

**MINUTES  
WESTPORT CONSERVATION COMMISSION  
DECEMBER 14, 2016**

The December 14, 2016 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  
Ralph Field, Alternate  
W. Fergus Porter

**Staff Members:**

Alicia Mozian, Conservation Department Director  
Susan Voris, Recording Secretary

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the December 14, 2016 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.** The Commission may amend the agenda by a 2/3 vote to include items not requiring a Public Hearing.

Ms. Mozian noted there were two items to amend the agenda including

- a. **Approval of the December 9, 2016 field trip minutes.**
- b. **1141 Post Road East:** Application #WPL-10317-16 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, and utilities. Portions of the work are within the upland review area setback. – This is item #6 under the Public Hearing and has been withdrawn. It has been resubmitted and will be heard at the January 18, 2016 Public Hearing.

Motion to amend the agenda to incorporate the changes to the agenda as outlined by Ms. Mozian.

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

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

**1. Receipt of Applications**

Ms. Mozian noted there were two applications to officially receive. These include:

- a. **4 Whitehead Terrace, 333 Greens Farms Road, 335 Greens Farms Road, and 337 Greens Farms Road:** Application #IWW/M-10325-16 by Alan Schur & Karen Schur, David Rubin, MD, Joan Bigham, and Gerald Shea to amend wetland boundary map #H07.
- b. **77 and 81 Maple Avenue South:** Application #IWW/M-10334-16 by Tina Bory & Karen Schur to amend wetland boundary map H07.

Motion to receive the above noted applications.

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

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

Ms. Mozian noted there was no enforcement activity to report on.

Mr. Porter asked that the end of year enforcement report from Mr. Kelly be brought forward to the Commission.

Ms. Mozian noted that the yearly enforcement report that is prepared by Mr. Kelly will be completed for the February meeting subject to the work load in the office.

**3. Approval of November 16, 2016 meeting minutes.**

The November 16, 2016 meeting minutes were approved with corrections.

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



**Findings**  
**Application #IWW/M-10318-16**  
**320 Bayberry Lane Extension**  
**Public Hearing: December 14, 2016**

1. **Application Request:** The applicant is requesting to amend wetland map #E-18.
2. **Permits Issued for this Property:** No previous permits issued for this property.
3. **Soil Scientist for the Applicant:** Christopher Allan, LandTech
4. **Soil Scientist for the Town of Westport:** Thomas Pietras of Pietras Environmental Group
5. **Plan Reviewed:** "Existing Conditions, prepared for Russell & Frederica Brenneman, prepared by LandTech, scale: 1"=40', dated August 4, 2016 revised to December 8, 2016.
6. **Soils Description:** Soil Report Summary- prepared by Christopher Allan dated September 12, 2016 describes the following wetland soils occurring on the property:

**Rippowam fine sandy loam (Ro):** This soil unit consists of nearly level, poorly drained soil found on flood plains of major streams and their tributaries. About 15 percent of this map unit includes small areas of moderately well drained Pootatuck soils, very poorly drained Saco and Scarboro soils, and a few areas with a surface layer and subsoil of silt loam. This Rippowam soil is subject to frequent flooding. It has a seasonal high water table of a depth of about 6 inches from fall until late spring. The permeability of the soil is moderate or moderately rapid in the surface layer and subsoil and rapid or very rapid in the substratum. Runoff is slow or very slow, and available water capacity is moderate. The soil dries out and warms up slowly in spring. Most areas of this soil are wooded. A few areas are used for hay, pasture, and corn, and a few small scattered areas have been filled and are used for community development. The frequent flooding and the seasonal high water table are the main limitations of this soil for community development. Extensive filling is needed for on-site septic systems. Excavations are commonly inundated by water, and slopes of excavations are unstable when wet. The soil is poorly suited to trees. Wetness limits the use of equipment, and the seasonal high water table restricts rooting depth and causes the uprooting of many trees during the windy period.

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

**Agawam:** This well-drained soil is on plains and terraces in stream valleys. The areas are irregular in shape and size. Typically, the surface layer is dark brown fine sandy loam 9 inches thick. The subsoil is brown fine sandy loam 20 inches thick. The substratum is light yellowish brown and pale olive sand to a depth of 60 inches or more. The permeability of this soil is moderately rapid in the surface layer and subsoil and rapid in the substratum.

**Charlton-Chatfield complex:** Soils consists of very deep and moderately deep, well drained soils formed in loamy mantle underlain by sandy till. They are nearly level to very steep soils on moraines, hills and ridges. The Chatfield soils are moderately deep to bedrock.

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

- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "streamside floodplain with a wooded swamp. The outlet to this wetland is the Aspetuck River. The perimeter of this wetland is residential and meadow. Vegetation dominated by Yellow Birch, Dogwood and Spicebush.
  - The FEMA maps indicate that the property is located within the 100 year floodplain designated as zone AE with elevation 84.3' NGVD at the location of the residence.
  - The Waterway Protection Line occurs 15' from the 25 year floodplain boundary.
  - Property does not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
  - Property does not exist within the Coastal Areas Management Zone.
8. The Conservation Department retained the services of Thomas Pietras to review the flagging by the applicant's soil scientist, Chris Allan. Mr. Pietras visited the site on November 25, 2016 and found an area of additional floodplain soil that is not included with Mr. Allan's wetland delineation. Therefore, an on-site investigation was conducted with the two soil scientists and a member of the Conservation

Department staff present. Additional floodplain soils were identified in the vicinity of wetland flags 22-27. The survey was revised to show this additional area. A revised survey was submitted on December 13, 2016 showing the agreed upon wetland boundary.

**Resolution**  
**Application #IWW/M-10318-16**  
**320 Bayberry Lane Extension**  
**Public Hearing: December 14, 2016**

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-10318-16 by LandTech Consultants on behalf of Frederica Brenneman to amend the wetland boundary on Map #E18 on the property located at 320 Bayberry Lane Extension with the following conditions:

1. Conformance to the plan entitled: "Existing Conditions," prepared for Russell & Frederica Brenneman, 320 Bayberry Lane Westport, CT dated August 4, 2015 revised to December 8, 2016 Scale 1"=40' prepared by LandTech.
2. An electronic file in a format acceptable to the Town Engineer shall be submitted to the Conservation Department before permits for any further activity will be authorized.
3. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.

**Motion: Corroon**    **Second: Bancroft**  
**Ayes: Corroon, Bancroft, Rycenga, Davis, Porter, Field**  
**Nayes: None**     **Votes: 6:0:0**

2. **45 Center Street:** Application #IWW/WPL/E-10319-16 by Steve Orban, Architect on behalf of Nancy Aldrich for a 2-story addition to create a single car garage on slab with master suite above, a 1-story addition for study and remodeled kitchen, ½ bath and mudroom with new cellar, a screen porch, new driveway with stonewall and relocate existing shed. Portions of the work are within the 50' upland review area.

Steve Orban, architect, presented the application on behalf of the property owner, who was also present. The amended plan shows the relocation of the shed just outside the 30-foot upland review area so that it is on Ms. Aldrich's property. The stormwater runoff problem from the road will be addressed with the Engineering Department during the time of construction. The fence on the property will be removed from the wetland area. The existing cellar area is 0.3 feet above the base flood elevation. New flood vents will be at grade and within the new foundation.

Ms. Rycenga noted the importance of maintaining the sediment and erosion controls during construction.

Mr. Orban stated he will be involved in the oversight of the project.

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

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

**FINDINGS**  
**45 Center Street**  
**Application #IWW/WPL/E 10319-16**  
**Public Hearing December 14, 2016**

**Application Request:** The application is for a two-story addition to create a single car garage, study, remodeled kitchen, and a master suite above, a screen porch, a new driveway and relocation of the existing shed. The existing and new cellar space will have flood venting. Portions of the work are within the 50' upland review area. The work is proposed outside the WPLO area.

**Permits Issued for this Property:**

WPL/E-6464-00 Single-story addition

**Plan and supplemental material reviewed:**

1. "Storm Drainage & Grading Plan", prepared for Nancy Aldrich, 45 Center Street, Westport, Connecticut, prepared by Ochman Associates, Inc., dated October 16, 2016 and last revised to October 22, 2016, scale 1" = 10'.
2. "Schematic Site Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016 and revised to December 14, 2016, scale: 1" = 10' 0", sheet: SP-1.
3. "Foundation Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-1.
4. "First Floor Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-2.
5. "Second Floor Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-3.
6. "Front Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-4.
7. "Rear Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-5.
8. "Left Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-6.
9. "Right Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-7.
10. "Sections", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-8.
11. "Sections", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-9.
12. "Drainage Report", prepared for Nancy Aldrich, 45 Center Street, Westport, CT, prepared by Ochman Associates, Inc., dated: October 18, 2016.
13. "Soil Investigation Report", 45 Center Street, Westport, Connecticut, dated: December 21, 2015.

**Wetlands Description :** Soil Report Summary- prepared by Otto Theall, soil scientist dated December 21, 2015 describes the following wetland soil occurring on the property:

**Pootatuck fine sandy loam (Ps):** This soil unit is a nearly level moderately well drained soil found on flood plains of major streams and their tributaries. This Pootatuck soil is subject to frequent flooding. It has a seasonal high water table at a depth of about 20 inches from late fall until spring. Permeability is moderate to moderately rapid in the surface layer and subsoil and rapid or very rapid in the substratum. Runoff is slow, and available water capacity is moderate. The soil dries out and warms up slowly in spring. Flooding limits this soil for community development, and slopes of excavation in the soils are unstable. This area is well suited to cultivated crops and trees. Its use is limited by the seasonal high water table and flooding, but most areas are seldom flooded during the summer growing season. This soils type is an alluvial soil.

The non-wetland soils are described as Udorthents and Ninigret and Tisbury which are described by the Fairfield County Survey by the following:

**Udorthents, smoothed (UD):** This soil unit consists of areas that have been altered by cutting or filling. The areas are commonly rectangular and mostly range from 5 to 100 acres. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas containing material such as logs, tree stumps, concrete and industrial waste. A few areas have exposed

bedrock. Included areas make up about 30 percent of this map unit. The properties and characteristics of this unit are variable and the unit requires on-site soil investigation and evaluation for most uses.

**Ninigret find sandy loam (Nn):** This nearly level to gently sloping, moderately well drained soil is found on plains and terraces in stream valleys. This soil has a seasonal high water table at a depth of about 20 inches from late fall until mid-spring. Permeability is moderately rapid in the surface layer and subsoil, and rapid in the substratum. Runoff is slow and available water capacity is moderate. The soil dries out and warms up slowly in spring. Many areas of this soil are used for hay, corn, vegetable and nursery crops. Some scattered areas are used for community development and a few small areas are wooded. The seasonal high water table is the main limitation of this soil for community development. The water table makes special design and installation of on-site septic systems necessary. Slopes of excavations are commonly unstable. Where outlets are available, footing drains help prevent wet basements. Quickly establishing plant cover, mulching, and using siltation basins help to control erosion and sedimentation during construction. This soil is well suited for cultivated crops and trees, but drainage is needed in some of the farmed areas. Minimum tillage and the use of cover crops help to control a moderate hazard of erosion in cultivated areas. Machine planting is practical in areas used for woodland.

#### **Property Description and Facts Relative to the Application:**

1. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as “ponded stream surrounded by wooded swamp and meadow.” There is medium visibility of this wetland from Center Street. The outlet of this system is Muddy Brook.
2. The 100 year floodplain does occur on the property. The FEMA maps indicate that the property is located within the 100 year flood boundary designated as Zone AE , Elevation 17.3'+/- NGVD determined by B. G. Root Survey reflected on Storm Drainage and Grading plan by Ochman Assoc.
3. The Floodway boundary line also occurs on the parcel. The location as shown on the plan entitled, “Storm Drainage and Grading Plan” by Ochman Assoc.is reproduced from the B. G. Root Survey.
4. The 25 year flood line is shown on the site plan and was extrapolated from the Comprehensive Drainage Improvement Plan for Muddy Brook prepared by Leonard Jackson Associates.
5. Property is not located within the Aquifer Protection Overlay Zone or in an aquifer recharge area.
6. The property does not exist within the Coastal Areas Management Zone.
7. The property is serviced by a municipal sewer and a municipal water supply.
8. The wetland includes areas of historically landscaped yard, woody vegetation and some invasive species including Asiatic bittersweet and garlic mustard in a narrow corridor along the river. Portions of the yard to the north of the residence show evidence of recent clearing of vegetation.
9. The field delineated wetland boundaries by Soil Scientist, Otto Theall, reflect current conditions on the property and have been verified by staff.
10. The wetland system is part of the floodplain of Muddy Brook which drains to Sherwood Mill Pond.
11. The Waterway Protection Line Boundary on this property is located by both 15 ft from the 25 year floodplain and 15 ft from the wetland boundary, whichever was greater. The proposed addition, driveway, drainage and grading is outside the WPLO boundary.

#### **Conformance to Section 6.1 General Standards of the Inland Wetlands and Watercourses Regulations**

- 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;  
consider historical sites

**Finding:** Portions of the existing residence lie within the 50' IWW upland review area. The proposed additions to the residence lie partially within the 50' IWW upland review area. The addition of the

proposed driveway and wall are proposed outside the 30' IWW upland review area. The grading, and drainage structure will be outside the 20' IWW upland review area. These additions and driveway will cover approximately 1430 sq. ft. of land that is currently landscaped yard. The existing 381 sq. ft. driveway will be removed and restored to lawn. Existing coverage is 12.21%. Proposed coverage is 20.48%. Storm water runoff from the new additions and drive, as well as a portion of the existing house, have been proposed to be retained within the proposed drainage system.

**Conformance to Section 6.2 Water Quality of the Inland Wetlands and Watercourses Regulations**

- 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

**Finding:** The overall impervious area is proposed to increase by approximately 1,430 sq. ft., this would change total coverage from 12.21% (existing) to 20.48% (proposed). The runoff from a portion of the roof leaders for the residence and the proposed gravel driveway are to be handled with subsurface infiltrators. This property is gently sloping from west to east. Any stormwater runoff not specifically directed to the subsurface appurtenances will sheet flow toward the wetland and watercourse to the east. The Commission finds that supplemental plantings added to the perimeter of the existing lawn area will help retain stormwater flow and promote infiltration. The Commission also finds that removal of invasive plant species including the Asiatic bittersweet and garlic mustard along the watercourse and supplementing the area with native plantings will help improve water quality through nutrient uptake. A nutrient removal or "filtering" process takes place as the water comes in contact with the soil and the roots of the vegetation. The process accounts for the improved water quality and a way to protect the downstream receiving waterbody from the pollution source afforded now from the maintained lawn.

**Conformance to Section 6.3 Erosion and Sediment of the Inland Wetlands and Watercourses Regulations**

- 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.

**Findings:** The Commission finds that the silt fence location shown on the plans must also serve as the limit of disturbance for construction activity and for vehicular access as sediment introduction to the watercourses will be prevented. A construction access tracking pad is shown on the submitted site plan in the location of the proposed gravel driveway. The Commission finds that this may need to be expanded when construction activities require additional parking onsite. The property does have limited availability of parking along Center Street due to its location on the inside of a bend in the road.

The Commission finds that as the property is gently sloping, a properly installed and properly maintained silt fence will be adequate protection. Additionally, the Commission finds that stormwater runoff from Center Street should be observed and controlled throughout construction. There is currently evidence that the property does receive runoff from Center Street into a small landscape swale that disperses into



the yard. Changes to this flow may need mitigation if an elevated paved apron, as required by DPW, directs that flow to a new location onsite (i.e. into the house, into the old driveway location). Furthermore, the Commission finds that supplementing the wetland area adjacent to the brook with native, deep-rooted plantings will help with long term stabilization of the streambank by reducing erosion during large storm events.

**Conformance to Section 6.4 Natural Habitat Standards of the Inland Wetland and Watercourses Regulations**

- 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

**Findings:** This proposal will not have an adverse impact on the existing natural habitat. Again, The Commission finds that the removal of invasives plant species such as Asiatic bittersweet and garlic mustard, along the watercourse and the supplemental planting of the area adjacent to the brook with native plantings will re-establish a naturalized buffer to the watercourse and provide a more diverse habitat area.

**Conformance to Section 6.5 Discharge and Runoff of the Inland Wetland and Watercourses Regulations**

- 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

**Findings:** The impervious area proposed for this parcel is to be increased from 12.21% to 20.48% and subsurface drainage appurtenances are being provided for a 25 year storm event. Therefore, flooding upstream or downstream should not be increased as the calculated impervious area is to be retained on site. Keith Wilberg, Deputy Town Engineer, has reviewed the Drainage Report proposal and finds it acceptable.

The Conservation Commission encourages the use of permeable materials in the construction of driveways to reduce runoff from typical driveway installation. The plans submitted propose a gravel driveway. The Commission also finds that the introduction of native plantings with deep roots to augment the existing trees along the streambank will serve to reduce erosion damage during storm events and create beneficial naturalized buffers to handle flood waters.

**Conformance to Section 6.6 Recreational and Public Uses of the Inland Wetland and Watercourses Regulations**

- 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.

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

**Conclusion:** The Commission finds that the application as submitted, along with conditions that will impose additional safeguards, will result in no significant impact to the wetlands and watercourses.

### **RESOLUTION**

**Westport Conservation Commission**  
**Application #IWW, WPL/E 10319-16**  
**Street Address: 45 Center Street**  
**Assessor's Map F8 Lot 123**  
**Date of Resolution: December 14, 2016**

**Project Description:** A two-story addition to create a single car garage, study, remodeled kitchen, and a master bedroom suite above, a screen porch, a new driveway and relocation of existing shed. The existing and new cellar space will have flood venting. Portions of the work are within the 50' upland review area. The work is proposed outside the WPLO area on the property.

**Owner of Record:** Nancy Aldrich

**Applicant:** Steve Orban, Architect

In accordance with Section 6 of the Inland Wetlands and Watercourse Regulations and Section 30-89 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW,WPL/E 10319-16 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 and all deficiencies must be remediated with twenty-four hours of finding them.
7. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
9. 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. Any construction dumpsters located on the site shall be covered at the end of each work day to avoid leaching of pollutants during rain events.

**SPECIAL CONDITIONS OF APPROVAL**

12. Conformance to the plans entitled:
  - a. "Storm Drainage & Grading Plan", prepared for Nancy Aldrich, 45 Center Street, Westport, Connecticut, prepared by Ochman Associates, Inc., dated October 16, 2016 and last revised to October 22, 2016, scale 1" = 10'.
  - b. "Schematic Site Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016 and revised to December 14, 2016, scale: 1" = 10' 0", sheet: SP-1.
  - c. "Foundation Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-1.
  - d. "First Floor Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-2.
  - e. "Second Floor Plan", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-3.
  - f. "Front Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-4.
  - g. "Rear Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-5.
  - h. "Left Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-6.
  - i. "Right Elevation", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-7.
  - j. "Sections", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-8.
  - k. "Sections", "Proposed Addition & Alteration", 45 Center Street, Westport, CT 06880, dated October 21, 2016, scale: 1/4" = 1' 0", sheet: A-9.
13. The silt fence location shown on the approved "Storm Drainage & Grading Plan noted above, shall serve as the Limit of Disturbance throughout the construction process.
14. The anti-tracking pad on the "Storm Drainage & Grading Plan" shall be expanded to include the entire area of the proposed driveway.
15. A detailed landscape plan to include removal of invasive vegetation along Muddy Brook's embankment and establishment of a 15 ft-20 ft native riparian buffer, including deep-rooted plant species, shall be submitted for review and approval prior to issuance of a zoning permit. The work shall be conducted by hand.
16. A bond to cover the wholesale cost of sediment and erosion controls and plantings shall be submitted prior to issuance of a Zoning permit.
17. The driveway shall be gravel as shown on the proposed plan. It shall remain permeable in perpetuity with said restriction placed on the land records prior to the issuance of a Conservation Certificate of Compliance.
18. The "new gravel foot-path & seating area" as shown on the 12/14/16 "Schematic Site Plan" is not approved at this time.

**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:** Davis  
**Ayes:** Porter, Davis, Rycenga, Corroon, Bancroft, Field  
**Nays:** None    **Abstentions:** None    **Vote:** 6:0:0

3. **270 Saugatuck Avenue:** Application #IWW,WPL/E-10320-16 by LandTech on behalf of O'Halloran Realty Company Associates, LLC to subdivide an existing 4.0 acre lot into 3 residential lots, each slightly larger than one-half acre; one, 1.44 acre commercial lot; and, one, 0.73 acre open space lot. A portion of the parcel is located within the upland review area, the WPL area of a wetland and an unnamed tributary of the Saugatuck River.

Mr. Davis recused himself due to the possibility a client of his being involved with the project.

Tom Ryder, senior biologist with LandTech, presented the application on behalf of the property owner. He presented photos of the existing site conditions showing the buildings, driveways and the parking areas. The lower portion of the property is wetlands. The wetland is a red maple swamp and well-functioning. The wetland system is connected to the Duck Pond Road/Great Marsh Road system that flows into the Saugatuck River. The office building will remain as a pre-existing non-conforming office but they are adding a parking lot to serve it. This will have its own drainage system. The Engineering Department had informed them that overflow from this system may not connect to the Town drainage system and therefore has been eliminated from the plans. However, it has been determined that the proposed system will be sufficient and there should not be any overflow. The raingarden will be on the south side of the office building. There are five raingardens in total; all are situated in the direction of groundwater flow. The test pits show sand and gravel so it is good for drainage and raingarden implementation. The driveways for the new houses are over the existing driveway. Mr. Ryder showed the area at the top of the bank where a permanent delineation of the conservation easement would be. He noted that the three houses cannot be on one driveway per Zoning regulations.

Ms. Mozian noted that lots 3 and 4 would be subject to future review.

Mark O'Halloran, owner, stated that interest in the commercial building has been expressed by the Westport Arts Center. However, the best type of use has not been determined yet.

Mr. Bancroft asked about the tree removal.

Mr. O'Halloran stated they designed the parking lot around the existing mature trees as best as they could in an effort to save them.

Mr. Corroon asked about the open space access.

Mr. Ryder stated the area would be fully accessible to the public.

Ms. Rycenga expressed concern with overflow parking on the raingarden on lot 1. She expressed concern with snow piling on lots 3 and 4.

With further comment from the public, the hearing was closed.

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

#### **FINDINGS**

**Application #IWW,WPL/E-10320-16  
270 Saugatuck Avenue  
Public Hearing December 14, 2016**

1. **Application Request:** The applicant is requesting to subdivide an existing 4.0 acre lot into 3 residential lots, each slightly larger than one half acre, one 1.44 acre commercial lot and one 0.73

acre open space lot. A portion of the property contains wetlands. The WPLO area is associated with a wetland and accompanying unnamed tributary of the Saugatuck River. No proposed activity is proposed within the WPLO area, the wetland or the upland review area.

2. **Previous Permits:** IWW/M-10294-16: Amendment of wetland boundary map #B4 approved October 19, 2016.
3. **Plans and Reports Reviewed:**
  - a. Zoning Map of Property prepared for O'Halloran Realty Company Associates, LLC, 270 Saugatuck Avenue, Westport, CT, prepared by Dennis A Deilus, Land Surveyors, dated September 14, 2016, scale 1" = 30'.
  - b. "Site Improvements for a Proposed XX Lot Subdivision, Site Plan," prepared for O'Halloran Realty Company Associates, LLC., 270 Saugatuck Avenue, Westport, CT., prepared by LandTech, dated October 12, 2016 revised to December 14, 2016, scale: 1"= 30', sheet C-1.
  - c. "Site Improvements for a Proposed XX Lot Subdivision, Notes and Details," prepared for O'Halloran Realty Company Associates, LLC, 270 Saugatuck Avenue, Westport, CT prepared by LandTech, dated October 12, 2016 revised to December 14, 2016, sheet C-2.
  - d. "Hydrology & Hydraulics Report," Proposed Subdivision, 270 Saugatuck Avenue, Westport, Connecticut, prepared by LandTech, dated November 4, 2016.
  - e. "Wetland Evaluation and Impact Assessment," 270 Saugatuck Road, Westport, Connecticut, prepared for O'Halloran Realty Company Associates, LLC., prepared by LandTech, dated November 7, 2016
  - f. Soil Report Summary- prepared by Christopher P Allan, dated August 25, 2016
  - g. "Test Hole Data- 270 Saugatuck Avenue – conducted October 19, 2016 received December 9, 2016.
  - h. "270 Saugatuck Site Coverage" received December 13, 2016 revised and resubmitted December 14, 2016.
4. The following wetland soils were indicated in the above report and are described by the Fairfield County Soil Survey:

**Timakwa soils:** This component occurs on depression landforms. The parent material consists of woody organic material over sandy and gravelly glaciofluvial deposits. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The slowest permeability within 60 inches is about 5.95 in/hr (rapid), with about 16.2 inches (very high) available water capacity. The flooding frequency for this component is rare. The ponding hazard is frequent. The minimum depth to a seasonal water table, when present, is about 4 inches.

**Natchaug soils:** This component occurs on depression landforms. The parent material consists of woody organic material over loamy alluvium, loamy glaciofluvial deposits, or loamy till. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The slowest permeability within 60 inches is about 0.20 in/hr (moderately slow), with about 15.6 inches (very high) available water capacity. The flooding frequency for this component is rare. The ponding hazard is frequent. The minimum depth to a seasonal water table, when present, is about 0 inches.

The non-wetland soil or upland soils were identified by Soil Scientist, Christopher Allan as Agawam-Urban land complex.

## 5. **Property Description**

- a. The property measures 4.0 acres of which approximately .56 acres are wetlands.
- b. The 100 year floodplain boundary is located along the southern and western portions of the property. The base flood elevation is 13 ft. msl. The existing office building and the three new houses are located outside the 100 year floodplain.
- c. The "Westport Wetlands Inventory" prepared by Flaherty, Giavara Associates, Inc. describes the on-site wetland as part of a larger wooded swamp greater than 10 acres in size. The wetland area contains a permanent watercourse and floodplain where the water is temporarily ponded.

- d. The report submitted by the applicant entitled, "Wetland Evaluation and Impact Assessment" describes the principal function of the on-site wetlands as groundwater recharge/discharge, flood flow alteration, sediment/toxicant/pathogen retention and nutrient removal/retention/transformation. Staff would also add that it has a high wildlife habitat value because of its proximity to the large 14 acre open space preserve next door.
- e. The property does not exist within the Aquifer Protection Overlay Zone and is not in an aquifer recharge area.
- f. The property does exist within the Coastal Areas Management Zone.
- g. The new houses and office building will be connected to the Town sewer system.
- h. The WPLO boundary is established 15 ft from the wetland boundary. No work is proposed in the WPLO area.

## 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

**Findings:** The applicant has filed the application in accordance with Section 9.1 of the "Regulations for the Protection and Preservation of Wetlands and Watercourses for Westport, CT" which states: "If an application to the Town of Westport Planning and Zoning Commission for subdivision or resubdivision of land involves and contains a wetland or watercourse, the applicant shall, in accordance with Section 8.3 (g), 8.3c or 8-26 of the Connecticut General Statutes, submit an application for a permit to the Conservation Commission in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission."

The 4.0 acre property is zoned "Residence AA" which requires a minimum lot area of one acre. However, the Zoning Regulations for the Town of Westport allow for the creation of "Open Space Subdivisions" whereby the land may be subdivided to the next less restrictive zoning district, in this case, Residence A ½ acre, with the provision that a separate parcel of land be set aside as open space.

The site is currently the home of the "Eno" building, an existing office building once the headquarters of the Eno Transportation Foundation.

The application proposes to keep that building on its own 1.44 acre site (Lot 1) and create a new parking lot for it with associated drainage galleries.

The remaining land would be divided into three new house lots:

Lot 2 would be .57 acres. It has no wetlands on it but a small portion contains the 100 year floodplain.

Lot 3 would be .61 acres and contain a very small area of wetlands in the northwest corner of the lot.

Lot 4 would be .65 acres of which approximately ¼ would be wetlands.

Lots 3 and 4 would be adjacent to a newly created .73 acre open space parcel to the west, the majority of which is wetlands. That open space parcel would abut land owned by the Aspetuck Land Trust known as the "Eno Marsh Preserve." This is a 14 acre parcel with an existing trail system. The proposed subdivision plan provides for a 10 ft wide pedestrian accessway along the entire southern property line to the proposed open space parcel and the Eno Preserve.

Existing lot coverage is 20.7%. Proposed lot coverage including the parking lot, is 29.3%. This includes proposed house sites, the commercial building, driveways and parking lots.

Section 7.3 of the "Regulations" establishes the following applicable upland review areas:

50 ft new houses

30 ft driveways and parking lots

20 ft. non-disturbance area for cut, fill, grading and other alterations

All house sites, driveway, grading and drainage locations are proposed outside of these upland review areas. Should the subdivision be approved, lots 3 and 4 would need to secure permits for individual house development. As currently drawn, they would be eligible for administrative permits. Please note however, that no decks, patios or pools are shown.

## **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 unduly 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;
- 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 22a-426 and 25-54(e) of the Connecticut General Statutes;

**Findings:** The existing site conditions include the office building with associated circular driveway and room for approximately six cars. In the rear of the building are two houses and two garages with driveway access off of Eno Lane. Therefore, a significant amount of proposed activity is located on top of what is already impervious. There are currently no provisions for stormwater treatment. The proposal calls for the drainage for each of the three houses to be handled by raingardens. In addition to the proposed stormwater gallery system, the existing office building would also be served by a new raingarden for the treatment of roof runoff .

Raingardens are meant to capture and treat stormwater through absorption of nutrients by the plantings so that what is transmitted into groundwater and wetlands and watercourses is free of excess nutrients like nitrogen and phosphorous from lawn fertilization and roof runoff. Since this is the sole provision for drainage, the raingardens must be properly installed. The Commission finds that the installation of the raingardens must be overseen by the design engineer and certify that they have been built according to the design specifications.

Furthermore, the Commission finds that the raingarden on Lot 1 should be protected from the possibility that overflow parking may intrude onto it by installing a permanent demarcation on the side adjacent to the parking lot of the owners choosing.

## **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.

**Findings:** Stockpile areas and mud-tracking pads for the driveway entrances off of Eno Lane are shown on the subdivision plan. A silt fence is shown around the entire perimeter of the property. The Commission finds that the silt fence on the west side of the property adjacent to the wetland should also serve as the limit of disturbance for site activity.

#### **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

**Findings:** The ½ acre of wetlands on this site is directly adjacent to a 14 acre wetland preserve owned by the Aspetuck Land Trust. The applicant has set aside the majority of this ½ acre wetland in its own lot thereby protecting it in its totality. The existing topography on proposed Lots 3 and 4 includes a distinct slope whereby the top of the embankment serves as natural protection of the wetland which exists at the base of the slope from the proposed development.

In addition, the wetland is forested. Wildlife often use the edge of a forest for foraging. The Commission finds that the top of the embankment as seen in the general vicinity of the western silt fence location, be permanently marked as the edge of disturbance so that the wetland and wetland buffer ranging in width from approximately 20 ft-35 ft is protected. Such permanent demarcation may be in the form of a split rail fence, for example, which would allow the free passage of wildlife to the wetland but also serve as a limit of encroachment from human activity.

#### **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

**Findings:** The Flood and Erosion Control Board reviewed and approved the subdivision at its December 7, 2016 meeting. The current plans show that the drainage for the new parking lot for the office building will discharge to a Stormtech drainage system with overflow to the town drainage system. This is not allowed. However, test data show the soil conditions in the vicinity of the drainage system as primarily sandy loam or gravelly sandy loam. Thus, the soil conditions and the size of the drainage system are such that the Engineering Department expects that there will be no overflow.

In addition, a large raingarden is proposed on the south side of the existing office building to capture driveway and roof runoff.

There is also a Town drainage easement directly north of the site on Eno Lane. Discharge is into the wetland. Site inspection shows the outlet to be clogged with leaves. Staff will notify DPW that this should be cleaned.

Drainage for the three individual home sites is into raingardens. In all, there are five raingardens proposed. A detail is shown on how they are to be constructed. Since they will serve as the primary



and sole drainage appurtenance for these structures, the proper installation and maintenance of these raingardens is essential. The Commission finds that the design engineer oversee their installation and certify to the Town that they have been properly installed.

In addition, the raingardens are proposed to be planted with a New England Conservation/wildflower seed mix. While this appears to be satisfactory, experience has shown that homeowners often mow over raingardens that are planted with a seed mix alone. This prevents the wildflower seeds to fully evolve to their true potential since perennials can take a few years to grow to maturity. Therefore, the Commission finds that the seed mix be augmented with actual planting of perennials, shrubs or ornamental grasses to make it less likely that owners will remove them.

## **6.6 RECREATIONAL AND PUBLIC USES**

**Findings:** The applicant has set aside a separate .73 acre parcel of open space.

The parcel, in turn butts up against the 14 acre Eno Marsh Preserve owned by the Aspetuck Land Trust. A 10 ft wide pedestrian accessway extending the entire southern property line is proposed from Saugatuck Avenue to the open space parcel and the preserve. This would be open to the public.

### **Waterway Protection Line Ordinance**

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

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

**Findings:** The WPLO boundary is located 15 ft. from the wetland boundary. The WPLO boundary would exist on proposed lots 3 and 4 but, the subdivision plan as currently drawn shows no activity within the WPLO boundary. Therefore, future house construction would be eligible for staff level permits as long as no encroachment into this area is proposed.

The Commission finds that the application as proposed will cause no adverse impact to the wetland or waterways of the Town. However, the Commission finds the following additional mitigation or protections are recommended:

1. A permanent delineation of the wetland boundary and associated wetland buffer should be established at the top of bank on lots 3 and 4 in the form of a split rail fence or other means as chosen by the developer as long as it allows the free movement of wildlife.
2. Individual permits for house construction on lots 3 and 4 is required. A revised raingarden plan showing the additional planting should be included in the design.
3. The seed mix for the raingardens throughout the site should be supplemented with plantings.
4. No discharge of overflow from the drainage system on Lot 1 is allowed into the Town's drainage system.
5. The raingarden on Lot 1 should be protected from possible overflow parking.

**RESOLUTION  
TOWN OF WESTPORT  
CONSERVATION COMMISSION  
APPLICATION #IWW,WPL/E-10320-16  
270 Saugatuck Avenue  
PUBLIC HEARING DATE: December 14, 2016**

Project Description: To subdivide an existing 4.0 acre lot into three (3) residential lots, each slightly larger than one-half acre; one, 1.44 acre commercial lot; and, one, 0.73 acre open space lot. A portion of the

property contains wetlands and is in the WPLO area of a wetland and unnamed tributary of the Saugatuck River. No work is proposed within the WPLO or within the upland review area of the wetland.

Owner of Record: O'Halloran Realty Company Associates, LLC

Applicant: LandTech

In accordance with Section 6 of the "Inland Wetland and Watercourse Regulations for the Town of Westport" and Section 30-93 of the "Waterway Protection Line Ordinance" and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW, WPL/E-10320-16 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. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
7. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
8. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
14. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
15. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
16. Conformance to the conditions of the Flood and Erosion Control Board's December 7, 2016 approval.

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

17. Conformance to the plans entitled:
  - a. Zoning Map of Property prepared for O'Halloran Realty Company Associates, LLC, 270 Saugatuck Avenue, Westport, CT, prepared by Dennis A Deilus, Land Surveyors, dated September 14, 2016, scale 1" = 30'.

- b. "Site Improvements for a Proposed XX Lot Subdivision, Site Plan", prepared for O'Halloran Realty Company Associates, LLC., 270 Saugatuck Avenue, Westport, CT., prepared by LandTech, dated October 12, 2016 revised to December 14, 2016 scale: 1"= 30', sheet C-1.
  - c. "Site Improvements for a Proposed XX Lot Subdivision, Notes and Details", prepared for O'Halloran Realty Company Associates, LLC, 270 Saugatuck Avenue, Westport, CT prepared by LandTech, dated October 12, 2016 revised to December 14, 2016, sheet C-2.
18. A permanent delineation of the wetland boundary and associated wetland buffer shall be established at the top of bank on lots 3 and 4 in the form of a split rail fence or other means as chosen by the developer as long as it allows the free movement of wildlife and discourages dumping in the wetland. Said method of permanent delineation shall be approved by the Conservation Department and a bond to cover its cost shall be posted with the Conservation Department prior to issuance of an individual zoning permit for lots 3 and 4.
  19. Individual permits for house construction on lots 3 and 4 are required. A revised raingarden plan showing the additional planting should be included in the design.
  20. The seed mix for the raingardens throughout the site shall be supplemented with plantings subject to review and approval by Conservation Department staff.
  21. The posting of a bond for the raingardens on lots 3 and 4 shall be required as a condition for individual house permits on Lots 3 and 4.
  22. No discharge of overflow from the drainage system on Lot 1 is allowed into the Town's drainage system.
  23. Should the subdivision plans as proposed be changed, the Conservation Commission shall review said changes.
  24. The raingarden on Lot 1 shall be clearly demarcated in the field to prevent the possibility of overflow parking within its boundary

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

Commissioner Davis rejoined the board.

4. **1141 Post Road East:** Application #IWW/M-10327-16 by Redniss & Mead Inc. on behalf of 1141 Post Road E LLC to amend wetland boundary map #G9.

David Ginter, PE of Redniss & Mead Inc., presented the application on behalf of the property owners. He noted the application was before the Commission back in January. Bill Kenny delineated the wetland, which is similar to the GIS map.

Ms. Mozian stated Otto Theall was the soil scientist who represented the Town. Steve Danzer, PhD representing the abutting property at 1177 Post Road East also reviewed the line as part of his involvement for the housing project on that site. All three soil scientists were in agreement on the wetland line. She noted that at the last hearing in January the motion to approve did not pass because the Commission wanted more information on the history of the soil piles. In her staff report, she documented her review of the aerial photos dating back to 1958. The stockpile areas predate the adoption of the wetland regulations. She reviewed the history of the site. In addition, based on her conversations with DEEP, the Commission must base adoption of the map on the soils that are there now. The stockpiles are not wetlands at this time. Once the piles are removed and the floodplain is allowed to re-establish itself, the area may become regulated once again but for now, the decision must be based on the soil conditions that exist now.



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.

7. The upland soils have been identified as Ninigret and Tisbury fine sandy loam (21), Udorthents-Urban land complex (306) and Udorthents, smoothed (308).
8. The wetlands on the property also meet the definition of federally-designated wetlands in that the soil, hydrophytic vegetation and standing water exists.

### **Findings:**

The applicant is proposing to amend the wetland boundary as it exists on town wetland map #G 9. Soil Scientist, Otto Theall was retained by the Town of Westport. He visited the property on December 7, 2015. Mr. Theall is in agreement with the proposed wetland boundary delineated by Bill Kenny as indicated in an e mail received on December 10, 2015.

In addition, during the review of Application #IWW/M-10191-16 for new construction at 1177 Post Rd East, the wetland boundary on 1141 Post Rd East was also flagged by soil scientist, Steven Danzer, PhD in November of 2015. This was done by Dr. Danzer in order to analyze the impact the project at 1177 had on the wetlands at 1141 Post Rd East. Dr. Danzer's independent investigation corroborates the wetland boundary and the wetland soil type identified and verified by Mr. Pietras and Mr. Theall.

Despite the consensus by three soil scientists of the location of the wetland boundary, when the previous map amendment application was filed for this property, the motion to approve it failed because some members wished to have more information about the filling activity that occurred on the site in the past and how that affected the wetland boundary today. Using aerial photographs, land record maps, Zoning and Conservation Department files, the following history of the soil piles, stream piping and sewer line installation can be determined as follows:

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 sometime 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

In addition to this information, the Connecticut Department of Energy and Environmental Protection was contacted by staff for advice about whether the area beneath the fill piles, once they were removed, could be considered wetlands. In essence, the answer was no because the area would no longer be considered a poorly or very poorly drained soil. However, because the area is also within a floodplain, once the grade is lowered in the area where the soil piles are currently located, as the applicant intends to do, over time, that area will most likely become deposited with alluvial floodplain soils and will become regulated. For now however, the upland review area will need to be measured from the flagged wetland boundary as it exists today.

In conclusion, there are three soil scientists who agree to the wetland boundary as shown on the plan submitted by the applicant.

**Resolution**  
**Application #IWW/M-10327-16**  
**1141 Post Rd East**  
**December 14, 2016**

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-10327-16 by Redniss & Mead on behalf of 1141 Post Road E, LLC to amend wetland boundary Map #G9 on the property located at 1141 Post Road East with the following conditions:

1. Conformance to the plan entitled: "Improvement Location Survey prepared for Coastal Construction Group 1141 Post Road East, Westport, Connecticut" dated November 6, 2015 revised to November 19, 2015, Scale 1" = 30 ' by Land Surveying Services, LLC.
2. An electronic file of the above-referenced plan in a format acceptable to the Town Engineer shall be submitted to the Conservation Department before permits for any further activity will be authorized.
3. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.

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

5. **1141 Post Road East:** Application #IWW-10299-16 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, and utilities. Portions of the work are within the upland review area setback.

David Ginter, PE of Redniss & Mead Inc., presented the application on behalf of the property owners. He stated that the WPLO application was before the Flood and Erosion Control Board on December 7, 2016. The application was continued to January but then later was withdrawn and resubmitted to allow time for the Engineering Department's outside consultant to conduct a third party review. He gave an overview of the property. Muddy Brook traverses the eastern portion of the property, a portion of which is piped under the parking lot on this site and 1177 Post Road East. A Phase I and II report has been done. Mr. Ginter reviewed areas of concern. He stated that only the mechanics pit was tested. The other areas will be tested during the demolition process. The testing done in the mechanic's pit showed low levels. The fuel tanks were replaced in 1996 but will be removed. The

historic septic system was installed in 1977. They are not sure if it is still there. The property was connected to sewer in 1977.

Mr. Ginter reviewed the site development plan. He noted that parking will be at-grade throughout the property. There will be a 1.3-acre increase in coverage. There are 0.97 acres of impervious surface and 3.6 acres of total disturbance currently. Under the new proposal, there will be a 1.3-acre deduction of disturbance. They will be rehabbing the existing commercial building and building a second floor. There will be 9 residential buildings; some with drive under parking but everything is slab on grade construction.

Mr. Ginter noted receipt of comments from the Town's third party outside consultants, Brian Curtis of Nathan Jacobson & Associates and Ed Pawlak of Connecticut Ecosystems. He noted the test pits were done on June 10, 2016. They were dug 6 feet and there were no naturally occurring material. Infiltration should be in the northern section of the property. The Town regulations call for 1-foot of separating distance between the drainage structure and groundwater. Mr. Curtis has recommended a 3-foot separating distance. This would require 2 to 3 feet of fill within the floodplain. The plan requires 4400 c.f. of stormwater storage and they are providing 16000 c.f. plus. The flood storage will provide 2100 c.f. The overflow goes to Muddy Brook. No flow will be diverted from it but the timing, volume and rate will be changed. The stormwater will be treated with oil and grit separator. All catchbasins will have 2-foot sumps and traps. The galleries will be wrapped in filter fabric. A maintenance schedule will be submitted. In response to a question about how the galleries are cleaned, Mr. Ginter stated they are meant to be vacuumed out. He stated that untreated roof runoff will be directed to the wetland. The rate of runoff will be reduced. He noted there is now no treatment.

Ms. Rycenga requested that the applicant install a washing rack and the associated settling area to wash the tires before the vehicles exit the site to prevent any sediment deposition on the paved surface. She noted that the vehicles are currently tracking sediment deposition on the paved surface on Post Road East.

Ms. Rycenga asked the depths of the proposed 5 catch basins.

Mr. Ginter stated the catch basins are designed with 2-foot minimum depth sumps.

Ms. Rycenga requested a maintenance plan for review. She asked to consider to design and install polymer catch basins inserts along with a maintenance plan.

Ms. Mozian asked about incorporating LID principles for water quality.

Mr. Ginter stated this site is not a good candidate for it. They have not maximized the site for its potential use. He added that flooding is an issue.

Ms. Mozian stated 1177 Post Road East proposed a pervious parking lot and a green roof. She asked why it could not be done here.

Mr. Ginter stated there are no flat roofs in this project. He stated he would talk to his clients about the possibility of using pervious asphalt on the residential portion of the site. He noted that a DEEP stormwater plan is not required because there is less than 5 acres of disturbance. He reviewed the construction phasing plan which included installing the sediment trap, the Phase II site remediation, maintain the current parking lot as long as possible, removal of stockpile area will likely happen at this time. Mr. Ginter noted the owner wants the commercial building up and running first. He stated the commercial building will have 4 residences above. Second phase will be the residential buildings. The final phase will be the pool and pool house. The silt fence will be the limit of disturbance.

Bill Kenny, soil scientist, wetland scientist and landscape architect with William Kenny Associates, presented the landscape plan. He noted the landscape plan is for ornamentals. There is a restoration plan for wetland mitigation that is a separate plan. There are .46 acres of wetland including:

- Muddy Brook and the floodplain;
- An intermittent watercourse from Keller Lane and Morningside Lane; and
- A sediment trap/shallow pond, which is an emergent wetland.

Sediments come off the soil stockpiles and enter into the sediment trap. The majority of the site has been disturbed except for the eastern boundary. The existing floodplain has been filled. They want to move the natural floodplain wetland expanding the naturalized buffer by .46 acres with another 1.4-acres of wetland restored. He has a high confidence that there will be success with the wetland restoration as there is available water. By just lowering the land to the adjacent floodplain elevation, wetland restoration is achievable. It will also provide added floodplain storage. The natural wetland will be addressed by removing choking vines and treating invasives. They will be adding a pedestrian walking path. The path will be located through the woods. He believes the conservation easement area encompasses the area of the floodplain reclamation. The area behind buildings 6 and 7 will be lawn.

Ms. Rycenga asked that the conservation easement line be overlain on the wetland enhancement plan.

Brian Curtis, PE with Nathan Jacobson & Associates, noted he is conducting a third party review. His focus is on the inland wetland aspects as another consultant is reviewing the FEMA aspect. His firm is a Civil Engineering firm, so he partnered with Ed Pawlak of Connecticut Ecosystems to review this project. He stated this plan has a lot of enhancements and a lot of benefits. The main details they focused on were stormwater. Even though the project does not have to register with DEEP, it still has to comply with the Town's drainage standards and the State's stormwater manual. The design complies with secondary treatment practices but not primary practices. Underground systems capture solids but cannot absorb much. Also, water should be treated first. The bottom of the infiltration system should be 3 feet above groundwater. DEEP recommends that the first inch of stormwater goes to treatment and after that the remainder goes to an overflow detention facility. He commented on the sediment and erosion control plan. He questioned how the runoff gets to the sediment trap during construction.

Mr. Davis asked how the first inch of rainfall is separated from the rest.

Mr. Curtis stated it can be separated by creating detention close to the source.

Ed Pawlak of Connecticut Ecosystems presented his initial third party review of the project referencing his letter of December 13, 2016. He noted that his letter is a summary of his comments and e-mails to the applicant that have been directed through Ms. Mozian. He acknowledged there is some overlap in his comment with Mr. Curtis'. Mr. Pawlak agreed with Mr. Kenny insofar as the improvements are concerned including the fill removal, the invasive removal and the expanded flood storage. He agreed that setting equal grades is key. The substrate is important and should be overseen by a soil scientist. He stated it should not be subject to compaction. The area should be monitored for three years. The removal of invasives is good but should be quantified. More is better. He indicated he likes the meadow mix but noted the site has to be properly prepped. More detail is needed. He stated the benefits of the wetland restoration are not a substitute for Low Impact Development features throughout the rest of the site.

Mr. Davis asked if anything should be done about the intermittent watercourse and whether it needed to be maintained.

Mr. Pawlak noted that he had not walked that area of the site. He stated that the applicant should consider a bio-retention basin or several raingardens dispersed throughout the site as a primary treatment system.

Mr. Ginter discussed the changes to the FEMA maps involving submission of a LOMR (Letter of Map Revision) and CLOMR (Conditional Letter of Map Revision) portion of the project. He presented the site plan from 1973 showing the existing conditions at the time. Since then, 40 years later, the



topography has changed significantly through the stockpiling activity. Also, 1177 Post Road East was built. The detention basin for that was built on 1141 Post Road East. The berm to create it was in the floodway. They have decided to apply to FEMA to look at the floodplain based on existing conditions and then what the proposed conditions will be once the property is redeveloped. The LOMR raises flood elevations 4.5 feet. They are trying to increase the culvert capacity by installing a headwall to direct flood water into the culvert. They are also lowering the berm by 2 feet ±.

Ms. Mozian noted that the owners of 1177 Post Road East did submit a letter of support and acknowledging the project would take place on their property.

Mr. Ginter stated the flood height will be reduced by 1.5 feet from current day conditions. This is achieved by removing the soil stockpiles and restoring the floodplain wetlands.

Mr. Bancroft asked how the restoration will affect the sediment trap.

Mr. Ginter stated the sediment trap will remain but the sides will be lowered. He showed a map showing the various flood height boundaries. Under LOMR conditions, the pool and pool house would be in the floodway. Under CLOMR conditions, they will be moved outside it. Mr. Ginter acknowledged FEMA's review could take 6 months to a year and recognized if FEMA does not accept these lines, the applicant knows they will have to return to the Commission.

Ms. Rycenga suggested Vortech Units or similar type unit be installed along with a maintenance plan.

Motion to continue to January 18, 2017.

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

6. **1141 Post Road East:** Application #WPL-10317-16 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, and utilities. Portions of the work are within the upland review area setback.

This application was withdrawn.

### **Work Session II:**

1. Other business.
  - a. Ms. Rycenga noted her willingness to hold Special Meetings if need be to manage the case load.

Ms. Mozian added that she had spoken with Chairman Shea, who was also supportive.

The December 14, 2016 Public Hearing of the Westport Conservation Commission adjourned at 11:11 p.m.

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