MINUTES
WESTPORT CONSERVATION COMMISSION
FEBRUARY 15, 2017

The February 15, 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:

Anna Rycenga, Vice-Chair, Acting Chair
Paul Davis, Secretary
Donald Bancroft
Robert Corroon
Mark Perlman, Alternate
W. Fergus Porter

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst
Colin Kelly, Conservation Compliance Officer

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the February 15, 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.

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

1. Receipt of Applications

Ms. Mozian noted there were three applications to be officially received including:

a. 3 North Ridge: Application #IWW/M-10363-17 by Kousidis Engineering LLC on behalf of Sherri Raifaisen to amend wetland boundary map #E15.
b. 127 Beachside Avenue: Application #IWW,WPL-10361-17 by LANDTECH on behalf of Liz & Michael Janis to construct a new pervious patio area, driveway, minor regrading and buffer planting. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary to Sasco Brook.
c. 107 Old Road: Application #IWW,WPL-10362-17 by LANDTECH on behalf of the Estate of Catherine D Fleming to subdivide an existing 6.11 acre lot into 4 residential lots, each to support a single family dwelling. The site contains wetlands that drain to an unnamed tributary of Sasco Brook. A portion of the proposed activity is within the wetland, the upland review area and the WPL area.

Motion to receive the applications.

Motion:	**Rycenga**		**Second:**	**Bancroft**	
Ayes:	**Rycenga, Bancroft, Corroon, Davis, Perlman, Porter**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**6:0:0**

2. Approval of January 18, 2017 meeting minutes.

The January 18, 2017 meeting minutes were approved with corrections.

Motion:	**Rycenga**		**Second:**	**Porter**	
Ayes:	**Rycenga, Porter, Bancroft, Corroon, Davis, Perlman**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**6:0:0**

3. Approval of January 24, 2017 special meeting minutes.

Mr. Bancroft noted he watched the video and reviewed the minutes. He also received the additional information presented at the meeting.

The January 24, 2017 special meeting minutes were approved with corrections.

Motion:	**Davis**		**Second:**	**Rycenga**	
Ayes:	**Davis, Rycenga, Bancroft, Corroon, Perlman, Porter**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**6:0:0**

4. Report by Colin Kelly, Conservation Compliance Officer on the status of existing enforcement activity and annual report on permit and enforcement activity.
a. Mr. Kelly gave an existing enforcement report. There have been 2 enforcement actions taken. One at **95 Partrick Road** for leaf dumping. The other occurred at **535 Riverside Avenue** for an illegal commercial dock. The dock received state approvals but not local approvals. A Notice of Violation was issued.
b. Mr. Kelly gave his annual report. He reviewed the types and number of permits issued. In order of numbers, additions, pools and new single family residences were the types of permits most issued. He reviewed the permits issued relative to each watershed with the most permits issued in the Deadman's Brook watershed. The violations have remained about the same in number, mainly for leaf dumping and clearing.

5. Proposed FY 2017/2018 Budget Review

Ms. Mozian gave an overview of the department FY 2017/2018 budget. She highlighted that there is a 1.6% decrease proposed.

6. Other Business

Motion to close Work Session I and move into the Public Hearing.

Motion:	**Davis**		**Second:**	**Rycenga**	
Ayes:	**Davis, Rycenga, Bancroft, Corroon, Perlman, Porter**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**6:0:0**

Public Hearing: 7:30 p.m., Room 201/201A.

1. **63 Turkey Hill Road South:** Application #IWW/M-10351-17 by William Kenny Associates LLC on behalf of Deane & Maryanne Martire to amend wetland boundary map #G7.

   Bill Kenny, soil scientist, represented the property owners. He stated he visited the site in September 2016. Mary Jaehnig was retained as a soil scientist to represent the Town. The two of them met on the site with Colin Kelly. Two flags were adjusted to make the boundary at the northern edge of the property a bit wider. The survey was amended to reflect the amended boundary. An intermittent watercourse was also identified at the northeast corner of the property.

   Ms. Mozian noted the site has been manipulated extensively over the years with drain pipes and filling. The Town wetland map shows a watercourse existed at one time but it is definitely no longer there. Staff did a search of historic aerial photos back to 1951. The watercourse was seen to the north but it appears to dissipate when it gets to this property.

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

   Motion: Rycenga Second: Porter
   Ayes: Rycenga, Porter, Bancroft, Corroon, Davis, Perlman
   Nayes: None Abstentions: None Vote: 6:0:0

Findings
Application #IWW/M 10351-17
63 Turkey Hill Road South

1. **Application Request:** The request is to amend wetland map #G 7
2. **Soil Scientist for Applicant:** William Kenny of William Kenny Associates LLC
3. **Soil Scientist for the Town of Westport:** Mary Jaehnig of Pfizer-Jahnig Environmental Consulting
4. **Plan reviewed:** "Improvement Location Survey Prepared for Dean and Maryanne Martire, 63 Turkey Hill Road South, Westport, Connecticut", Scale 1" = 30', dated October 5, 2016 and last revised to January 23, 2017, prepared by Land Surveying Services, LLC
5. **Soils Description:**
   Soil Report Summary- prepared by William Kenny dated September 15, 2016 describes the following wetland soils occurring on the property:

   Two inland wetland and watercourses systems were identified and delineated. One system, which is located in the north-central portion of the property, is a sloping shrubland wetland with an abundance of invasive vines. A broadleaved deciduous forest is present along the eastern boundary of the property.
   A very short segment of a narrow intermittent watercourse is present in the northeastern corner of the property. Wetland soils are primarily poorly drained fine sandy loams that formed from glacial till deposits.
   Leicester fine sandy loam: This very poorly drained soil formed in loose glacial till.

   Mr. Kenny describes the non-wetland soils as described as the following:

   Canton and Charlton soils (60): This soil unit consists of sloping, well drained soil found on hills and ridges. Permeability is moderates or moderately rapid. Runoff is rapid, and available water capacity is moderate. Most areas have been cleared. A few areas are used for community development. Slope is the main limitation of this soil for community development, especially in areas for onsite septic systems. Such systems need careful design and installation to prevent effluent from seeping to the surface. Quickly establishing plant cover, mulching, and using siltation basins and diversions help to control erosion and sedimentation during construction.

Sutton-Urban land complex (250): This soil unit consists of gently sloping, moderately well drained soil found in slight depressions and on the sides of hills and ridges. This Sutton soil has seasonal high water table at a depth of about 20 inches from late fall until mid-spring. The permeability of the soil is moderate or moderately rapid. Runoff is medium, and available water capacity is moderate. Many areas of this soil type are used for community development, with limitations caused by the high water table. Included with this soil in mapping are small areas of well draned Charlton and Paxton soils, moderately well drained Woodbridge soils and poorly drained Leicester and Ridgebury soils. Quickly establishing plant cover, mulching, and using siltation basins and diversions help to control erosion and sedimentation during construction. The seasonal high water table limits community development and makes special design and installation of onsite septic systems necessary.

Udorthents-Urban land complex (306): These units consist primarily of man-made cut and/or fill areas. The fill is mostly earthy materials with minor amount of non-early materials such as pieces of concrete, brick, wood, metal and grass. Included in this mapping unit are buildings and paved areas. Slopes are dominantly 0 to 15 percent in map unit UDC and 15 to 35 percent in map unit UDD.

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 " isolated floodplain with marsh and wooded swamp. The perimeter of this wetland is 25% residential and 75% forested.
   - Landscape position of the wetland is a backslope with a linear /linear land surface shape.
   - The FEMA maps indicate that the property is not located within the 100 year floodplain.
   - The Waterway Protection Line occurs 15' from the wetland 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.
7. The wetland flagging of William Kenny was confirmed by Mary Jaenhig in the field on January 11, 2017.

   In a report dated January 27, 2017, Mary Jahnig states she agrees with the soils delineation of William Kenny with a minor change made to the northeastern edge of the wetland located in the north-central portion of the property. Flags 9 and 10 were moved several feet to the east widening the northern portion of this wetland.

   Flags 20 and 21 accurately mark the edge of the intermittent watercourse that flows along the western side of the stonewall along a portion of the property boundary.

   Staff has also visited the property and agrees with the delineation of the soil scientists. The Commission finds it is to accept the flagged line as delineated by the two soil scientists with the referenced flag revisions to be included on the survey map.

RESOLUTION
APPLICATION #IWW/M 10351-17
63 Turkey Hill Road South

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 evidence of record, the Conservation Commission resolves to **APPROVE** Application **#IWW/M 10351-17** by Deane & Maryanne Martire to amend wetland boundary map #G7 on the property located at 63 Turkey Hill Road South with the following conditions:

1. Conformance to the plan entitled: "Improvement Location Survey Prepared for Dean and Maryanne Martire, 63 Turkey Hill Road South, Westport, Connecticut", Scale **1" =** 30', dated October 5, 2016 and last revised to January 23,2017, prepared by Land Surveying Services, LLC
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 void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

Motion: Porter **Second:** Davis
Ayes: Corroon, Davis, Rycenga, Bancroft, Perlman, Porter
Nayes: 0 **Abstentions:** 0 **Votes:** 6:0:0

2. 41 Crescent Road: Continuation of Application #IWW-10321-16 by LANDTECH on behalf of the Roger Quick, Heritage Homes, to subdivide an existing 2.56 acre lot into three residential lots that will each support a single family dwelling. A portion of the property is within the IWW upland review area.

Mike Bartos, PE with LANDTECH, presented on behalf of the property owner. He noted the hearing was left open for two reasons. Two test holes were done. One showed the soils were okay, the other test hole revealed ledge. The development decreases infiltration and increases runoff. The function of the raingarden is to hold more runoff and improve the water quality. The raingarden could technically be smaller by about 600 s.f. but they are not proposing that. This is because the Flood and Erosion Control Board review revealed flooding problems on Heather Hill. Therefore, this oversized raingarden is also serving to help address those problems. Also, the raingarden will treat more runoff than what they are require to do.

Ms. Mozian noted the hearing was held open to allow for additional soil testing in the vicinity of the large raingarden to determine the soils was suitable as it was suspected that ledge may be present. It was also continued in order to receive computations supporting the proposed size of the raingarden. Staff met with the applicant on January 24, 2017 to determine the location of the two test sites.

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

Motion: Rycenga Second: Bancroft
Ayes: Rycenga, Bancroft, Corroon, Davis, Perlman, Porter
Nayes: None Abstentions: None Vote: 6:0:0

FINDINGS
Application # IWW 10321-16
41 Crescent Road

1. **Receipt Date: November 16, 2016**
2. **Application Classification: Summary**
3. **Application Request:**

Applicant is requesting to subdivide a 2.56 acre parcel into three residential lots. The parcel currently supports one single family residence with associated site improvements. The proposal calls for the retention of the existing dwelling and the additional of two residences for a total of 3. Proposed lot 2 will be accessed off Heather Hill by a private driveway and proposed lot 3 will be accessed off Webb Road by a private driveway. All building structures and improvements to the proposed site development associated with the residences meet the upland review area setbacks.

This property was previously reviewed and approved with conditions for a four lot subdivision under Application #IWW 9561-13 on January 15, 2014.

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(b) of the Town of Westport Regulations for the Protection of Inland Wetlands and Watercourses asks for the Commission to consider any feasible and prudent alternatives which alternatives would cause less or no environmental impact to wetlands and watercourses.

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:**
   1. "Plot Plan Prepared for Roger Quick, Westport, Connecticut", Scale: 1"=20', dated June 6, 2008 and last revised to March 11, 2013, prepared by Edward J. Frattaroli, Inc.
   2. "Site Plan Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-1, Scale: 1"=20', dated August 29, 2016 and last revised to January 17, 2017, prepared by Land-Tech.
   3. "Site Details & Notes Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-2, dated August 29, 2016 and last revised to January 17, 2017, prepared by Land-Tech
   4. "Details & Notes Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-3, dated August 29, 2016, prepared by Land-Tech
   5. "Sanitary Sewer Profile Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-4, dated August 29, 2016, prepared by Land-Tech
   6. "Planting Plan Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-5, dated August 29, 2016, prepared by Land-Tech
5. **Permits/Applications filed:**
   1. #IWWM 8499-09 was approved by the Conservation Commission for an amendment of wetland map #E 9.
   2. #IWW 9561-13 was approved by the Commission for a four-lot subdivision on January 15, 2014.
6. **WPLO –** This property is not regulated by the Waterway Protection Line Ordinance.
7. **IWW Defined Resource (wetland or watercourse)**

Inland wetlands occur on the subject property. They consist of two isolated areas comprising 5,752± s.f. (western wetland) and 1,956 ± (eastern wetland). The western wetland supports maintained lawn and is located at a toe slope in the central portion of the parcel. The eastern wetland is located on a back slope and is hydrologically connected to a wetland on the adjacent parcel to the south. Fill from a stone wall is prohibiting a direct surface connection of these two wetland systems.

Wetland Soils
Wetlands Description
The following wetland soils occur on the property:
Soil report Summary- prepared by Tom Pietras dated May 19, 2008 describes the following wetland soil occurring on the property:

Leicester fine sandy loam (Aeric Endoaquepts)- This is a deep, poorly drained, friable, coarse-loamy textured, glacial till soil. The till was derived from schist, gneiss and granite. Leicester soils occur on glaciated hills and ridges.

Mr. Pietras describes the non-wetland soils as:

Sutton fine sandy loam (Aquic Dystrudepts)- This is a deep, moderately well drained, friable, coarse-loamy textured, glacial till soil derived from schist, gneiss and granite. Sutton soils occur on glaciated plains, hills and ridges.

Hollis-Chatfield-rock outcrop complex (Typic & Lithic Dystrudepts)- These are moderately deep and shallow, well drained to somewhat excessively drained, friable, coarse-loamy textured, glacial till soils derived from schist, gneiss and granite. Depths to bedrock range from 0 to over 5 feet. Roughly 1/3 of the soils in this complex are shallow (10 -20 inches) to bedrock, while another 1/3 are moderately deep (20 -40 inches). The Hollis-Chatfield-rock outcrop complex occurs on glaciated plains, hills and ridges.

8. **Property Description and Relative Facts:**
   1. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes the off-site wetland as an "permanent streamside, floodplain with a wooded swamp.

2. The USGS Survey Quadrangle map for Westport, Connecticut indicates the wetland systems are isolated and not hydrologically connected to a permanent watercourse.
3. Landscape position of this parcel is a backslope. Land surface shape is linear/linear.
4. Wetland vegetation is dominated by a light forest and field.
5. The FEMA maps indicate that the property is located within Zone C.
6. Property does not exist within the Aquifer Protection Overlay Zone nor the groundwater recharge area.

Proposed site improvements are shown on the submitted site plan to depict viable areas of future development on these parcels.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

9. 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

a. This application as proposed is a one-lot site development reduction from what was previously approved. A roadway and an additional residence has been eliminated, however, the rain garden in the center of the parcel originally designed for the impervious surface of the previous proposal remains the same. It is proposed to receive the runoff from one residential lot and the surrounding watershed area. Landtech has submitted the calculations and the watershed mapping to substantiate the size and position of the rain garden Soil testing was done inside the basin to show that a soil profile exists to substantiate infiltration. The Commission finds the rain garden design will handle the runoff from the just one residential property and the surrounding 2.6 acres of the watershed. The engineer has indicated he is also leaving the rain garden as oversized to address prior complaints from the neighbors in the Heather Hill neighborhood of flooding issues. Keeping the rain garden the same size with slightly reduced runoff helps a little. There has only been a slight reduction in impervious area, it does not reduce amount of disturbance in regulated areas, and keeping the same size allows for a slightly greater percentage of runoff to be retained for infiltration. The Commission has considered the comments from the applicants' engineer and finds that sheet flow runoff is being directed toward the rain garden and that the rain garden will be efficient at capturing the on and off site sheet runoff.
b. Large outcrops of ledge are located within or in close proximity to the footprints of the proposed residences. Test hole results indicate a shallow solum throughout the parcel. A contract with a hydrogeology firm (Haley and Aldrich) was retained at the time of the previous application review to assist the staff in evaluating the impact of the ledge removal and a report to the Commission was submitted on their findings and considered by the Commission in their findings and conditions of approval. Reports and testimony from Leggette, Brashears & Graham, Inc. consultant for the applicant was also considered during the 2014 application review.
c. As indicated in the Wetland Evaluation and Impact Assessment submitted by the applicant, the wetland functions primarily as a discharge wetland. The wetlands receives seasonal and stormwater from overland flow and then allows infiltration for groundwater recharge.
d. A Conservation easement is proposed around all wetland areas and includes the surface runoff area from the eastern to the central wetland areas.
e. The total impervious area for each parcel is indicated on the proposed development plan.
f. The Commission finds that retaining the rain garden as originally designed with the proposed grading will enhance water quality and upgradient stormwater volume collection will allow the rain garden to function as a "flood protection" area for the surrounding neighborhood.

g. The NRCS Web Soil Survey classifies the on-site soil conditions as very limited for house construction with basements.

10. 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 Commission finds that the water quality concerns were extensively discussed and considered with the previous application and it was found to provide sufficient protection of the resource and groundwater quality. The rain garden will remain as originally designed to assure downstream flooding is minimized. The current design represents a reduction in the impervious area and overall disturbance of the site. The design as currently presented includes the conditions and considerations of the original design approval. The Commission finds that water quality will also be protected with this design.

11. 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 perimeter of the on-site wetlands.

The Commission finds that individual site plan reviews should be required for construction on all lots, at which time the necessary erosion and sediment controls can be reviewed by staff to assure protection of the resource. The majority of the proposed grading will be located outside regulated areas.

To reduce the creation of fissures, it is recommended that ledge removal for all site development activity shall take place using a hoe ram/pneumatic hammer only.

Test hole data in the area of the proposed houses should be submitted for development for individual lot design planning at the time of individual application submission.

12. 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.

The majority of the property is maintained as mowed lawn. Currently the wetland area is not being mowed. Vegetation will be enhanced in the wetland and adjacent upland review areas in conjunction with this development proposal. Any larger woody vegetation intended to remain on site should utilize tree protective fencing at canopy drip line to protect root zones.

Vegetation within the actual wetlands will help improve water quality as well as enhance habitat potential as it would slow runoff velocity and provide biofiltration for surface stormwater infiltration.

13. 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

As previously testified to at the prior hearing, staff had visually observed, the overland runoff from the northeasterly wetland system connects to the southerly wetland system. The southerly wetland system has a hydrological connection to the easterly system. This connection will be maintained and protected through the use of a Conservation easement. The Commission finds a permanent delineation in the field will deter filling or grading in the future of this area as concern would be the alteration of this stormwater flow path.

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 rain gardens as proposed by the applicant will help provide the biofiltration for the impervious area of the site development. The Commission finds the grading and sizing as originally designed for the previous application meets the water quality volume from a one-inch rainfall from the watershed draining to it. The Commission finds that infiltrating this volume of stormwater runoff assures the contaminants associated with the runoff are not discharged directly to the wetland and subsequently downstream. The rain garden has been sized to treat all the runoff from the entire watershed draining to it. Keeping the rain garden at the same size with a smaller amount of runoff allows for a slightly greater percentage of runoff to be treated for nutrient and sediment removal prior to discharge to the wetland.

The Conservation Department office has recorded several complaints of flooding downgradient of this property. The Engineering Department has stated that it does not have a problem with oversizing the basin.

To protect a wetland system from adverse impacts, pollutants need to be controlled at their source to the maximum extent feasible. The Commission finds the use of the maximum percentage of pervious surfaces and the encouragement of surface sheet flow for maximum biofiltration and infiltration opportunity in keeping with low impact development design concepts and the natural hydrologic cycle of the parcel.

The Commission finds driveway surfaces should be proposed as pervious.

The Commission finds the as-built plan submissions should include all existing final grade topography to ensure the surface flow connection to and between the wetlands continue.

The rain garden location and size ill assure downstream flooding is minimized.

14. 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.

The Commission finds the current application will not have a significant impact on recreational and public uses.

15. Criteria to be considered by the Commission

Section 5.1(d) of the Regulations for the Protection and preservation of Wetlands and Watercourses of Westport refers to the irreversible and irretrievable loss of wetlands or watercourses which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resource, and any mitigation measures which may be considered as a condition of issuing a permit for such activity, but not limited to, measures to:

(1) prevent or minimize pollution or other environmental damage;
(2) maintain or enhance existing environmental quality; or
(3) In the following order of priority: restore, enhance, and create productive wetland

A copy of the amended stipulation for judgement per Order of Hon. Charles Lee on September 30, 2015 was entered into the public hearing record by Michael T. Bologna, Esq.
Obligations of the Owners included:

a. Owners shall install a split rail fence along the entire westerly boundary of the area at the easterly sides of Lots 2,3 and 4 on the Plan which is labeled as “Conservation/Open Space.”
b. Owners shall install all plantings shown on the Plan prior to the close of the first growing season after installation of the fence. For the purposes of this stipulation the Spring growing season shall be deemed to end on May 15th and the Autumn growing season to end on October 15th of any given year.
c. Owners shall create a Homeowners’ Association to be charged with the maintenance of the split rail fence and of the plantings shown on the plan.
d. No blasting shall take place on any lot in the subdivision and rock removal shall be done only on weekdays between 9:00 am and 5:00 pm. Dust attenuation equipment shall be used as required.
e. All other construction activity shall be done in compliance with the Town of Westport’s restriction of work times under Westport Code of Ordinances, §42-22.
f. In order to facilitate plantings, trees designated by Owner ‘s arborist may be pruned and only trees smaller than 4 dbh may be thinned. Said pruning and trimming shall only take place outside the 20 ft. wetlands setback as shown on the plan.
g. The obligations of the Owners are understood to be in addition to obligations imposed as a condition of approval by the Westport Conservation Commission
h. Obligations of the Owners may be assigned to and shall bind any and all successors in interest

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW-10321-16
Street Address: 41 Crescent Road
Assessor’s Map E-09, Lot 139
Date of Resolution: February 15, 2017

Project Description: To subdivide a 2.56 acre parcel into three residential lots. The parcel currently supports one single family residence with associated site improvements. The Commission is reviewing the subdivision pursuant to Connecticut State Statute 8-26 governing Planning and Zoning. A portion of the property is within the upland review area.

Owner of Record: Roger Quick; Heritage Homes
Applicant: LandTech

In accordance with Section 6 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-10321-16** 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 or ordered by the court or settlement reached in any other proceeding, and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit an 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 any regulated activity.
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. No herbicide or pesticides to be used within regulated areas.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which may develop.
11. Any material, man-made or natural shall not be deposited in any wetlands or watercourse unless authorized by this permit.

SPECIAL CONDITIONS OF APPROVAL`

12. Conformance to the plans entitled:
    a. “Plot Plan Prepared for Roger Quick, Westport, Connecticut”, Scale: 1”=20’, dated June 6, 2008 and last revised to March 11, 2013, prepared by Edward J. Frattaroli, Inc.
    b. “Site Plan Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT” Sheet C-1, Scale: 1”=20’, dated August 29, 2016 and last revised to January 31, 2017, prepared by Land-Tech Consultants, Inc.
    c. “Site Details & Notes Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT” Sheet C-2, dated August 29, 2016 and last revised to January 31, 2017, prepared by Land-Tech Consultants
    d. “Details & Notes Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT” Sheet C-3, dated August 29, 2016, prepared by Land-Tech Consultants
    e. “Sanitary Sewer Profile Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT” Sheet C-4, dated August 29, 2016, prepared by Land-Tech Consultants

f. "Planting Plan Prepared for Heritage Homes, Inc, 41 Crescent Road, Westport, CT" Sheet C-5, dated August 29, 2016, prepared by Land-Tech Consultants

13. Application submission and review for individual lot development can be considered by staff if all upland review areas and subdivision conditions of approval are adhered to. The application information shall include test hole data witnessed by the Engineering Department in the area of the proposed house foundations. This data will supply the engineers with site specific data, including depth to ledge, in order to plan for individual lot design accordingly.

14. To reduce the creation of fissures, ledge removal for all site development activity shall take place using a hoe ram/pneumatic hammer only.

15. The proposed swale on the eastern portion of lot 1 shall be maintained by the owner and recorded on the land records prior to issuance of a Certificate of Compliance.

16. All as-built plans submitted for individual lots at the time of request for Certificate of Compliance shall include all existing final grade topography to ensure a surface flow connection to and between wetlands.

17. All Conservation Easement Areas shall be delineated in the field by a post and rail fence. A restrictive covenant shall be placed on the land records prior to issuance of a Conservation Certificate of Compliance for any of the new houses to be constructed. Said covenant shall prevent the cutting, clearing, filling, grading or construction of any structure within the easement area without authorization from the Conservation Commission.

18. All Conservation Easement Areas shall be shown on the recorded subdivision map. A licensed Land Surveyor shall delineate all Conservation Easement Areas in the field prior to any work commencement on-site.

19. Submission of a performance bond estimate in the amount of the cost of plants, erosion control materials and labor for all raingardens, the biofiltration plantings along the eastern edge of the central wetland and the Conservation Easement Area fencing shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit. Bond monies for Rain Garden 1 plantings shall be held for a minimum of three growing seasons to assure plantings mature and establish an adequate vegetative community for water quality treatment.

20. The surfaces for all driveways shall remain permeable in perpetuity. In addition, the driveways for Lot #2 and #3 shall be constructed with no curbing. Engineered Construction details for the permeable driveways shall be submitted along with the individual site development proposals for the parcels. Deed restrictions for the permeable driveways including no curbing on Lot #2 and #3 shall be placed on the land records for each individual lot prior to the issuance of a Conservation Certificate of Compliance.

21. A Homeowner's Association shall be established for the subdivision. A maintenance program shall be prepared as part of a Homeowners Association document for all surface and subsurface drainage appurtenances and rain garden pipe outlet cleaning. Said document shall be submitted to the Conservation Department and the Town Attorney for review and approval and recording on the land records prior to the issuance of a zoning permit for the first permit for construction is issued.

22. All conditions of the "Amended Stipulation for Judgement" per order of the Superior Court at Stamford, Thomas Van Riper, ET AL vs Westport Conservation Commission ET AL, dated September 30, 2015 shall be included with this resolution and enforced as applicable.

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: Porter **Second:** Corroon
Ayes: Porter, Corroon, Davis, Rycenga, Bancroft, Perlman
Nayes: 0 **Abstentions:** 0 **Vote:** 6:0:0

3. 2 Manitou Court: Application #WPL-10343-16 by Barr Associates LLC on behalf of Thomas & Paula McInerney to replace and reconstruct 290 feet of seawall, maintain and stabilize 82 feet of stone slope, regrade and stabilize upland slopes, transplant 400 feet of tidal wetland vegetation, restore walkways and terraces and legalize existing 2012 dock. Work is proposed within the WPLO area of the Saugatuck River.

Mel Barr presented the application on behalf of the property owners.

Ms. Mozian submitted photos taken by the staff over the last several years showing the condition of the seawall and the embankment.

Mr. Barr stated the south end of the seawall will be replaced. The north end will be repaired. The tidal wetland vegetation will be removed and replanted. That which was removed will naturally be replenished. The boat dock received a DEEP Certificate of Permission but then the property owners did not get a WPLO approval, so they are asking for legalization of that as well. The plans include the methodology of the work for the seawall and slope stabilization. There is a planting plan submitted. The sediment and erosion control plan includes the construction access and staging as well as a turbidity curtain in the water. They have received approvals from the ACOE, the DEEP and the Flood and Erosion Control Board. The tidal wetlands will get the dock up and stored in the northern section of the site.

Ms. Mozian asked if the elevation of the seawall will change.

Tim Bartolomeo of Roberge Associates Coastal Engineers (RACE) stated the seawall will be evened out across the entire length at elevation 6.8. He noted the Army Corps of Engineers (ACOE) actually visited the site. The ACOE recommended that the disturbed tidal wetlands transplanted to the northern edge of the shoreline. Replanting will not be necessary because they will regrow. The ACOE permit requires a 3 season monitoring. The methodology for the work includes starting on the north end with the repair and then work their way south. The staging area is uphill next to the house. The seawall work will be a pre-cast concrete wall that will be dropped in place. Work will be done by the uphill side, no by barge as the area is too shallow. RACE will be monitoring the construction. He believes the rip-rap that exists now is the remains of a previous seawall, which DEEP did not allow to be rebuilt. The tow of this rip-rap will serve as the base of the marsh restoration work creating a living shoreline. All material will be found on-site except for the crushed stone needed at the base of the wall. Any excess material will be taken off-site. The bottom of the wall is set at low tide and dug deep enough to prevent scour. The contractor will stage the work according to the tide. They are planning on starting the work as soon as possible so that planting of the slope can follow in the spring. Most times, work is done by barge which has sponges available.

Mr. Corroon suggested the contractor have oil absorbing pads on-site.

Ms. Mozian commented on the slope stabilization.

Allan Broadbent, LA, stated panicum was installed before at the base along with sumac. The sumac planting was not that successful. They will be using an armoring system with anchoring that goes into the slope. The seed mix is tall fescues that are salt tolerant. However, where soil conditions allow, new panicum and other plants will be installed.

It was asked if the seawall needs repair in the future, can it be done?

Mr. Bartolomeo stated the wall is designed for a 100-year flood and will be certified as such. However, if it does fail, there would have to be an emergency repair. They have done a geological investigation of the soil. The Building Department will require that the seawall be inspected and certified by a professional engineer.

Mr. Barr reiterated that the tidal wetland will be relocated only and replanted where removed.

Ms. Rycenga stated she would like to continue the application in order to visit the site.

Mr. Davis stated he has visited the site.

Mr. Corroon stated he is familiar with the site and feels the sooner the work is done the better especially with the spring rains coming. It is important not to miss the planting season as the work goes hand-in-hand.

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

Motion: **Rycenga** **Second:** **Porter**
Ayes: **Rycenga, Porter, Bancroft, Corroon, Davis, Perlman**
Nayes: **None** **Abstentions:** **None** **Vote:** **6:0:0**

Findings
Application # WPL 10343-16
2 Manitou Court

1. **Receipt Date:** **N/A**
2. **Application Classification:** **N/A**
3. **Application Request:** Applicant is requesting to replace and reconstruct 290' of seawall, maintain and stabilize 82' of a stone slope, regrade and stabilize upland slopes, temporarily remove and replant 400' of wetland vegetation and restore walkways and terraces. There is also a request to legalize the completed construction of a pier and floating ramp previously issued a Certificate of Permission from DEEP in October of 2012. Work is within the WPLO of the Saugatuck River.
4. **Plans Reviewed:**
   a. "Zoning/ Location Survey, Map of Property Prepared for 2 Manitou Court LLC, 2 Manitou Court, Westport, Connecticut", Scale 1"=30', dated November 19, 2014, prepared by Walter H. Skidd-Land Surveyor LLC
   b. "Title Sheet, Drawing List & Vicinity Map, Seawall & Slope Repair, 2 Manitou Court, Westport, CT 06880", Sheet 1 of 11, Scale: As noted, dated December 9, 2016, prepared by RACE Coastal Engineering
   c. "Project Notes 1 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880", Sheet 2 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
   d. "Project Notes (Cont'd) 2 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880", Sheet 3 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
   e. "Project Notes (Cont'd) 3 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880, Sheet 4 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
   f. "Existing Site Plan, Seawall & Slope Repair Prepared for Thomas and Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 5 of 11, Scale: 1" = 15', dated December 9, 2016, prepared by RACE Coastal Engineering
   g. "Repair Site Plan, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 6 of 11, Scale: 1"= 15', dated December 9, 2016, prepared by RACE Coastal Engineering
   h. "Seawall Foundation Plans, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 7 of 11, Scale: As noted, dated December 9, 2016, prepared by RACE Coastal Engineering
   i. "Repair Sections, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 8 of 11, Scale: ¼"= 1', dated December 9, 2016, prepared by RACE Coastal Engineering

j. "Seawall Repair Sections, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 9 of 11, Scale: ½ "= 1', dated December 9, 2016, prepared by RACE Coastal Engineering
k. "Slope Protection Sections, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 10 of 11, Scale: As noted, dated December 9, 2016, prepared by RACE Coastal Engineering
l. "Sedimentation & Erosion Control Plan, Notes, Section and Detail, Seawall Replacement Prepared for Thomas & Paula McInerny, 2 Manitou Court, Westport, CT 06880", Sheet 11 of 11, Scale: As Noted, dated December 9, 2016, prepared by RACE Coastal Engineering
m. "Site Improvement/ Planting Plan, Sheet L- 1.0, McInery Residence, 2 Manitou Court, Westport, CT", Scale: 1"= 20', dated December 13, 2016, prepared by Granoff Architects
n. "Proposed Retention and Replacement of Pier, Ramp and Docks, Existing Detail Plan View, Substantial Maintenance to Recreational Boat Dock for Schmiedeck Construction LLC", Sheet 4 of 6, Scale: 1"= 20', dated August 22, 2012, prepared by John Hilts
o. "Proposed Retention and Replacement of Pier, Ramp and Docks, Proposed Detail Plan View, Substantial Maintenance to Recreational Boat Dock for Schmiedeck Construction LLC", Sheet 6 of 6, Scale: 1"= 20', dated August 22, 2012 and last revised to October 8, 2012, prepared by John Hilts

5. **WPLO –** The Waterway Protection Line is located 15' from the 9' contour in this area. The work for this proposed project falls within this jurisdiction. Tidal wetlands occur on this property and are commensurate with the face of the existing seawall. Mean high water line elevation is at 3.3'. The work is proposed to take place landward of the Coastal Jurisdiction Line (elevation 5.3').
6. **Permits/Applications filed:**
   a. CT DEEP Certificate of Permission # 201206100-TS For pier replacement
   b. CT DEEP Certificate of Permission #COP-201612534 For seawall repair and bank stabilization
   c. Army Corps of Engineers Permit #NAE- 2016-0226 for the spartina alterniflora transplant
   d. WPL/E 9086-12 For a house addition, patio, driveway, septic and drainage
   e. WPL/E 9109-12 For a pool, spa and mechanicals
   f. WPL/E 9454-13 For tree removal, embankment plantings and invasive plant removal
7. **IWW Defined Resource (wetland or watercourse) –** Wetlands and Watercourses as defined by the Inland Wetlands and Watercourses Regulations do not occur on this property.
8. **Property Description**
   a. FEMA Designated Floodplain-The 100 year floodplain occurs on the property as indicated by FEMA. The site is located in FEMA Zone VE (EL. 14) and Zone AE (EL. 13) per FIRM Map No. 09001C0551G, dated July 8, 2013.
9. **Coastal Resource Information**

   The following resources have been identified on and adjacent to the site.

   1. **Coastal Waters and Estuarine Embayments**
      The site is located on the eastern bank of the Saugatuck River within the tidal range of the river about 5000 feet upstream of the mouth of the river into Long Island Sound. Coastal waters are those which contain a salinity of at least five hundred parts per million under low flow stream conditions.

   2. **Modified Bluffs & Escarpments** means bluffs or escarpments which have been temporarily stabilized by erosion control structures.
      This site has been modified from a natural physiological state as evident by the existing seawall structure and stone slope that is located on the western portion of the property.

   3. **Tidal Wetlands** means those areas which border or lie beneath tidal waters and whose surface is at or below an elevation of one foot above local extreme high water; and upon which may grow or be capable of growing vegetation species defined in CGS Section 22a-29(2). Tidal vegetation on this site exists from the face of the seawall to the Saugatuck River.

4. **Coastal Hazard Areas** means those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act. This site is located in FEMA Zone VE (El. 14) and Zone AE (El. 13) per FIRM Map No. 09001C0551G, dated July 8, 2013.

10. Vegetation Description

Along the waterward edge of the existing seawall on this parcel is a band of spartina alterniflora. The applicant proposes to protect and restore any vegetation that may be impacted by this seawall and slope restabilization and reconstruction project.
Mature trees exist on the slope adjacent to the tennis court. Some of which that are outside the construction area will be saved.

The applicant is also aware of Diamondback Terrapin in the general area.

Several earlier applications for extensive terracing, slope stabilization and replanting have been approved by this department and have been executed by the applicant. This property became a subject for our department brochure on Low Impact Development (LID) success stories in Westport because of the extensive planting of the slope.

11. Coastal Management Zone

The DEP Coastal Management Manual, September 2000, indicates the following adverse impacts on valuable features and functions of shoreline areas and coastal resources associated with shoreline flood and erosion control structures:

1. Eliminate natural buffer for coastal flooding and erosion.
2. Alter natural rates of erosion and sedimentation
3. Interrupt sand supply
4. Reduce valuable recreational opportunities
5. Destroy critical wildlife habitats
6. Detract from the visual quality of a natural shoreline.

12. Consistency with Waterway Protection Line Ordinance

The Flood & Erosion Control Board (F&ECB) reviewed and approved this application on February 1, 2017 with conditions.

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.

The Connecticut DEEP has issued a Certificate of Permission for both the dock/pier replacement and for the seawall and slope stabilization project.

The applicant received the DEEP permit for the dock/pier in 2012 and replaced the pier without first obtaining local permitting and therefore, the applicant is requesting legalizing that activity as “after the fact”.

The purpose of the proposed work for the replacement of an existing deteriorated and an undermined seawall that is approximately 292’ long. The stabilization of a deteriorated stone slope and the stabilization of a failed upland slope on the northern edge of the property is also included.

Earth anchors and an anchor reinforced vegetation system with a high performance turf reinforcement will be required for the slope stabilization portion of this project.
Tidal vegetation in the area of the seawall approximately four feet from the waterward face will be temporarily removed and transplanted for protection during the construction of the wall and then replanted at the time of completion.

A marker line will be installed to depict waterward work limits and limit access in the tidal vegetation. The marker line will be porous to allow tidal flow to pass unimpeded.
The applicant is also aware of Diamondback Terrapin in the general area and the work area will be checked each morning.

The existing seawall will be removed within the limits of the property using land based equipment and hand tools. Debris will be loaded into a dump truck and be legally disposed of upland. Shoring will be installed, as needed, prior to performing any excavation in order to provide safe working areas. The seawall has been designed for a scour depth of 3.5' below existing lower grade for the 1% annual chance of exceedance storm event.

The repair of an existing deteriorated stone slope will require excavation and installation of a Geo-Grid filled with crushed stone. The Geo-Grid will be overlain with topsil and high marsh grass will be planted over the entire area.

The upland slope will be regraded slightly and stabilized using a high performance turf reinforcement mat and anchored reinforced vegetation system. Earth anchors will be used in the lower portion of the slope for stabilization and the reinforcement mat will be utilized in the upper portion of the slope. This eliminates the need for additional fill that would be otherwise required to provide a more stable slope. The upper slope will also be planted with tall fescue grass as well as supplemented with six American Holly and two Red Oak trees.

An existing deteriorated concrete slab at the base of an existing stairway will be replaced with granite pavers on a crushed stone bed.

Extended masonry stairs and granite pavers will be constructed to provide access to the dock. All of the proposed granite paver areas should be constructed to be permeable.

The property is located within a VE zone and receives high wave forces during moderate and large storm events.

The Commission finds the contractor will be key in the successful execution of this project as the slope in the work area is very steep and subject to slope failure. The notes included with the construction methods include verbiage such as shoring and preparing "safe" work areas. The Commission finds the design engineer shall supervise the demolition and reconstruction work and guide the contractor for appropriate erosion and sediment controls needed as each situation may arise.

Extensive seeding is called for in the restabilization efforts of the failed slopes. Watering will be key to the success. As this area will be subject to erosion due to the slope gradient and the newly placed topsoil, close monitoring will be required. The Commission finds the Landscape Architect be employed by the applicant to oversee this portion of the project. The Commission finds that the sloped embankment is in a deteriorated condition and the potential exists for further erosion to occur. The seawall has deteriorated and storm events have undermined the wall footing. Littoral drift sand deposits will be required to be deposited into the tidal wetlands to maintain the spartina population that now exists. The vegetation, especially the healthy spartina growth, is vital for wildlife habitat and overall healthy vegetation and is also a first defense against wave action and floodwaters in this area.

The Commission finds the existing repaired and replaced dock structure has been inspected by staff and it appears to conform to the design specifications of John Hilts on a plan dated August 22, 2012

with the exception of the section of floating dock off the timber landing float is shorter. It was built in the location as was designed.
Because of the lack of local permitting, there are no comments to review from the Shellfish Commission.

The Commission finds the existing dock as constructed under application #201206100-TS is to be legalized.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 10343-16
Street Address: 2 Manitou Court
Assessor's: Map C 5 Lot 40
Date of Resolution: February 15, 2017

Project Description: To replace and reconstruct 290 feet of seawall, maintain and stabilize 82 feet of stone slope, regrade and stabilize upland slopes, temporarily remove and replant 400 feet of tidal wetland vegetation, restore walkways and terraces and legalize existing 2012 dock. Work is proposed within the WPLO area of the Saugatuck River.

Owner of Record: Thomas and Paula McInerney
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 10343-16** 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 February 1, 2017.
17. 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

18. Conformance to the plans entitled:
    - **a.** "Zoning/ Location Survey, Map of Property Prepared for 2 Manitou Court LLC, 2 Manitou Court, Westport, Connecticut", Scale 1"=30', dated November 19, 2014, prepared by Walter H. Skidd-Land Surveyor LLC
    - **b.** "Title Sheet, Drawing List & Vicinity Map, Seawall & Slope Repair, 2 Manitou Court, Westport, CT 06880", Sheet 1 of 11, Scale: As noted, dated December 9, 2016, prepared by RACE Coastal Engineering
    - **c.** "Project Notes 1 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880", Sheet 2 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
    - **d.** "Project Notes (Cont'd) 2 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880", Sheet 3 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
    - **e.** "Project Notes (Cont'd) 3 of 3, Seawall & Slope Repair Prepared for Thomas and Paula McInerny, 2 Manitou Court, Westport, CT 06880, Sheet 4 of 11, dated December 9, 2016, prepared by RACE Coastal Engineering
    - **f.** "Existing Site Plan, Seawall & Slope Repair Prepared for Thomas and Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 5 of 11, Scale: 1" = 15', dated December 9, 2016, prepared by RACE Coastal Engineering
    - **g.** "Repair Site Plan, Seawall & Slope Repair Prepared for Thomas & Paula McInery, 2 Manitou Court, Westport, CT 06880", Sheet 6 of 11, Scale: 1"= 15',
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    - **m.** "Site Improvement/ Planting Plan, Sheet L- 1.0, McInery Residence, 2 Manitou Court, Westport, CT", Scale: 1"= 20', dated December 13, 2016, prepared by Granoff Architects
    - **n.** "Proposed Retention and Replacement of Pier, Ramp and Docks, Existing Detail Plan View, Substantial Maintenance to Recreational Boat Dock for Schmiedeck Construction LLC", Sheet 4 of 6, Scale: 1"= 20', dated August 22, 2012, prepared by John Hilts

o. "Proposed Retention and Replacement of Pier, Ramp and Docks, Proposed Detail Plan View, Substantial Maintenance to Recreational Boat Dock for Schmiedeck Construction LLC", Sheet 6 of 6, Scale: 1"= 20', dated August 22, 2012 and last revised to October 8, 2012, prepared by John Hilts

19. Conformance to the State of Connecticut DEEP Approval COP-201612534 issued on November 23, 2016 to replace approximately 290' of existing seawall, maintain stone slope and stabilize upland slope, temporarily remove spartina alterniflora and replant.
20. Conformance to the State of Connecticut DEEP Approval COP 201206100-TS for the legalization of the replacement of the existing fixed pier, ramp, ramp landing float and main float issued October 22, 2012.
21. Adherence to all special conditions of Army Corps of Engineers permit NAE-2016-0226 for the spartina alterniflora transplant, in-water sediment and erosion controls issued on January 11, 2017.
22. Submission of a performance bond estimate in the amount of the cost of plants, erosion control materials and labor to be submitted to the Conservation Department for approval and bond posted prior to the issuance of a zoning permit. Said bond monies shall be held for one full growing season to assure viability of the new plantings and the spartina replanting.
23. The Design Engineer shall be retained by the applicant to monitor the demolition and reconstruction work of the seawall and rip rap slope to recommend appropriate sediment and erosion control changes to the contractor as may be needed due to the location and topographical features of the site.
24. The landscape designer shall be retained by the applicant to monitor the tidal wetland transplant, and sediment and erosion controls during the slope stabilization, the planting and the final site stabilization.
25. "As-built" plans of the work area showing all tidal datums and structures including top of wall elevation shall be submitted to the Conservation Department 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: Davis **Second:** Corroon
Ayes: Corroon, Davis, Rycenga, Bancroft, Perlman, Porter
Nayes: 0 **Abstentions:** 0 **Vote:** 6:0:0

4. **13 Wheeler Gate:** Application #WPL-10355-17 by RI Pools, Inc. on behalf of James & Sharon Yuan for a new in-ground swimming pool with spa inside, pool patio on-grade, drainage, boulder retaining wall, grading and pool fence. A portion of the activity is proposed within the WPL area of the Saugatuck River.

   Franco Iannone of RI Pools presented the application on behalf of the property owners. He stated that about 14 trees will be cut down on the berm between the proposed pool, wall and drainage system. The pool equipment will be located next to the house. The fence is existing. The pool patio is blue stone on concrete. They are proposing to collect all the runoff and put it into galleries. They are proposing to shave off a part of the berm. Lowering the berm will not open the property up to flooding as the boulder wall will be above the 100-year flood. The pool was not located outside the WPLO because of the existing patio and the sewer easement. There will be plantings for screening along the northern property line and on the west side of the boulder wall. There will be two yard drains that will take the runoff from the eastern side of the patio and some of the roof leaders and will go into the new drainage system.

   Ms. Mozian noted the pool and new wall is partially in the WPLO. A feasible and prudent alternative is to rotate the pool so as to not disturb the berm and be outside the WPLO. The owner says that will eat up too much yard space. There is also a sewer easement on the property. Staff is asking if as a compromise, the wall could be moved closer to the west end of the pool to limit the berm disturbance and removal of several trees. She also asked for the planting plan to address the trees that will be removed. The subsurface infiltration units are to be moved off of the berm and allow existing mature trees to remain. The Flood and Erosion Control Board approved the application on February 1, 2017.

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

   Motion: Rycenga Second: Corroon
   Ayes: Rycenga, Corroon, Bancroft, Davis, Perlman, Porter
   Nayes: None Abstentions: None Vote: 6:0:0

Findings
13 Wheeler Gate
#WPL 10355-17

1. **Receipt Date:** **N/A**
2. **Application Classification:** **N/A**
3. **Application Request:** Applicant is proposing the construction of a new in-ground swimming pool with spa inside, patio on-grade, drainage, boulder retaining wall, grading and pool fence. A portion of the activity is proposed within the WPL area of the Saugatuck River.
4. **Plans Reviewed:**
   a) "Site Plan for a Proposed Pool, prepared for James Yuan, 13 Wheeler Gate Westport, Connecticut", Scale 1"= 10', dated December 30, 2016 and last revised to January 4, 2017, prepared by Ochman Associates, Inc.
   b) Pool and spa details "Jim and Sharon Yuan, 13 Wheeler Gate, Westport, CT", Scale: as noted, prepared by A. DiRocco
5. **WPLO** Waterway Protection Line is located 15 feet from the 9' contour on this property. Portions of this parcel are within the WPLO jurisdiction.
6. **Permits/Applications filed:**
   WPL/E 8546-09 : Addition to new residence and a new patio.
7. **Facts pertinent to this property:**
   Property occurs within a groundwater recharge area and is underlain by an aquifer. Said aquifer is characterized as a coarse grain stratified drift. The property however, is not located within the Aquifer Protection Overlay Zone.

FEMA Designated Floodplain-The 100 year floodplain occurs on the property as indicated by FEMA. A portion of the western edge of the property occurs within an AE zone with a base flood elevation of approximately 10' NGVD.

The subject property exists within the Coastal Areas Management Zone, specifically identified as "coastal flood hazard area".

8. According to the DEEP CAM Manual dated 2000 these resources are described as follows:

Coastal flood hazard area is defined by the DEEP as "those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act and all erosion hazards as determined by the Commissioner [Connecticut General Statutes (CGS) section 22a-93-(7) (H)]. In general, coastal flood hazard areas include all areas designated as within A-zone and V-zones by the Federal Emergency Management Agency (FEMA). A- zones are subject to still-water flooding during so called "100 year" flood events. During 100 year flood events, V zones are subject to direct action by waves three feet or more in height. **Coastal flood 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**"

9. Waterway Protection Line Ordinance

Section 30-93 of the Waterway Protection Line Ordinance states that the 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 ecosystem 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 Flood & Erosion Control Board (F&ECB) reviewed and approved this application on February 1, 2017 with conditions.

The Westport Weston Health District reviewed and approved this application on January 5, 2017.

The WPLO boundary line on the parcel intersects a small portion of the western edge of the proposed pool and patio and approximately ½ of the proposed subsurface infiltration units.

The pool is perpendicular to the existing grades and does require extensive regrading and lowering of an existing berm of about 3' at its maximum height. A new boulder wall is proposed 15' from the patio at the toe of slope of the berm. The top of the proposed boulder wall elevation ranges from elevation 10.5' (just above the 100 year flood elevation) to elevation 14.0' for an approximate 2.5' cut and fill scenario.

Research of the subdivision files by the Engineering Department and the Planning and Zoning Department did not reveal any information that would prohibit grading or disturbance of the berm that runs parallel to Imperial Avenue on this parcel and the adjacent properties as any part of a subdivision resolution. The applicant has stated that the boulder wall extends the level portion of the yard and allows more level space for outside activities.
The Commission finds that the applicant is to relocate the subsurface infiltration units further east. Another 5 mature trees will remain and little to no disruption of the berm topography will be necessary. This area of the property is level. The Commission finds moving the soil stockpile area further east will not be problematic.

Construction access is proposed to be off the existing asphalt driveway and is shown to be about 30' long and 10' wide.

The Commission finds the current pool patio surface will be impervious and the majority of the pool patio stormwater runoff will sheet flow to the adjacent lawn area. Drainage for a 4" pool overflow is connected to the proposed subsurface infiltration. It is noted in the drainage report that the pool itself will act as a pond and modeled with 4" of storage potential. Any additional runoff from the pool will overflow into the subsurface infiltrators. A 4" pvc pipe to riprap pad will act as the high level overflow for the system.

The Commission finds the boulder wall is acceptable as a limit of construction. Vegetation should be planted along the edge of the wall to help replace trees that will be lost. The Commission finds the plantings will help to stabilize the fill soils east of the wall and to provide some biofiltration of the stormwater runoff.

The grading and wall construction bring this pool above the 100 year flood elevation of 10.0'. The Commission finds the applicant shall adhere to the Conservation Commission Standard Conditions of Approval for pools near wetlands.

This includes the provision that pool chemicals should be stored in an enclosed container above the 100 year flood elevation.

Part of the special conditions for pools includes that the pool/spa shall be serviced by a cartridge closed filter system and should be covered over the winter or when not in use for long periods of time. The applicant is proposing an auto cover for the pool.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 10355-17
Street Address: 13 Wheeler Gate
Assessor's: Map C 08 **Lot** 096
Date of Resolution: February 15, 2017

Project Description: A new in-ground swimming pool with spa inside, pool patio on grade, drainage, boulder retaining wall, grading and pool fence. A portion of the activity is proposed within the WPL area of the Saugatuck River.

Owner of Record: James and Sharon Yuan
Applicant: Franco Iannone of R.I. Pools, 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 10355-17** 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. 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.
12. 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.
13. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
14. Conformance to the Flood and Erosion Control Board Conditions of Approval of February 1, 2017.
15. **Standard Conditions of Approval for <u>Swimming Pools</u>** Proposed Near Wetlands and Watercourses are as follows:
    - **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.
    - **c.** When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer is to 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 extended periods of time (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.

<u>SPECIAL CONDITIONS OF APPROVAL</u>

16. Conformance to the plans entitled:
    - **a.** *"Site Plan for Proposed Pool Prepared for James Yuan, #13 Wheeler Gate, Westport, Connecticut", Scale: 1"= 10', dated December 30, 2016 and last revised to January 4, 2017, prepared by Ochman Associates, Inc.*
    - **b.** *Pool design plans prepared for Jim and Sharon Yuan, 13 Wheeler Gate, Westport, CT", received by the Conservation Department on January 10, 2017, prepared by A. DiRocco.*
17. Submission of a detailed landscape plan to the Conservation Department for review and approval prior to the issuance of a Zoning permit. Said plan shall include native species with habitat value to serve as mitigation for those trees to be removed.
18. Submission of a performance bond estimate in the amount of the cost of plants, erosion control materials and labor shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit. Bond monies shall be held for a minimum of one full growing season to assure plantings mature and establish an adequate vegetative community for water quality treatment.

19. Revision to the site plan to show subsurface drainage structures and the proposed stockpile area relocated further east (minimum of 5') away from the berm shall be submitted to the Conservation Department for review and approval prior to the issuance of a zoning permit
20. Revision to the site plan to show a rip rap splash pad associated with the the high level overflow pipe to help retard erosion.

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: Corroon **Second:** Porter
Ayes: Corroon, Davis, Rycenga, Bancroft, Perlman, Porter
Nayes: 0 **Abstentions:** 0 **Votes:** 6:0:0

5. **1141 Post Road East:** Continuance of Application #IWW-10299-16 by Redniss & Mead, Inc. on behalf of 1141 Post Rd. E. LLC for the partial demolition of and addition to an existing commercial building, the construction of nine (9) multi-family residential buildings, totaling 42 residential units, pool house, pool, associated parking, drives, landscaping, walking trail, storm water drainage, and utilities. Portions of the work are within the wetland and the upland review area.
6. **1141 Post Road East:** Continuance of Application #WPL-10342-16 by Redniss & Mead, Inc. on behalf of 1141 Post Rd. E. LLC for the partial demolition and addition to an existing commercial building, the construction of nine (9) multi-family residential buildings, totaling 42 residential units, pool house, pool, associated parking, drives, landscaping, storm water drainage, walking trail and utilities. Portions of the work are within the WPLO area of Muddy Brook.

Mr. Perlman was present but was not a sitting member of this application.

Ms. Mozian clarified the WPLO application is #WPL-10342-16. The agenda was corrected and clocked with the Town Clerk more than 24 hours before the hearing. She noted the hearing was continued to receive Flood and Erosion Control Board approval, which was approved on February 1, 2017. Also, the Commission wanted to receive additional Phase 2 monitoring well sampling to determine if any contaminant were detected and additional groundwater data to determine if the stormwater design should be adjusted.

Dave Ginter, PE with Redniss & Mead, represented the application. He noted the Flood and Erosion Control Board approved the application on February 1, 2017. At that hearing, they discussed an alternate drainage plan that included the fact that the upper level drainage would be wrapped with pond liners. He indicated they want to continue with groundwater monitoring through April and May at least to see if more galleries need to be wrapped. The peer reviews being done by the Engineering Department's consultant and FEMA do have more comments. He stated they should have permits from FEMA within 6 to 9 months. The Operation and Maintenance Plan needs review by Engineering. Groundwater monitoring levels have continued. The drainage galleries will be set as necessary.

Dan White, LEP with of Mountain Laurel Environmental, stated they have dug 8 inch holes inside the building. The borings were sent to the lab for VOC's and semi-VOC's. They did not find much in the soil Tetrachloraethylene was found in the floor drain and where they store the oil. The levels were well below the threshold for clean-up. They also installed three monitoring wells in order to triangulate. Groundwater is moving northeast to southwest. They analyzed VOC's and semi-VOC's. Napthalene-280 was not surprising to have found. They found Phenanthrene at levels exceeding the threshold for clean-up. He addressed what exposure a person would have to have to be adversely impacted. This does not appear to be coming from the septic. It appears to be coming from off-site. This is typical of thing that were incompletely burned, having an organic compound source. He proposed to address these as they do their construction. They would need to do test pits. The test pits would be done when the Kowalsky equipment is removed and the soil piles are removed. If something is found, they can remove it. They would trace the source and remove it.

Ms. Mozian said cooperation with 1177 Post Road East should be sought since this was once one property and because 1177 Post Road East will be undergoing construction in the near future as well.

Mr. Corroon noted that trace of tetracholorethylene was found in the garage. He expressed concern that they did not sample the dry wells.

Mr. White stated they pump groundwater out of the sample sites and did not find it. He indicated that if it had been a real concern, they would have found it in the shallow soils, especially since it is an enclosed space. He believes overall Kowalsky's run a clean shop.

Ms. Mozian asked if when a source of contaminant is found, what is the likelihood of its mobility from soil into groundwater.

Mr. White stated that depends on the concentrations found. They have to either be removed from the soils or contain it within a building.

Ms. Mozian asked whether a soil sample was taken during the installation of the monitoring well that the Phenanthrene was found and if there were any data logs showing soil profiles.

Mr. White stated soil samples were not taken for analysis. However, they did inspect the sand and gravel which did not show staining, sheen, odor or coal ash indication. No odor of groundwater either. The wells cleaned up nicely. Data for determining clean-up comes from workplace history. There is not a lot of data on Phenanthrene so they set clean-up criteria levels very low.

Ms. Mozian asked why the stockpiles were not considered “Areas of Concern”.

Mr. White stated there was no indication that the soil was contaminated. He noted it is best to do testing after the stockpiles are removed. He added the goal is to reduce exposures. You cannot expect a clean-up with everything. That is why they establish thresholds. He stated Mountain Laurel will be on-board to continue testing throughout the construction

Mr. Davis asked if Muddy Brook will be better or worse off and suggested baseline testing of the brook be done now.

Mr. White stated he is concerned with relying on surface water testing. He questioned how they would know where the contamination was coming from. He stated they can only follow the best management practices for sediment and erosion controls. They will be doing additional groundwater monitoring.

Mr. Bancroft stated he familiarized himself by viewing the video of the January 24, 2017 hearing, reviewing the minutes and the material submitted at the hearing.

Mr. White stated a test pit is a more thorough testing method than groundwater sampling. They will first investigate their site. If necessary, they can seek cooperation with 1177 Post Road East. If beyond that, they cannot deal with it, they will do water samples downstream at HarborWatch sites.

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

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

Mr. Bancroft left the meeting at 11:30 p.m. due to illness. He did not participate in the vote.

Findings
1141 Post Road East
#IWW-10299-16
#WPL-10342-16

1. **Application Request:** Applicant is proposing the partial demolition and addition to an existing commercial building, the construction of nine (9) multi-family residential buildings, totaling 42 residential units, pool house, pool, associated parking, drives, landscaping, storm water drainage, utilities and wetland restoration activity and walking trail.
2. **Plan Reviewed:**
   a. “General Location Survey” depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by Lawrence W Posson Jr., Redniss & Mead, dated May 24, 2016, scale 1” = 40’.

- **b.** "Zoning Site Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017 scale 1' = 30', Sheet ZSP-1.
- **c.** "Site Grading Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-1.
- **d.** "Site Utility Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 30', Sheet SE-2.
- **e.** "Sediment & Erosion Control Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-3A.
- **f.** "Sediment & Erosion Control Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-3B.
- **g.** "Truck Turning Movement" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-4.
- **h.** "Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 30', Sheet SE-5.
- **i.** "Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-6.
- **j.** "Details and Soil Data" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-7.
- **k.** "Sections" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-8.
- **l.** "CT DOT Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 30', Sheet SE-9.
- **m.** "CT DOT Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-10.
- **n.** "Flood Exhibit" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, Prepared by Redniss & Mead, dated September 16, 2016, Sheet FE-1.
- **o.** "Test Pit Monitoring Well Locations and Elevations Exhibit", 1141 Post Road East, Westport, CT, (2 sheets), Scale: 1"= 80', dated January 24, 2017, prepared by Redniss & Mead
- **p.** "Landscape Plan", Prepared for 1141 Post Rod East, Westport, Connecticut, dated January 17, 2017, prepared by William Kenny Associates LLC
- **q.** "Wetland Assessment Report" prepared for 1141 Post Road East LLC, 1141 Post Road East, Westport, CT 06880, prepared by William Kenny Associates, LLC, dated September 2016.
- **r.** "Drainage Summary Report" prepared for 1141 Post Road East, Westport, CT, prepared by Redniss & Mead, Inc., dated September 16, 2016.
- **s.** "Phase I Environmental Site Assessment" prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut, prepared by Mountain Laurel Environmental, dated November 11, 2015.
- **t.** "Phase II Report" prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut, prepared by Mountain Laurel Environmental, dated February 4, 2016.
- **u.** "Supplemental Phase II Report" prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut prepared by Mountain Laurel Environmental dated February 14, 2017.
- **v.** "Proposed Wetland Grading Exhibit 1141 Post Road East Westport, CT" by Redniss& Mead dated August5, 2016.

3. **Previous Applications Submitted:**
   AA, WPL/E 6456-00 Sewer leak repair
   AA, WPL/E 8267-08 Stream debris removal
   IWW/M 10135-15 Amend wetland boundary map G9 (denied)
   IWW/M-10327-16 To amend the wetland boundary is pending as of this writing.
4. **Site History:** Using aerial photographs, land record maps, Zoning and Conservation Department files, the following history of the soil piles, stream piping, sewer line can be determined:

   1955- Property acquired by Kowalsky

   Soil Piles:
   - Aerial photographs from 1958 & 1970 indicate possible piles on property.
   - Aerial photographs from 1975, 1985, 1990, 2005, and 2013 show distinct piles on the property.

   Building, Piping and Sewers
   - 4/26/73- P&Z Commission approves permit for 60' x 100' storage building for storage of material, (top soil, gravel, etc.)
   - 4/27/73- Wetland and Watercourse Regulations for the Town are adopted by the Conservation Commission
   - Appears Muddy Brook was piped across the property some time between 1970 and 1975 – most likely in 1973 when the building gets approved.
   - 1977 sewer line is installed and located around perimeter of the property.
   - 1980- Sewer easement is relocated so it runs diagonally through the property.

   Wetland Violation and Permit History:
   - 11/07/2000- Letter of violation-issued regarding soil pile located within 15 ft upland review area, the presence of a roadway, garbage such as tires and oil tanks.
   - 11/15/2000 Permit issued for repair of sewer line.
   - 2/1/2001- Second letter of violation sent
   - 3/26/2001 Response letter from Kowalsky Bros. sent saying they will address the issue in the spring
   - 8/27/2001- Third letter of Violation issued for:
     - fill within wetland
     - garbage within wetland
     - sediment within a stream channel
     - permanent siltation control barriers are needed
   - 9/20/2001- Compliance:
     - Jersey barriers installed
     - Garbage removed
     - "Road" area seeded with grass
   - 3/12/2008- Permit issued for removal of brush, sediment and deadfall within Muddy Brook stream channel
5. **Facts Relative to this application:**
   a. Property is outside Aquifer Protection Overlay Zone and aquifer/primary recharge zones.
   b. Property is outside Coastal Area Management zones.
   c. The property is located on the north side of Post Road East. The 5.4 acre site supports an existing commercial office building, including a vehicle and maintenance garage and areas of stockpiled soil materials. Muddy Brook enters the site from the east and crosses the majority of the property through an existing culvert.
   d. A Floodway and the 100 year flood plain as designated by the Federal Emergency Management Agency (FEMA) are located on this property.

e. Two inland wetland and watercourse systems were identified and delineated. The systems which are located in the eastern portion of the property include an isolated stormwater sediment trap and a short segment of Muddy Brook and adjacent forested and marsh wetlands. Also included is an intermittent watercourse that extends and flows north to south from the northeastern corner of the property to Muddy Brook. Muddy Brook enters and flows through two subsurface culverts in the eastern central portion of the property.

f. A report dated October 30, 2015, prepared by William Kenny describes the wetland soil types found on property to include wetland soil types, Aquents (1) and Saco Silt Loam (108).

Aquents (AQ): This soil is found on slopes of 0 to 3 percent in disturbed areas that generally have less than two (2) feet of fill over naturally occurring poorly or very poorly drained soils, or are located where the naturally occurring wetland soils are no longer identifiable, or the original soil materials have been excavated to the ground water table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

Saco Silt Loam (Sb): This nearly level, very poorly drained soil is on low flood plains of major streams and their tributary. It is subject to frequent flooding. The water table is at or near the surface most of the year. The permeability of the soils is moderate in the upper soil horizon,

g. The upland soils have been identified as Ninigret and Tisbury fine sandy loam (21), Udorthents-Urban land complex (306) and Udorthents, smoothed (308).

h. On-site wetlands are considered as federally-designated in that they meet the criteria of having the soil, hydrophytic vegetation and standing water criteria.

i. The Conservation Department has retained the services of Nathan I. Jacobsen Associates to aid in the review of the application. In turn, they have hired Edward Pawlak of Connecticut Ecosystems, LLC. In addition, the Engineering Department has hired an outside consultant to aid in their review as well.

j. Section 7.1 of the IWW Regulations for Westport establish upland review area distances. Germane to this project are:

75 ft. for multi-family structures – Buildings 6 and 7 are proposed partially within this area.
35 ft. for swimming pools – The pool falls outside of this area.
50 ft. for outbuildings with a bathroom (i.e the pool house) – The pool house falls outside this area.
20 ft. non-disturbance buffer – Extensive regrading will take place within this area as well as directly in the wetland.
WPLO boundary – This boundary will change once the stockpiles are removed and the floodplain/wetland area reworked. The Flood and Erosion Control Board is currently working with their outside consultant to establish the limits of the new 25 yr floodplain and resulting WPLO boundary.

The proposed WPLO boundary will render a portion of the pool and pool house within the WPLO but buildings 6 and 7 will be outside the proposed WPLO boundary.

6. 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 applicant has retained the services of Mountain Laurel Environmental, LLC to conduct a Phase I and Phase II review of the property given the site's history as use for the headquarters of a large contracting firm for over 40 years including the storage of large construction equipment, a

maintenance garage and gasoline pumping station and the stockpiling of enormous amounts of soil, rocks and other debris. The Phase II summary letter indicated eight Areas of Concern had been identified throughout the site.

Three soil borings were done and no sheen, color or odor was observed. Three monitoring wells were installed. One well was installed downgradient of oil tank and gas tanks and one to the north to see if there was anything upgradient. The Commission finds the results indicated the presence of Phenanthrene in Monitoring Well #2. Additional soil tests will be conducted to track the source. If found, it will be removed. The Commission finds that Mountain Laurel will provide the Conservation Department with an investigation and remediation report upon discovery.

On-going groundwater monitoring will continue for three additional quarters.

The Commission finds that the majority of the development area will take place in previously disturbed and cleared areas of drive, parking and construction stockpiling.

Wetland floodplain restoration is proposed as well as additional floodplain storage area is to be created. The restoration of approximately .14 acres of wetland and .46 acres of adjacent upland buffer will be accomplished through removal of fill and debris that was placed many decades ago in and adjacent to onsite wetlands and buffers. This includes the removal of the existing soil and stone stockpiles, portions of which are within 15 feet of wetlands.
Invasive vines and plants are to be removed.

Buildings within the 100 year floodplain area will be constructed at grade including garages. Proposed building and total coverage are within the allowable limits as set forth by the Planning and Zoning Commission for the HRZ zone.

The Commission finds there will be no proposed structures within the floodway as to be revised by FEMA. Only the commercial parking, the driveways and the utilities will be located within the 100 year floodplain. The Commission finds there will be no residential structures within the 100 year floodplain as revised by FEMA. Proposed structures within the WPLO include the patio behind Unit 7, the pool house and the commercial building.

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, pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
d. all applicable state and local health codes shall be met;
e. 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;
f. prevents pollution of surface water

The Commission finds the surface elevation in the wetland restoration area will be lowered to the elevation of the adjacent floodplain wetland and native wetland trees and meadow plants will be established. The vegetative buffer between the wetlands and the project development will be enhanced and expanded. The buffer width will range from 30 to more than 100 feet, the buffer will be vegetated with native trees and meadow plants and the buffer boundary will be field marked permanently with signage. Existing naturalized wetland and adjacent buffer will be enhanced through the control of invasive vines that are smothering trees and shrubs. The control will be accomplished through the cutting of vines and the controlled application of systemic herbicides to the cut vine stems. The Commission finds all of these proposed site improvements will add to the improvement of water quality of the stormwater runoff.

A review of the CT DEEP Natural Diversity Data Base map revealed that the state has no known record of an occurrence of a listed animal or plant species at or near the site. However, state and federal listed species are present approximately .5 miles downstream from the property along Muddy Brook.

Porous asphalt will be added to the residential parking stalls. 79% of parking and drives are treated with this method. All nine proposed areas will store enough to handle the volume of a 5 year storm event (4.3"). A majority of the roof runoff is also being directed to the porous asphalt.

A research study entitled: "Water Quality and Hydrologic Performance of a Porous Asphalt Pavement as a Storm-Water Treatment Strategy in a Cold Climate" by Robert Roseen, Thomas Ballestero, James Houle, Joshua Briggs and Kristopher Houle have shown that porous pavement provide a high level of water-quality treatment performance and include infiltration of storm-water runoff for which soils are useful.

Pervious pavers in parking areas #3, #4, and #5 will be encased in a pond liner to assure there is no direct discharge to groundwater.

Brian Curtis and Ed Pawlak (town consultants) are in agreement that if the stone reservoir of the porous asphalt is above the groundwater table, then the sand medium within porous asphalt profile will provide a water quality component to the stormwater management treatment train.

In addition, in an email dated February 3, 2017, Mr. Curtis states that the design engineer is proposing to provide a pond liner around the crushed stone reservoir layer of the northerly pervious pavement areas of P3, P4 and P5 in order to address the higher groundwater elevations over this portion of the site. The stone reservoir beneath the pervious pavement in these lined systems will be provided with a perforated underdrain pipe that will discharge into the stormwater infiltration systems to the south. The water quality volume on these lined systems will still be treated for suspended solids removal by the stormwater runoff passing through the pervious pavement and the granular filter layer below the pavement. This design concept is an acceptable practice to deal with the shallow groundwater area.

The Commission finds the design engineer will submit final design revisions to the Conservation Department staff for approval reflecting average seasonal high groundwater elevations in the pervious pavement areas and stormwater infiltration system areas.

All stormwater infiltration units will be wrapped with filter fabric for added water quality performance. Subsurface infiltration units will consist of a plastic product for easier cleaning. The Commission finds all of these measures will contribute to improved water quality of the stormwater runoff.

A portion of the existing landscape berm closest to the northwest corner of 1177 Post Road East is to be lowered by several feet. The Commission finds this topographical change is to take place mostly within an open space area will allow more stormwater to flow unobstructed.

The Commission finds a stormwater management maintenance log shall have procedures and results reported on an annual basis and kept on site for Town staff to review on an as-needed basis.

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 Commission finds that construction phasing, limiting the size of areas of soil disturbance and maintenance of temporary measures will be critical to ensure the effectiveness of the proposed soil erosion and sedimentation control measures.

The Commission finds a comprehensive Erosion and Sediment Control Plan has been prepared for the project construction as well as a Construction Sequence narrative.

The Commission finds that silt fencing, sediment filter for stock piles, construction entrance, sediment filter for the catch basins and tree protection appear to be adequate if controls are maintained and anti-tracking pad replenished as necessary.

The Commission finds a wash station shall be employed for the construction equipment during all phases of this project.

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

A review of the CT DEEP NDDB maps revealed that the state has no known records of an occurrence of a listed animal or plant species at or near the site. However, state and federal listed species are present approximately 0.5 miles downstream from the property along Muddy Brook.

According to Mr. Kenny, comparison of the existing and proposed wetland conditions revealed that the proposed project offers comparable or improved functions and values when compared to the exiting conditions. In all, .14 acres of wetland and .46 acres of wetland buffer will be restored in the eastern portion of the property.

During a November 14, 2016 inspection of the property, Ed Pawlak of Connecticut Ecosystems LLC noted the presence of two-lined salamanders. He noted that the fact that Muddy Brook can support this species reinforces the need to protect water quality and habitat of this urbanized watercourse.

Wetland floodplain restoration is proposed as well as additional floodplain storage area is to be created. The restoration of approximately .14 acres of wetland and .46 acres of adjacent upland buffer will be accomplished through removal of fill and debris that was placed many decades ago in and adjacent to onsite wetlands and buffers. This includes the removal of the existing soil and stone stockpiles, portions of which are within 15 feet of wetlands.
Invasive vines and plants are to be removed. The Commission finds this proposed restoration activity will improve biological activity and habitat potential of the wetlands.

The Commission finds a 72,516 s.f. Conservation Easement will be provided in the eastern portion of the parcel. Permanent demarcation of the easement boundary shall be required to be placed along the boundary and to be visible in the field.

The Commission finds that invasive plant and vine material to be removed in the wetland area will only be treated with herbicide safe to use within a wetland environment.

The Commission finds that a three year monitoring program to document vegetation in the wetland and buffer areas include annual reports the Conservation Department to document the progress.

For the reasons enumerated above, the Commission finds the project will have a direct beneficial impact on wetland and will not have an adverse direct impact.

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

The proposed stormwater management system includes four subsurface infiltration systems, a subsurface detention system, as well as a stormwater collection and treatment system consisting of catch basins with deep sumps and outlet hoods and subsurface pipes. Other than the one small sediment trap, there are currently no other stormwater management systems for treating stormwater runoff or controlling downstream flooding. Pervious asphalt paving will be provided in the residential parking areas adjacent to the buildings.

The intermittent watercourse extends and flows north to south through the north eastern portion of the property. The upstream end of the watercourse starts at the end of a stormwater culvert that conveys stormwater runoff from Keller Lane and adjacent residential properties. This runoff is the primary water source for the watercourse. It is likely that this watercourse did not exist before the installation of the stormwater culvert.

The average slope gradient from north to south across the site is 3% with surface elevations dropping from about 44 to 32.

Surface water at the site drains to the east and south to Muddy Brook. In the central eastern portion of the property, the Brook enters two large (5 ft. and 6 ft. diameter) culverts. The Brook flows though culverts below ground for about 450 ft. to the south side of Post Road East. Muddy Brook flows south to Mill Creek and Long Island Sound, which is approximately. 1.4 miles downstream. The CT DEEP identified Muddy Brook as an impaired waterbody with no micro-invertebrate and fish communities.

The Commission finds that although the impervious area on the parcel will increase, post development stormwater runoff rates will be less than current runoff conditions due to a series of underground storage detention and infiltration systems.

The wetland/watercourse accounts for approximately 12 % or .64 acres of the property. The three wetland and watercourse systems, which are located in the eastern portion of the property, include a segment of Muddy Brook and bordering floodplain wetland, a small intermittent watercourse and a small man-made sediment trap.

The sediment trap is a small, isolated man-made depression that receives surface water flows from a portion of the construction yard on the property and via a subsurface culvert from the western boundary of the Brook and floodplain wetland is defined by a deep layer of fill that was placed decades ago. The vegetation growing in this adjacent fill is primarily invasive plants such as Norway maple, wineberry, porcelain berry, mile- a- minute vine, oriental bittersweet, multiflora rose and autumn olive.

The intermittent watercourse extends and flows north to south through the north eastern portion of the property. The upstream end of the watercourse starts at the end of a stormwater culvert that conveys stormwater runoff from Keller Lane and adjacent residential properties. This runoff is the primary

water source for the watercourse. It is likely that this watercourse did not exist before the installation of the stormwater culvert.

The Commission finds that groundwater level monitoring results through the spring high groundwater season of 2017 will be utilized to assure the bottom of the subsurface infiltration units are sufficiently above the high groundwater levels needed to achieve water quality.

The Commission finds the groundwater levels utilized to set the bottom of the proposed infiltration system are to be agreed upon by the Engineering Department and the Conservation staff for final design consideration. Adjustments and design changes will assure water quality is achieved.

The Flood and Erosion Control Board approved this project with conditions on February 1, 2017.

6.6 RECREATIONAL AND PUBLIC USES

There should be no adverse impact to recreational and public uses.

7. *Consistency with Waterway Protection Line Ordinance & Staff*

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.

The restoration of approximately .14 acres of wetland and .46 acres of adjacent upland buffer will be accomplished through removal of fill and debris that was placed many decades ago in and adjacent onsite wetlands and buffers. This includes the removal of the existing soil and stone stockpiles, portions of which are within 15 ft. of wetlands. The surface elevation in the wetland restoration area will be lowered to the elevation of the adjacent floodplain wetland and native wetland trees and meadow plants will be established. The vegetative buffer between the wetlands and the project development will be enhanced and expanded. The buffer width will range from 30 to more than 100 ft., the buffer will be vegetated with native trees and meadow plants and the buffer boundary will be field marked permanently with signage. Existing naturalized wetland and adjacent buffer will be enhanced through the control of invasive vines that are smothering trees and shrubs. The control will be accomplished through the cutting of the vines and the controlled application of systemic herbicides to the cut vine stems.

The restoration activities include the removal of fill from a former wetland area, the restoration of historic wetland hydrologic conditions to the area, and the establishment of native wetland trees and herbs in the area. The enhancement activities include the control of invasive vines growing in existing wetlands. No other project activities, except for the replacement of the headwall at the existing stream culverts, are proposed within wetlands and watercourses. The Commission finds all of these activities will contribute to water quality improvement and wetland enhancement and will not have an adverse impact of the natural resources and ecosystems of the waterway.

A stormwater management system will be installed and maintained to trap the stormwater from impervious and pervious areas of the developed and landscape to recharge groundwater and control downstream flooding. Runoff generated by storms up to and including the 100 year and 25 year event from proposed impervious surface will be collected and either detained or infiltrated in accordance with CT DEEP 2004 CT Stormwater Quality Manual.

For the reasons enumerated above and due to the considerations of the plan material, all revisions and recommendations incorporated into the design, the reports from the applicant and the retained consultants and inclusions of the recommendations of staff, the Commission finds this project shall not pose an adverse impact to Muddy Brook as protected under the Waterway Protection Line Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Applications #IWW 10299-16 and WPL 10342-16
Street Address: 1141 Post Road East
Assessor's: Map G 09 **Lot** 028
Date of Resolution: February 15, 2017

Project Description: For the partial demolition and addition to an existing commercial building, the construction of nine (9) multi-family residential buildings, totaling 42 residential units, pool house, pool, associated parking, drives, landscaping, storm water drainage, walking trail and utilities. Portions of the work are within the wetland, the upland review area and the WPLO area of Muddy Brook.

Owner of Record: 1141 Post Road East LLC
Applicant: Redniss & Mead, Inc.

In accordance with Section 6 of the Inland Wetlands and Watercourse Regulations 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** Applications **#IWW 10299-16 and WPL 10342-16** 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. 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 of 0.5 inches or greater 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 watercourses.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
9. 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.

10. 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.
11. Conformance to the Flood and Erosion Control Board Approval of February 1, 2017.

SPECIAL CONDITIONS OF APPROVAL

12. Conformance to the plans entitled:
- **a)** "General Location Survey" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by Lawrence W Posson Jr., Redniss & Mead, dated May 24, 2016, scale 1" = 40'.
- **b)** "Zoning Site Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017 scale 1' = 30', Sheet ZSP-1.
- **c)** "Site Grading Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-1.
- **d)** "Site Utility Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 30', Sheet SE-2.
- **e)** "Sediment & Erosion Control Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-3A.
- **f)** "Sediment & Erosion Control Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-3B.
- **g)** "Truck Turning Movement" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-4.
- **h)** "Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 30', Sheet SE-5.
- **i)** "Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-6.
- **j)** "Details and Soil Data" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-7.
- **k)** "Sections" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-8.
- **l)** "CT DOT Plan" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 30, 2017, scale 1' = 17', Sheet SE-9.
- **m)** "CT DOT Details" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, prepared by David R Ginter of Redniss & Mead, dated May 24, 2016 and revised to January 17, 2017, scale 1' = 30', Sheet SE-10.
- **n)** "Flood Exhibit" depicting 1141 Post Road East, Westport, CT, prepared for 1141 Post Rd. E., LLC, Prepared by Redniss & Mead, dated September 16, 2016, Sheet FE-1.
- **o)** "Test Pit Monitoring Well Locations and Elevations Exhibit", 1141 Post Road East, Westport, CT, (2 sheets), Scale: 1"= 80', dated January 24, 2017, prepared by Redniss & Mead
- **p)** "Landscape Plan", Prepared for 1141 Post Rod East, Westport, Connecticut, dated January 17, 2017, prepared by William Kenny Associates LLC

- **q)** "Wetland Assessment Report" prepared for 1141 Post Road East LLC, 1141 Post Road East, Westport, CT 06880, prepared by William Kenny Associates, LLC, dated September 2016.

r) "Drainage Summary Report" prepared for 1141 Post Road East, Westport, CT, prepared by Redniss & Mead, Inc., dated September 16, 2016.
s) "Phase I Environmental Site Assessment" prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut, prepared by Mountain Laurel Environmental, dated November 11, 2015.
t) "Phase II Report" prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut, prepared by Mountain Laurel Environmental, dated February 4, 2016.
u) Supplemental Phase II Report prepared for Coastal Construction Group, 1141 Post Road East, Westport, Connecticut, prepared by Mountain Laurel Environmental, dated February 14, 2017.
v) "Proposed Wetland Grading Exhibit 1141 Post Road East Westport, CT" by Redniss& Mead dated August5, 2016.

13. The ground water monitoring wells installed by Redniss and Mead to establish the seasonal high groundwater table on the parcel shall be monitored through June 2017 to assure the entire wet season period is documented. Said monitoring reports of groundwater table data shall be submitted to the Conservation Department.
14. The drainage design shall be revised to reflect all drainage components and most specifically the porous asphalt system and stormwater infiltration system elevations adjusted such that the bottom of the stone reservoir and/or infiltration units are located above the highest recorded groundwater elevation or alternatively for the porous asphalt systems, the systems lined and provided with underdrains. (see above requirements). Said revisions shall be submitted to the Conservation Department for review and approval in conjunction with the Engineering Department and Brian Curtis of Nathan L. Jacobson, Inc. prior to the issuance of a Zoning permit.
15. A final comprehensive Sediment and Erosion Control and Stormwater Management Operations and Maintenance document shall be revised and submitted to the Conservation Department to include the recommendations of Brian Curtis of Nathan Jacobson & Associates, Inc. of January 23, 2017. Said document shall require approval of the Conservation Department and the Engineering Department prior to the issuance of a Zoning permit.
16. The Operations and Maintenance agreement as well as the Maintenance log of documented activity shall be kept on site so as to be available to Town Staff if needed. A report shall be prepared and submitted to the Conservation Department on an annual basis summarizing operation, monitoring and maintenance activities associated with the stormwater management system.
17. Submission of building plans to the Conservation Department and the Town Engineer to confirm compliance to FEMA floodplain standards prior to the issuance of a Zoning permit.
18. William Kenny & Associates shall be responsible for the supervision of the invasive vine and plant removal with photographs and a final report specifying type and approximate number of plants and vines removed. Said report shall be submitted to the Conservation Department upon completion of the activity and will be required prior to the issuance of a Conservation Certificate of Compliance.
19. Submission of a performance bond estimate in the amount of the cost of plants, erosion control material and labor and wetland restoration monitoring to be submitted to the Conservation Department for approval and bond posted prior to the issuance of a zoning permit.
20. The wetland restoration area and the wildflower meadows shall be monitored for a total of three growing seasons following the restoration activities with color photographs taken from fixed locations and notation of all invasive species control measures that were implemented. Said monitoring reports shall be submitted to the Conservation Department on an annual basis with the initial report required prior to the issuance of a Conservation Certificate of Compliance.
21. A site monitor is to be retained by the applicant with contact information submitted to the Conservation Department prior to the issuance of a zoning permit. Weekly reports shall be submitted to the Conservation Department during the initial clearing, excavation, foundation construction, installation of sedimentation controls and at the time of final site stabilization. Reports shall be submitted immediately following rain events of 0.5" or greater. Monthly reports shall be submitted during the site construction.
22. Submission of written confirmation by the property owner/ and or homeowner's association of the willingness to use organic lawn care practices shall be submitted to the Conservation Department and recorded on the land records prior to the issuance of a Conservation Certificate of Compliance.
23. The Conservation Easement Area shall be as shown on the plan entitled: "Zoning Site Plan Depicting 1141 Post Road East Westport, CT," Sheet ZSP-1 dated May 24, 2016 and last revised to January

17, 2017 by Redniss & Mead. Easement language shall be filed on the land records prior to the issuance of a Conservation Certificate of Compliance which prevents future cutting, clearing, filling or building within said easement without prior permission from the Conservation Commission. Said easement shall be permanently demarcated in the field to the satisfaction of the Conservation Department prior to issuance of a Certificate of Compliance.

24. Revision to the Sediment and Erosion Control Plans (Sheet SE 3A and 3B) to include all wetland and buffer restoration activities shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.

25. The newly exposed soil following removal of the large stockpiles of "soil, rocks and other debris" and the existing soil under the "new" fuel tank in the driveway area will be tested. A report shall be submitted to the Conservation Department for review. If contamination is found then remediation measures shall commence. A certification that the site has been properly remediated shall be submitted prior to commencement of building foundation work.

26. Once the stockpiles of material have been removed and the fill and debris removed from the wetland restoration is complete, borings shall be made to determine if the topography of the ground water table has changed significantly and if the depth or design of the infiltration systems needs to be adjusted. Said borings shall be submitted to the Conservation Department, the Engineering Department and Brian Curtiss of Nathan L. Jacobson for review of groundwater table data and approval of the design and the elevations of the proposed infiltration system.

27. Additional soil test pits will be conducted by Mountain Laurel Environmental to track down source of Phenanthrene and further presence of PCE. If found, it will be removed. Mountain Laurel will provide the Conservation Department with an investigation and remediation report upon discovery.

28. On going groundwater quality monitoring of the wells installed by Mountain Laurel Environmental will continue for three additional quarters.

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:** Porter
Ayes: Corroon, Davis, Rycenga,, Porter
Nayes: 0 **Abstentions:** 0 **Votes:** 4:0:0

Work Session II:

1. Other business.

The February 15, 2017 Public Hearing of the Westport Conservation Commission adjourned at 11:55 p.m.

Motion: Rycenga Second: Corroon
Ayes: Rycenga, Corroon, Davis, Perlman, Porter
Nayes: None Abstentions: None Vote: 5:0:0