

**MINUTES
WESTPORT CONSERVATION COMMISSION
MAY 18, 2016**

The May 18, 2016 of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Chair
Anna Rycenga, Vice-Chair
Paul Davis, Secretary
Donald Bancroft
Robert Corroon

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the May 18, 2016 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Changes or Additions to the Agenda. - None

Work Session I: 7:00 p.m., Auditorium

1. Receipt of Applications

Ms. Mozian reported there were two applications to be received:

- a. 3 Blind Brook Road South:** Application #IWW,WPL-10221-16 by Nadine Melniker to elevate the existing structure within the floodway so that the lowest horizontal structural beam is above the design flood. Replace the existing foundation with pier foundation designed to resist forces applied by design flood. Work is within the upland review area and the WPLO area of Nash's Pond and Stony Brook.
- b. 62-64 Old Road:** Application #IWW,WPL-10225-16 by Steve Orban on behalf of Michal Rupert to construct a new single family residence to replace the existing. The cottage is to remain. The drives are to be modified for additional lawn area adjacent to the flagged wetlands and WPLO boundary. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary to New Creek.

Motion to receive applications. The hearings will open June 15, 2016.

Motion:	Rycenga	Second:	Shea
Ayes:	Rycenga, Shea, Bancroft, Corroon, Davis		
Nays:	None	Abstention:	None
		Vote:	5:0:0

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

Ms. Mozian gave the Commission an update on the repair of the sewage line break at Nyala Farms.

3. Approval of April 20, 2016 meeting minutes.

The April 20, 2016 meeting minutes were approved with corrections including the vote to the 1 Burr Farms Road decision where Ms. Rycenga voted against.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Corroon, Rycenga		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

4. Other Business

- a.** Ms. Mozian made an announcement of the DEEP Training Session #2 on legal issues. Three Commissioners and two staff have registered for thus far.

Public Hearing: 7:15 p.m., Auditorium

- 1. 2 Conte Place:** Application #WPL-10199-16 by Hasim Avdiu on behalf of Opala Avdiu to build a new FEMA-compliant house on the same footprint with enlarged decks. Work is within the WPLO area of the Saugatuck River.

Opala Avdiu presented the application. They are lifting the existing house and the existing foundation to be FEMA compliant and adding another floor. It will be the same footprint except for enlarged decks and stair landing.

Ms. Krynicki asked how the construction will take place in such close quarters.

Ms. Avdiu stated they have an easement that extends in front of 1 Conte Place they can use for the dumpster, truck turnaround, etc. She added that this is a house lift, so the demolition material should be minimal. The fuel source is electric for the heat and air conditioning with solar panels.

Ms. Krynicki asked about the bamboo and if they are planning on containing it. She advised that a barrier be installed.

Ms. Avdiu stated they will try to coordinate with 1 Conte Place regarding construction work because they will also be starting construction soon. The driveway will remain gravel.

Ms. Mozian stated the Flood and Erosion Control Board meeting will be on June 1, 2016.

With no comment from the public, the hearing was continued to June 15, 2016 to allow for the receipt and review of the Flood and Erosion Control Board decision.

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

- 2. 9 Forest Drive:** Application #IWW,WPL/E-10201-16 by David Adamo for a new single family residence and associated appurtenances. Work is within the upland review area.

Chris Adamo presented the application. They are proposing to extensively renovate the existing residence over the existing foundation. There is a crawl space and it will remain a crawl space under this plan. The roof runoff will be collected to a new drainage system. They are also offering a vegetative buffer adjacent to the wetland. The existing deck will be removed and replaced with a patio.

Ms. Krynicki stated she walked the site with the landscaper and is okay with the plan.

Mr. Adamo stated the underground fuel tank was already removed and the one in the garage will be removed. The house will be heated with propane. The existing septic will be abandoned and connected to the newly installed sewer line. There is bamboo on the property, which they intend to leave. The Engineering Department has reviewed and approved the drainage plan.

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

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

The Commission recommended the owners control invasive species on the property including but not limited to Bamboo, Japanese knotweed, and Barberry.

FINDINGS 9 Forest Drive

1. **Receipt Date:** **April 20, 2016**
2. **Application Classification:** **Summary**
3. **Application Request:** The applicant proposes to remove the existing single family residence and to construct a new two story residence over the existing foundation footprint and to add a covered porch and rear patio. The renovated dwelling shall be serviced by the town sanitary sewer. The proposed front porch, patio and a/c pads will add an additional 700 s.f. of impervious area. Portions of the work are within the 50 foot upland review area setback. The proposed activity is outside the WPLO boundary.
4. **Plans Reviewed:**
 - a. "Zoning/Location Survey, Map of Property Prepared for David Adamo, 9 Forest Drive, Westport, Connecticut", Scale 1"=30', dated March 14, 2016 and last revised to April 7, 2016, prepared by Walter H. Skidd- Land Surveyor LLC
 - b. Architectural plans: Project Title: Adamo Residence 9 Forest Drive, Westport, Connecticut dated January 21, 2016 and last revised to April 12, 2016, prepared by Colangelo Associates Architects.
5. **Permits Issued for this Property:**
 - **IWW/M 7908-06** Amendment of wetland map H-10
6. **WPLO**
Waterway Protection Line is located 15' from the wetland boundary
7. **Soils Description**
Soil Report Summary- prepared by Otto Theall of Soil & Wetland Science, LLC dated February 22, 2006 describes the wetland soil occurring on the property as Ridgebury, Leicester and Whitman extremely stony fine sandy loams.

Mr. Theall describes the non-wetland soils as Sutton very stony fine sandy loam and Udorthents, smoothed. Mr. Theall states the soil types were arrived at by a combination of field work and consultation of the SCS Soil Survey of Fairfield County, Connecticut.

The National Cooperative Soil Survey in conjunction with the Natural Resources Conservation Service describes the wetlands soils as:

Map Unit: 3- Ridgebury, Leicester, and Whitman soils, extremely stony

This component is on drainageways on uplands, depressions on uplands. The parent material consists of coarse-loamy lodgment till derived from granite and/or schist/or gneiss. The natural drainage class is poorly drained. Water movement in the most restrictive layer is moderately high. The soil is not flooded or ponded. A seasonal zone of water saturation is at 3 inches from November through May. This soil meets the hydric criteria.

The National Cooperative Soil Survey in conjunction with the Natural Resources Conservation Service describes the upland soils as:

Map Unit: 50B- Sutton fine sandy loam, 3 to 8 percent slopes

This component is on drainageways on uplands, depressions on uplands. The parent material consists of coarse-loamy melt-out till derived from granite and/or schist and/or gneiss. The natural drainage class is moderately well drained. Water movement in the most restrictive layer is moderately high. This soil is not flooded or ponded. A seasonal zone of water saturation is at 24 inches from November through April. This soil does not meet hydric criteria.

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

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

- The property currently supports a four bedroom residence built in 1952 serviced by a septic system and public water.
- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as a "permanent streamside, floodplain with marsh and a wooded swamp as the identification for the Vegetation class.
- The USGS Survey Quadrangle map for Westport, Connecticut indicates the wetland system is hydrologically connected to an unnamed tributary which eventually drains within the Sasco watershed.
- Landscape position of this parcel is a toeslope and land surface shape is linear/linear.
- A broadleaved deciduous woodland is present on the northerly portion of the property encompassing the intermittent watercourse with the fringe vegetation and the landscaping for the majority of the property being mostly ornamental shrubbery and maintained lawn.
- The FEMA maps indicate that the property is not located within the 100 year floodplain.
- Property does not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
- Property does not exist within the Coastal Areas Management Zone.
- The Waterway Protection Line Boundary is located 15' from the wetland boundary.

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

6.1 GENERAL STANDARDS

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

An existing septic system is to be abandoned and the new residential structure will be connected to the public sewer.

An existing underground oil tank has been removed. One tank exists in the garage but will be abandoned and removed as the proposed heating fuel source will be propane.

The new residence will be built on the existing foundation, the existing driveway shall remain and an on grade patio will be constructed within the same footprint as an existing deck.

Existing lot coverage is calculated at 10.99%. Total proposed lot coverage is calculated at 9.90%.

No construction activity will take place closer to the wetlands than that which is existing. No trees or vegetation is proposed to be removed.

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 applicant proposes a native planting buffer at south edge of the small meandering and existing stream flowing from west to east through the parcel. This will also serve to act as a visual and physical barrier to the watercourse and will reestablish vegetation and remove manicured lawn. The limit and location of this buffer was determined through a field inspection by staff. Habitat will be enhanced with this buffer planting. Currently this area is lawn with some native and invasive vegetation interspersed to the edge of the watercourse. The Commission finds a line of silt fence be installed northerly of the proposed planting buffer prior to the initiation of the planting activity. Invasive plant species will be removed within the planting area to help restore native vegetation to the area.

Rivers Alliance of Connecticut states a vegetated buffer is an easy low-cost efficient solution to keep pollutants from reaching the watercourses. These bands of vegetation help prevent flooding, stop erosion and absorb nutrient pollution.

Providing a vegetative buffer of native plants will help restore the natural functions adjacent to a wetland and will help to safeguard natural resources as they are protected by the Waterway Protection Line Ordinance: 1) provides additional stormwater runoff filtration area that will improve water quality prior to discharge to a wetland 2) reduces construction impacts on wetlands by reducing erosion and sedimentation impacts 3) reduces water velocities from stormwater runoff prior to discharge into wetlands which allows vegetation to absorb some non-point pollutants such as fertilizers or herbicides that may otherwise discharge into wetlands/waterbodies 5) provides slower water velocities which allow more water to infiltrate into the soil, improving groundwater recharge functions and water quality improvement functions 6) provides and improves upland habitat needed for wildlife dependent on wetlands/watercourses.

Subsurface storm water retention structures are proposed for the increase in impervious area for the discharge of the footing drains. The bottom of the infiltration galleries will be placed sufficiently above the high groundwater table to avoid direct discharge to groundwater.

A large stand of invasive bamboo populates the wetland area. Although not on the list of banned plants from the State of Connecticut, bamboo spreads rapidly and has the potential to affect the native plant population. The Commission recommends control of invasive species on the property.

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.

A line of silt fence is proposed along the proposed limit of disturbance which should prove sufficient to prevent loose soils migration to the wetlands. As excavation is very minimal and the lot is very level, the Commission finds the erosion and sedimentation during construction activities should not be problematic provided erosion and sediment controls are properly installed and maintained.

A construction entrance anti-tracking pad will not be necessary if the existing paved driveway is utilized. If the construction activity dictates another entrance, then an anti-tracking pad should be installed prior to any activity.

The Commission finds a construction fence be placed in tandem with a silt fence on the northerly side of the residence for protection of the wetland area and to prevent any construction activity or material stockpiling within the wetland upland review areas. Location of this fencing can be adjusted with the supervision of staff if required in the field.

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

Existing site conditions provide the opportunity for a vast array of habitat potential on this parcel. The Commission finds the planting buffer will serve as an effort to limit intrusion into the wetland and to encourage and promote additional natural habitat area.

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

Staff has requested and received correspondence from Keith Wilberg of the Engineering Department regarding drainage provisions for the proposed development. He has reviewed and approved the proposed drainage appurtenances.

The Commission finds that the addition of the landscape buffer at the edge of the limit of disturbance will aid in slowing stormwater runoff and will help with infiltration.

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 current application will have no significant impact on recreational and public uses.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL/E 10201-16
Street Address: 9 Forest Drive
Assessor's: Map H 10 Lot 064
Date of Resolution: May 18, 2016

Project Description: New single family residence utilizing existing crawl space foundation and associated appurtenances. A patio will replace the existing deck. Work is within the upland review area.

Owner of Record: David Adamo
Applicant: David Adamo

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses 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 10201-16** 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.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. "Zoning/Location Survey, Map of Property Prepared for David Adamo, 9 Forest Drive, Westport, Connecticut", Scale 1"=30', dated March 14, 2016 and last revised to April 7, 2016, prepared by Walter H. Skidd- Land Surveyor LLC
 - b. Architectural plans: Project Title: Adamo Residence 9 Forest Drive, Westport, Connecticut dated January 21, 2016 and last revised to April 12, 2016, prepared by Colangelo Associates Architects.
17. Construction fencing shall be installed on the northerly side of the residence in tandem with the proposed silt fence. Adjustments in the location of this fencing to allow adequate construction access to the rear yard may be made with the contractor and staff in the field if necessary. Construction fencing shall be no closer than 20' from the flagged wetland boundary.
18. Planting Plan to be fully implemented prior to the issuance of a Conservation Certificate of Compliance. Planting plan for buffer area shall include removal of invasive plants.
19. Above ground oil tank in garage is to be properly abandoned prior to the issuance of a Conservation Certificate of Compliance.
20. We recommend control of invasive species on the property to include but not be limited to Bamboo and Japanese Knot Weed.

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

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

Motion: Shea

Second: Rycenga

Ayes: Shea, Rycenga, Bancroft, Davis, Corroon

Nayes: 0

Abstentions: 0

Vote: 5:0:0

- 3. 91 Clapboard Hill Road:** Application #IWW,WPL-10203-16 by Peter Romano on behalf of Sam & Nancy Gault for a new tennis court to replace a previously removed tennis court. Proposal will include some minor grading, a small retaining wall and buffer plantings. Work is within the upland review area and the WPLO area of New Creek.

Pete Romano of Land-Tech Consultants presented the application on behalf of the property owners. He explained the contractor churned up the asphalt tennis court in order to prep it for resurfacing. He said this is a DOT recommended approach. They would then roll it over and resurface it. He deems it is still a resurfacing. He added they could scoop up the aggregate and put down a new base material but would prefer not to. They have slightly reduced the size to 55' by 110' instead of 60' by 120' and pulled it out of the wetland and introduced a vegetative buffer. The debate is about if the asphalt aggregate should be removed or stay and be capped.

Mr. Bancroft stated his experience in working with the water company in Massachusetts and how they deal with asphalt millings and aggregate resulted in his concern on how they were going to recap the court. However, since the elevation appears to be above groundwater he felt it should not be a problem.

Mr. Corroon stated he reviewed Connecticut's Hazardous Materials regulations on this issue and because it will be capped it should not be a problem. It is not a milling.

Mr. Davis asked about drainage.

Mr. Romano states it would continue to sheetflow across the court to the wetland.

Ms. Rycenga asked if staff feels this is a new court.

Ms. Mozian gave the history and stated it was a regulated activity and that she believed it was a new court. It is not on the Assessor's field card and staff required it to be top soiled , seeded, and hayed and bonded prior to release of the Conservation Certificate of Compliance for the house. It is likely to cause a significant impact since part of the court is in the wetland and therefore feasible and prudent alternatives need to be considered. Staff would like to see a larger vegetative buffer. And the asphalt chunks removed. She reviewed the DEEP 2006 memo regarding handling of asphalt chunks less than 4" in size and that they consider it "not clean fill".

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

Motion: Shea

Second:

Bancroft

Ayes: Shea, Bancroft, Corroon, Davis, Rycenga

Nayes: None

Abstentions: None

Vote: 5:0:0

Mr. Davis stated the resizing and relocating such as rotating or moving the court forward should be considered as feasible and prudent alternatives if able to meet other requirements such as Health.

Mr. Bancroft suggested that they angle the court so that it is outside and runs parallel to the WPLO line.

Mr. Corroon felt this is a technicality and the court is still there in spirit. He added the smaller court and moving its proposed location would be supported as an alternative.

Ms. Rycenga stated she felt the court does not exist. She feels the 55' by 110' court is a feasible and prudent alternative. She would like the applicant to submit a revised plan to staff and then that plan should be reviewed by the Commission. She is concerned with drainage and its impact to the wetland.

Ms. Shea stated it is a tough decision. She does trust the staff to help in the revisions. She added that if there is no meeting of the minds, then they will bring it back to the Commission. She added she did not have expert testimony to dispute or support the toxicity of the asphalt aggregate.

Mr. Davis stated with regards to the asphalt removal, he believed it was okay to stay.

Mr. Bancroft stated the asphalt is out of the groundwater elevation.

Mr. Corroon stated it is a regulated material but it is not a hazardous material.

Ms. Shea indicated that she did not have the expertise to weigh in on the subject.

Findings
Application #IWW/WPL 10203-16
91 Clapboard Hill Road

1. **Application Request:** To construct a new tennis court to replace a previously removed tennis court. Proposal will include minor grading, a small retaining wall and planting buffer. Work is within the upland review area and the WPLO area of New Creek.
2. **Permits issued for this Property:**
 - a. AA,WPL/E 9741-14 for a new single family residence and septic
 - b. IWW/M Amendment of wetland map H8
3. **Plan reviewed:** "Site Improvements for a Resurfaced Existing Tennis Court Site Plan Prepared for Sam Gault, 91 Clapboard Hill Road, Westport, Connecticut", Scale: 1"=20', dated April 13, 2016 and last revised to May 9, 2016, prepared by LandTech
4. **WPLO**
Waterway Protection Line is located 15' from the wetland boundary
5. **Wetlands Description**
Soil Report Summary- prepared by Otto Theall dated November 16, 2011 describes the following wetland soil occurring on the property:

Raypol silt loam (12): This nearly level, poorly drained soil occurs in depressions on plains and terraces.

This soil has a surface layer of black silt loam 6 inches thick. The subsoil is grayish brown and light grayish brown, mottled silt loam and very fine sandy loam 13 inches thick. The substratum extends to a depth of 60 inches or more. It is 3 inches of brown mottled loam sand underlaid by mottled sand.

This soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. The permeability of the soil is moderate in the surface layer and subsoil and rapid or very rapid in the substratum. Runoff is slow and available water capacity is moderate.

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

- The property currently supports a 5 bedroom residence built in 1900 and remodeled in 1960 buildings serviced by a septic system and municipal water.
- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as an "intermittent streamside, floodplain with a wooded swamp and open lawn. The wetland area has been mostly cleared and developed.
- Landscape position of this parcel is a backslope and land surface shape is linear/linear.
- The property is not located within a flood zone.
- Property does not exist within the Aquifer Protection Overlay Zone nor a groundwater recharge area.
- Property does not exist within the Coastal Areas Management Zone.
- The Waterway Protection Line Boundary is located 15' from the 25 year flood boundary elevation of New Creek.

7. 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; dimensions 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

Per a final construction inspection by Colin Kelly, Compliance Officer on December 28, 2015, it was determined that the existing tennis court had been tilled/ground into the soil. Previously, the Conservation Department had approved that the court could be maintained by resurfacing the existing material and restoration of the area. Otherwise to construct a new court that was flat would require grading and filling within the wetlands and associated setbacks. This would require Commission approval. Due to the fact that the scope of work exceeded what was initially agreed upon, the project was now not in compliance with the original approval for the house construction.

It was requested by staff that silt fence be installed to surround the disturbed area. The area was to be raked to remove ruts from the machinery used to till the court. A one inch topdressing of soil was allowed to be applied to the level bare area and a wetland seed mix or other restoration was to be planted. A bond for the stabilization and restoration would be required.

The applicant/homeowner subsequently requested a meeting with the contractor, landscaper, Conservation staff and the Town Attorney to assess the current status of the court area and to provide a path to move forward to reestablish/reinstate the tennis court. This meeting was held on January 19, 2016.

Following a lengthy discussion, Ira Bloom, town attorney determined that the tennis court construction activity was a regulated activity under the IWW regulations and would need Commission approval. The Commission finds that this assessment of the proposed project is

correct and the proposed tennis court is a regulated activity with a potential significant impact.

The stabilization work was completed, a \$500.00 site stabilization bond for the tennis court area disturbance was retained by the Conservation Department and a Conservation Certificate of Compliance was issued for the house construction project on January 22, 2016.

The Commission finds this project is a renovation to the existing court which will resurface the court and install new tennis fencing. There will be grading to level the court, a small retaining wall and buffer plantings along the wetland boundary. The impervious area of the tennis court is being reduced by 163 ± s.f. The size of the court will be reduced to provide additional wetland buffer along the northern edge of the tennis court. Currently the tennis court abuts the wetland edge in this area.

Although the applicant is choosing to slightly reduce the size of the tennis court, changes in the existing grades across the court area equates to an 18" to 2' cut and fill scenario. The fill area on the lower end of the court is being retained by a wall within a few feet of the wetland boundary.

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 of 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 surface flow over existing topography will be slightly altered with the proposed grading.

The stormwater will shed off the court in the northeast and southwest corner of the court. Thus the surface stormwater flow to the wetland will remain the same in volume.

The Westport Weston Health District has approved a plan revised to May 9, 2016 for this project.

The Commission finds the cross section detail showing that 6" of crushed stone and clean granular fill will stabilize the court base and is incidental to the construction.

Water quality improvement is being provided with a planted buffer on the westerly edge of the proposed court. The Commission finds that the silt fence proposed to be installed on the westerly wetland boundary delineation will serve as a planting reference and will provide protection of the wetlands from the disturbed soil that will occur with the planting activity.

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 the retaining wall construction and tennis court site preparation will not require dewatering as the location and elevation of the proposed tennis court will remain at or above the existing grade.

Soil testing was conducted to determine depth of soil types and potential dewatering activity.

Soil testing indicates mottling at 10" below existing grade.

An additional anti tracking pad has been provided on the construction entrance drive where the road bends next to the pool house.

6.4 NATURAL HABITAT STANDARDS

- a) Critical habitat areas
- b) The existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) Breeding, nesting 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

Existing site conditions provide the opportunity for a vast array of habitat potential on this parcel. The Commission finds the planting buffer on the westerly side of the court will help to extend the vegetation and will further serve as an effort to promote additional habitat area and treat stormwater runoff.

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 or the Town Engineer of the municipality of Westport

The Flood and Erosion Control Board reviewed and approved this application with conditions on May 4, 2016. The construction details, the dewatering method, a cross section detail and the Health Department approval were also submitted to Flood Board staff, Keith Wilberg.

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 have no significant impact on recreational and public uses.

WATERWAY PROTECTION LINE ORDINANCE

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

The Commission finds the planted buffer will benefit habitat diversity and assist to filter stormwater runoff. The grade of the tennis court area is nearly level so that stormwater runoff velocity should be slow and intercepted with the additional plantings. The wetland system is vast and there is a large extent of diversity. The area of disturbance associated with the court construction is small compared to the size of the adjacent wetlands however, the Commission finds the immediate fringe of the wetland complex could experience impact. The Commission finds the additional wetland buffer planting and moving the court further from the wetland will minimize the impact and is a feasible and prudent alternative.

The Commission finds with the reorientation of the court further from the wetlands and outside the WPLO boundary that the tennis court will not adversely impact the resources as they are protected under the Waterway Protection Line Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW,WPL 10203-16
Street Address: 91 Clapboard Hill Road
Assessor's: Map H 08 Lot 014
Date of Resolution: May 18, 2016

Project Description: A new tennis court to replace a previously removed tennis which will include some minor grading, a small retaining wall and buffer plantings. Work is within the upland review area and the WPLO area of New Creek.

Owner of Record: Sam and Nancy Gault

Applicant: Peter Romano of LandTech

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses 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 10203-16** 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. All conditions as imposed by the Flood and Erosion Control Board approval of May 4, 2016

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. "Site Improvements for a Resurfaced Existing Tennis Court Site Plan Prepared for Sam Gault, 91 Clapboard Hill Road, Westport, Connecticut", Scale: 1"=20', dated April 13, 2016 and last revised to May 9, 2016, prepared by LandTech
17. Revision to the site plan shall be submitted for review and approval by the Conservation Department to show the court relocated and reoriented in a southerly direction to allow for a larger non-disturbance buffer from the northerly wetland boundary. Grading and retaining wall relocation shall also be depicted on this revised site plan. If the relocation and

reorientation effort is not acceptable to staff, then the plan shall be brought back to the Commission for their review.

18. Revision to the site plan to show plantings for the wetland buffer area increased as required to accommodate the relocated tennis court shall be submitted for review and approval by the Conservation Department. Said plantings shall be installed prior to the issuance of a 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: Davis, Shea, Bancroft, Corroon

Nayes: Rycenga

Abstentions: 0

Votes: 4:1:0

Work Session II:

1. Other business. – None

The May 18, 2016 Public Hearing of the Westport Conservation Commission adjourned at 9:00 p.m.

Motion:Shea

Second: Rycenga

Ayes: Shea, Rycenga, Bancroft, Corroon, Davis

Nayes: None

Abstentions: None

Vote: 5:0:0