friable to firm glacial till. The surface soil is a very dark brown fine sandy loam approximately 4" thick. Rock fragments make up 5 to 35 percent of the solum and 5 to 65 percent of the substratum. The soil is moderately permeable throughout the upper 40 inches.

8. **Property Description and Facts Relative to the Map Amendment Application:**

- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "streamside floodplain, with a permanent watercourse and a wooded swamp present."
- Landscape position of this parcel is a backslope and land surface shape is linear/linear.
- The FEMA maps indicate that portions of the property are located within the 100 year floodplain.
- The Waterway Protection Line occurs 15' from the 25 year floodplain boundary.
- Property does not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
- Property does not exist within the Coastal Areas Management Zone.

## 9. Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

### 6.1 GENERAL STANDARDS

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

The existing site improvements on Lot "A" are to remain as is with no new development proposed for the parcel at this time.

Lot "B" has a single family residence and associated site improvements currently approved under Application #AA, WPL/E 9690-13. All proposed site improvements as approved which meet the upland review area setbacks. A 50' non-disturbance buffer is being maintained from the wetland boundary. No vegetation removal, grading or any other activity is to take place within this area. The Commission finds that this buffer width be maintained with any future development of the parcel. The Commission recommends that the applicant consider placing this 50' upland review area into a Conservation Easement.

If development is to occur closer than 50' to the wetland boundary on this lot, then the Commission finds will be a Commission review.

### 6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- g) prevents pollution of surface water

The NRCS soils map indicates the upland soils in the vicinity of the proposed improvements to be Charlton fine sandy which is a well-drained soils group.

Test holes in the vicinity of the infiltration system for Proposed Lot "B" show that the proposed infiltration units will be sufficiently above the groundwater table to assure adequate treatment of the stormwater runoff.

A Westport Weston Health District permit was issued for a six bedroom residence on Lot "B" on March 7, 2013.

A permit to upgrade the septic tank to 1500 gallons for 39 Coleytown Road was approved by the Westport Weston Health District. The work was completed on January 24, 2013. A B100A is approval is also on file for the cottage and barn at 39 Coleytown Road.

A 50' non disturbance buffer to remain naturally vegetated adjacent to the Aspetuck River is proposed. The Commission finds this upland review area should remain in perpetuity and be permanently delineated in the field.

Forested riparian buffers provide substantially more and better ecosystem services than grass buffers. The roots of the herbaceous and woody plants strengthen the stream bank and prevent stream bank erosion. The forest canopy shades water moderating water temperature.

The Commission finds the riparian buffer zone is a very important component to this application as the Aspetuck River in this area is a trout management area. A fish ladder was installed by the Nature Conservancy between the two proposed and existing development areas a large population of fish in the river at the last site visit was observed by staff.

The riparian buffer reduces erosion, filters stormwater runoff sediment, provides shade, provides habitat and helps reduce flooding as the root structures of the plants and trees provide subsurface conduits for storm water infiltration.

The trees of riparian buffers shade the water, moderating water temperature. Temperature is a critical influence in aquatic ecosystems, affecting both the physical and biological characteristics of the stream. Increases in summer temperature can reduce the amount of dissolved oxygen in water.

In "Riparian Zones: Functions and Recommended Widths" (Hawes and Smith, 2005) the authors identified the forested buffer widths needed to effectively serve particular functions; they report the following minimum ranges:

- Erosion/sediment control: 30 feet
- Water Quality/Nutrients: 49 feet
- Temperature: 30 feet

### **6.3 EROSION AND SEDIMENT**

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

The applicant has provided silt fence around the construction activity on Lot B. The Commission finds that haybales be used in tandem with the silt fence on the south side of the development proposal for Lot "B". Proposed grading is depicted outside regulated areas. As the silt fence is shown around the entire proposed activity area and the grade is gently, provided the silt fence is installed properly and maintained throughout the construction process, the Commission finds that no physical impact due to erosion and sediment is anticipated within IWW setbacks.

### **6.4 NATURAL HABITAT STANDARDS**

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.

Vegetation is not proposed to be removed within regulated areas in conjunction with this development proposal. The Commission finds that any vegetation intended to remain on site should utilize tree protective fencing at canopy drip line to protect root zones.

### **6.5 DISCHARGE AND RUNOFF**

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

Increased development without proper consideration of storm water impacts can be a cumulative and significant source of pollution. As the number of opportunities for non point pollutant sources increases and the distance decreases, the likelihood of water quality impact increases.

The applicant is providing a 50' wide naturally vegetated buffer within the wetlands, floodplain and upland review areas for this proposal.

The Engineering Department has reviewed and approved the drainage design for this subdivision. Deep test results witnessed by the Engineering Department confirm a well-drained soils hydrologic rating of this area. The proposed drainage assumes a 25% coverage of proposed Lot B.

No site changes are proposed for Lot A.

### **6.6 RECREATIONAL AND PUBLIC USES**

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

Current application will not have a significant impact on recreational and public uses.

### ***Waterway Protection Line Ordinance***

Section 148-9 of the WPLO ordinance states the following: 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 waters, 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 Waterway Protection Line boundary exists 15' from the 25 year flood boundary. The Flood & Erosion Control Board has approved this application on June 7, 2017.

A very small section of the retaining wall is located for proposed Lot B is located within the WPLO and 25 year floodplain boundary to curtail the proposed grading activity. The Commission finds there may be an opportunity to relocate this and further minimize the intrusion within the WPLO. The applicant should reexamine these proposed locations at the time of final site design.

For the reasons enumerated above, the Commission finds that provided the erosion and sediment controls are installed and properly maintained and the 50' upland review area remains undisturbed, the site improvements as exist on Lot A and the proposed site improvements on Lot B will not

significantly impact the resources as they are protected under the Waterway Protection Line Ordinance.

**RESOLUTION  
TOWN OF WESTPORT  
CONSERVATION COMMISSION  
APPLICATION #IWW,WPL 10417-17  
275 North Avenue  
PUBLIC HEARING DATE: June 21, 2017**

**Project Description:** for a proposed two-lot subdivision with Lot A comprised of a 1.25 acre parcel comprised of an existing cottage and barn and Lot B being a vacant 1.87 acre lot for a new house. Portions of the property are within the upland review area and the WPLO area of the Aspetuck River.

Owner of Record: ELDA Capitol Corp.,  
Applicant: Barr Associates LLC

In accordance with Section 6 of the "Inland Wetland and Watercourse Regulations for the Town of Westport" and 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 #IWW,WPL 10417-17 with the following 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.

### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the plans entitled:
  - a. "Proposed Lot "A" and Lot "B" Plot Plan Prepared for Elda Capital Corporation, 39 Coleytown Road, Westport, Connecticut", Scale: 1" = 20', dated January 6, 2012 and last revised to March 6, 2017, prepared by Leonard Surveyors LLC
  - b. "Site Plan, Site Preparation Plans for a Proposed 2-Lot Subdivision, Elda Capital Corporation, 39 Coleytown Road, Westport, CT (Map D16, Lot 22), (Sheet 1 of 2) Scale: 1"= 20', dated April 8, 2017, prepared by Richard Bennett & Associates LLC
  - c. "Details & Notes, Site Preparation Plans for a Proposed 2-Lot Subdivision, Elda Capital Corporation, 39 Coleytown Road, Westport, CT (Map D16, Lot 22), (Sheet 2 of 2) Scale: as shown, dated April 8, 2017, prepared by Richard Bennett & Assoc. LLC
17. Proposed Lot B shall return to the Conservation Commission should any design proposal be less than 50' from the flagged wetland boundary or if any additional activity fall within the WPLO boundary.
18. Any proposed site development changes for proposed Lot B will require another review and approval from the Westport Weston Health District.
19. All stockpiles to be located outside the 50 foot upland review area.
20. Conformance to the Construction Sequencing Memo dated 11/12/13 which requires the retaining wall to be constructed first.
21. All condition of Application #AA, WPL/E 9690-13 shall still apply.
  - a. Contractor Compliance Agreement to be signed and returned to Conservation Department prior to the issuance of a Zoning permit.
  - b. No cutting, clearing, grading allowed within 50 feet of flagged wetland line without approval by the Commission.
  - c. All stockpiles to be located outside the 50 foot upland review area.
  - d. Conformance to Construction Sequencing Memo dated 11/12/13 which requires retaining walls to be constructed first.
22. Stakes identifying the 50 foot upland review area shall be re-established in the field prior to work commencement.
23. The 50 foot upland review area measured from the wetland boundary shall be added to the proposed subdivision plan prior to recording on the Land Records.

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:** Shea                      **Second:** Porter  
**Ayes:** Davis, Bancroft, Shea, Porter, Lobdell  
**Nays:** 0                      **Abstentions:** 0                      **Vote:** 5:0:0

### **Work Session II:**

1. Other business. – **None**

The June 21, 2017 Public Hearing of the Westport Conservation Commission adjourned at 10:00 p.m.

**Motion:**                      **Shea**    **Second:**                      **Bancroft**  
**Ayes:**                      **Shea, Bancroft, Davis, Lobdell, Porter**  
**Nays:**                      **None**    **Abstentions:**                      **None**    **Vote:**                      **5:0:0**