WESTPORT CONNECTICUT
CONSERVATION COMMISSION
110 MYRTLE AVENUE
WESTPORT, CT 06880
(203) 341-1170

DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
APRIL 15, 2020

The April 15, 2020 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. via ZOOM.

ATTENDANCE

Commission Members:

Anna Rycenga, Chair
Paul Davis, Vice-Chair
Tom Carey, Secretary
Don Bancroft
Mark Perlman

Staff Members:

Alicia Mozian, Conservation Department Director
Colin Kelly, Conservation Analyst
Susan Voris, Admin. Asst. II, Recording Secretary

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the April 15, 2020 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

_____

Alicia Mozian
Conservation Department Director

Ms. Rycenga read the following opening remarks:

This is the April 15, 2020 meeting of the Westport Conservation Commission and would like to call this meeting to order at 7 pm.

Good evening. I am Anna Rycenga, Conservation Chairman and I would like to welcome everyone participating in this electronic meeting this evening. I hope everyone is safe and healthy.

This meeting is being held pursuant to the Governor's Executive Order No. 7B, and there is no physical location for this meeting. It is being provided electronically.

Due to the nature of this electronic meeting, we are taking public comments for the public hearings only by email. Comments to be read during the public comment period may be emailed to Conservationcomments@westportct.gov. We will use our best efforts to read public comments if they are received during the public comment period and if they state your full name and address. The comments will be limited to 3 minutes and must be kept to the subject matter at hand with reference to our purview as a Conservation Commission based on the Inland Wetland and Watercourse Regulations, and/or the Waterway Protection Line Ordinance or the Aquifer Protection Area Regulations and the relevant Connecticut General State Statutes. Only comments that arrive during the meeting and before the end of the public comment period will be read.

Colin Kelly, Conservation Analyst will be assigned to read the public comments that arrive at that email address and that will be received by myself also.

Meeting materials for this meeting are available at www.westportct.gov/conservationdepartment along with the meeting agenda notice posted on the Meeting List and Calendar Page.

Before we begin, I will state the names of the other members of the Conservation Commission and the Department staff that are taking part in these hearings. Once I state your name, if members and staff can state here. They are as follows:

Commission:	**Staff:**
Anna Rycenga, Chairman	Collin Kelly, Conservation Analyst
Paul Davis, Vice Chairman	Alicia Mozian, Conservation Director
Thomas Carey, Secretary	Susan Voris, Administrative Assistant II
Donald Bancroft	
Mark Perlman	

All of our public hearings are recorded but will not be televised or broadcasted live this evening.

For the record, the following commission members visited the sites in preparation for the public hearings and work session item this evening. By Roll Call state "yes" when I call upon you for the record:

Anna Rycenga, NO as I solely relied on the photos on the website for Conservation Commission Pending Applications due to being COVID-19 positive.

Mr. Carey, Mr. Bancroft and Mr. Davis visited all the sites in preparation for the meeting.

Mr. Perlman visited all sites except 109 Morningside Drive South in preparation for the meeting.

I want to remind everyone that you need to state your name and title every time you speak throughout this meeting. This includes, myself, Meeting Members, Applicant(s), their Representatives and the Public. You will be recognized by myself to speak by the feature on ZOOM to raise hand and I will call upon you.

Also, if everyone can please make reference to report titles, dates, sheet numbers of plans, etc. That will help us all follow along.

Ms. Rycenga asked if there were any changes to the agenda.

Ms. Mozian stated there were none.

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.

Public Hearing: 7:00 p.m.

Ms. Rycenga added the following comments:

Now we will start with our public hearings. This evening we have 5 public hearings items.

The Commission cannot accept any new material during or after the close of the hearing, nor can members discuss the issues or pending applications with the public outside the hearing.

After a decision is made by the Commission, the legal notice is published on the Town of Westport's Website.

Also, to our applicants and public that when a motion is made to close the Public Hearing and open Work Session, please note that you can not comment further while the commission is deliberating. If necessary, I will place the user(s) on mute.

1. **109 Morningside Drive South:** Application #IWW/M-10958-20 by Barr Associates, LLC on behalf of Kowalsky Family Company, LLC to amend wetland map #G7.

   Mel Barr presented the application on behalf of the property owners. There were two wetland pockets found. Both soil scientists, Otto Theall and Jay Fain agree on the wetland boundary. On March 26, 2020, Charles Leonard updated the survey to reflect the revised wetland boundary agreed to by two soil scientists.

   Mr. Kelly showed the agreed upon wetland boundary map. He gave the staff comments. Charles Leonard updated the survey to reflect the revised wetland boundary agreed to by two soil scientists.

   Mr. Kelly noted the wetland boundary delineation was complicated by years of farming but both soil scientists agree on the boundary. The revised wetland area is larger than what is currently shown on the Town wetland maps.

   Ms. Rycenga noted the property was listed as Open Space.

   Mr. Kelly stated this is how the property was listed on the Assessor's field card.

   Ms. Mozian stated the property is or was listed as a farm under Public Act 490 [CGS, Sec. 1-1 (q)].

   Ms. Rycenga gave an additional minute for public comments to be submitted.

   Neither Mr. Kelly nor Ms. Rycenga received any e-mail comments.

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

   Motion: Perlman Second: Davis
   Ayes: Perlman, Davis, Bancroft, Carey, Rycenga
   Nayes: None Abstentions: None Vote: 5:0:0

Findings
Application #IWW/M 10958-20
109 Morningside Drive South
Public Hearing: April 15, 2020

1. **Application Request:** The applicant is requesting to amend wetland map # G07. The Current Town GIS map shows the wetland boundary to include only the pond in the southernmost portion of the property.
2. **Soil Scientist for Applicant:** Otto Theall, Soil & Wetland Science, LLC
   Thomas Pietras, Pietras Environmental Group, LLC
3. **Soil Scientist for Town of Westport:** Jay Fain, Jay Fain & Associates, LLC
4. **Plan reviewed:** "Existing Conditions Plot Plan Prepared for Peaceful Valley Farm, 109 Morningside Drive South, Westport, Connecticut", Scale: 1"=50', dated October 28, 2019 last revised to March 26, 2020, prepared by Leonard Surveyors, LLC

5. ***Wetlands Description:***
   - ***a) Soil Investigation Report- prepared by Otto Theall, dated October 25, 2019***
   - *b)* Wetland Delineation Report – prepared by Thomas Pietras, Dated May 28, 2014; describes the **wetland** soils described below occurring on the property;
   - *c)* A subsequent report was prepared by Mr. Pietras on April 24, 2019.
   - *d)* Wetland Confirmation Report – prepared by Otto Theall, dated March 31, 2020

Aquents (1) – Consists of soils found on 0 to 3 percent slopes in disturbed areas that generally have less than two (2) feet of fill over naturally occurring poorly or very poorly drained soils, or are located where the naturally occurring wetland soils are no longer identifiable, or the original soil materials have been excavated to the ground water table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

Leicester fine sandy loam (4) --This nearly level poorly drained soil is in drainageways and depressions. Slopes range from 0 to 5 percent. Typically, this soil has a surface layer of black fine sandy loam seven (7) inches thick. The subsoil is twenty-two (22) inches thick. This Leicester soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. A few areas are used for hay and pasture, and a few scattered areas are used for community development.

The seasonal high water table limits this soil for community development; sites for on-site septic systems commonly need extensive filling and require special design and installation. Where suitable outlets are available, footing drains help prevent wet basements. Using siltation basins and quickly establishing plant cover help to control erosion and sedimentation during construction. Even when drained, the soil remains wet for several days after heavy rains, restricting the use of farming equipment. Wetness make this soil poorly suited for trees. The shallow rooting depth to the seasonal high water table causes the uprooting of many trees during windy periods Leicester soils

Non-wetland soils were identified as:

Ninigret and Tisbury Soils (21) - The Ninigret series consists of very deep, moderately well drained soils that are eolian deposits over sandy and gravelly glacial outwash. The Tisbury series consists of very deep, moderately well drained loamy soils formed in silty eolian deposits overlying outwash. The Ninigret and Tisbury soils are nearly level to strongly sloping soils on glaciofluvial landforms, typically in slight depressions and broad drainage ways.

Woodbridge Fine Sandy Loam (45) - This component occurs on upland drumlin and hill landforms. The parent material consists of lodgement till derived from schist, granite, and gneiss. The depth to a restrictive feature is 20 to 40 inches to densic material. The drainage class is moderately well drained. The Woodbridge series of soils is nationally recognized as prime farmland soil by the U.S.D.A.

Sutton fine sandy loam (50) - This soil unit consists of gently sloping, moderately well drained soil found in slight depressions and on the sides of hills and ridges. This Sutton soil has seasonal high water table at a depth of about 20 inches from late fall until mid-spring. Many areas of this soil type are used for community development, with limitations caused by the high water table.

Paxton and Montauk Fine Sandy Loams (84) - These soil components occur on upland hill and drumlin landforms. The parent material consists of lodgement till derived from granite, gneiss, and schist. The drainage class is well drained.

Udorthents, smoothed (308) - This component occurs on leveled land and fill landforms.

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

- The property is 535,890 sq. ft. or 12.302 acres in size.
- It is located within the New Creek watershed and is not located within the FEMA Flood Zone
- Property does not exist within the Aquifer Protection Overlay Zone.
- Property does not exist within the Coastal Areas Management Zone.
- The Waterway Protection Line Ordinance boundary will be 15' from the edge of wetlands.

Background: The Conservation Department issue a Notice of Violation & Citation as well as a Cease and Correct Order to the owner on August 15, 2007. These enforcement actions were issued based on fill brought to the property and placed on/near wetlands identified by Soil Report from April 30, 2007. The chronology of events associated with this enforcement is listed at the end of this staff report. The Cease and Correct order was **withdrawn** on **January 10, 2008**.

7. Discussion:

The Applicant submitted two individual soils report and a letter, for the property. They are listed herein:

a) "**Wetland Confirmation Peaceful Valley Farm 109 Morningside Drive South Westport, CT**", Dated **March 12, 2020**, Prepared by Soil & Wetland Science, LLC, Otto Theall, Professional Soil Scientist, Wetland Scientist

b) "**Wetland Confirmation Peaceful Valley Farm 109 Morningside Drive South Westport, CT**", Dated **November 22, 2019**, Prepared by Soil & Wetland Science, LLC, Otto Theall, Professional Soil Scientist, Wetland Scientist

c) **"Soil Investigation Report 109 Morningside Drive South Westport, Connecticut**", Dated **October 25, 2019**, Prepared by Soil & Wetland Science, LLC, Otto Theall, Professional Soil Scientist, Wetland Scientist

d) **Letter:** "Kowalsky Farm, 109 Morningside Drive South, Westport, CT", Prepared by: Thomas W. Pietras Professional Wetland and Soil Scientist, Written to: Barr Associates LLC., Dated **April 24, 2019**,

e) **"Wetland Delineation Report 109 Morningside Drive South, Westport, CT**", Dated **May 28, 2014**, Prepared by Pietras Environmental Group, LLC, Thomas W. Pietras Professional Wetland and Soil Scientist

Additional information, a soils report for the property:

f) **"Wetland/Watercourse and Soil 109 Morningside Drive South, Westport, CT"**, Dated **April 30, 2007**, Prepared by Soil Science and Environmental Services, Inc, Thomas W. Pietras Professional Wetland and Soil Scientist. This report was written when Mr. Pietras was retained by the Conservation Department Staff to Investigate the presence of wetlands on the property.

An additional letter was submitted after a **joint meeting onsite with the Applicant's and Town's soil scientist:**

g) "**Wetland Confirmation Peaceful Valley Farm 109 Morningside Drive South Westport, CT**", Dated **March 31, 2020**, Prepared by Soil & Wetland Science, LLC, Otto Theall, Professional Soil Scientist, Wetland Scientist

In the October 25, 2019 soil report, Mr. Theall states his onsite inspections occur over multiple dates of July, August, and October 2019 with multiple soil samples and test pits throughout the property. The test

hole information is included with the description. The wetland soils onsite are identified as the soils surrounding the pond. He states that his "investigation of the property **essentially agrees with the results** obtained by Thomas Pietras, Professional Wetland Scientist and Soil Scientist, in May of 2014 and April of 2019."

The April 24,2019 letter from Mr. Pietras, summarizes the April 18, 2019 site inspection, where he states: "Since 2014 the has been minimal to no change to the property. The wetlands I previously identified along the northern fringe of the pond **are still present with no change.**" He also concludes with, "The **remainder of the 12.3 +/- acre property consists of upland soil**s."

The report by Thomas Pietras from **May 28, 2014** describes the site inspections done on May 20 and 22, 2014. This report details the wetland soils located around the pond and identifies them as **Aquents (Aq)**. The report also includes a description of the non-wetland soils found throughout the rest of the property, as listed above. Mr. Pietras also references his previous inspections and his soils report from **April 30, 2007,** when he was retained by the Town to investigate the presence of wetlands on the site. Here he discusses the identification of a wetland soil type known as **Leicester (Lc)** located "to the north of the barn within the grassed hayfield." Herein, he describes the history of agricultural use on the property and installation of drains within these areas to improve drainage on the property. Additionally, he states **"…there was no indication that a wetland was formerly present to the north of the barn**." The report continues to discuss the test pits conducted to the north of the barn that reviews the soil composition below the disturbed soils and fill materials. The underlying soils is identified as poorly drained Leicester (Lc) but concludes that the presence of greater than twenty inches of fill overtop would classify this area as having Udorthents, which is not regulated as a wetland soil. Finally, the report states that the 2007 report was limited in that the investigation was done with the use of a hand tools**. The underlying soils were misinterpreted as Leicester soils and not as fill materials (below the topsoil layer) in 2007.**

The **April 30, 2007** report prepared by Mr. Pietras identifies the wetlands associated with the pond and the Leicester soils located to the north of the barn. The report identifies the long history of agricultural use as well as the classification of the Leicester soils identified above.

The Town of Westport retained the services of Jay Fain, Jay Fain & Associates, LLC to review the proposed wetland boundary. Specifically he was asked to review the boundary established by both Mr. Theall and Mr. Pietras. Mr. Fain's initial inspection questioned whether additional wetlands are present in the north central and eastern portions of the property. Mr. Fain submitted an email on **March 5, 2020** indicating another area of suspected wetland that should be further investigated. An on-site investigation with Mr. Fain and Mr. Theall occurred on March 12, 2020 in the presence of Conservation Department Staff. An area was identified on the property and marked in the field (Wetland Flag markers: #201-#216) as Leicester fine sandy loam (4), as agreed by both parties. This compromises an additional area of 4,505 sq. ft. of wetlands on the property. The plot plan, last revised to March 26, 2020, reflects this area.

Mr. Fain submitted an email on March 31, 2020 stating the revised survey reflects the agreed upon boundary from his investigation with Mr. Theall on March 12, 2020.

The Commission finds that the wetland boundary be amended to reflect the combination of boundaries as flagged and concurred to by both soils scientist as shown on the revised plot plan. The Commission finds that this wetland boundary amendment application be approved by the Commission

Resolution
Application #IWW/M 10958-20
109 Morningside Drive South

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application **#IWW/M-10958-20** by Mel Barr, Bar Associates LLC. on behalf of Kowalsky Family Company LLC. to amend the wetland boundary on Map: #G07 Lot: 054 on the property located at 109 Morningside Drive South with the following conditions:

1. Conformance to the plans titled: "Existing Conditions Plot Plan Prepared for Peaceful Valley Farm, 109 Morningside Drive South, Westport, Connecticut", Scale: 1"=50', dated October 28, 2019 last revised to March 26, 2020, prepared by Leonard Surveyors, LLC
2. An electronic file in a format acceptable to the Town Engineer shall be submitted to the Conservation Department.
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: Carey Second: Bancroft
Ayes: Carey, Bancroft, Rycenga, Davis, Perlman
Nays: 0 **Abstentions:** 0 **Votes:** 5:0:0

2. **101 Harbor Road:** Application #WPL-10950-20 by Alan R Spirer on behalf of 101 Harbor Road, LLC to extend dock to deeper water per modification approved by DEEP. Work is within the WPLO area of the Saugatuck River.

   Alan Spirer, Esq. and property owner, presented the application. He stated that they acquired the property 10 years ago. They understood when they bought the property that the dock and float were not in compliance with the DEEP approval. Hurricane Sandy had destroyed the dock. A short pier was added. They now are proposing to add a fixed pier to extend the ramp and float further into deeper water. The proposed dock would have 3.5 feet of water. Right now, there is only 1-foot of water depth. The DEEP permit was issued in 2016 but only has a 5 year approval period. The fixed pier will have 6 pilings and the 4 float pilings. The Flood and Erosion Control Board approved the application at its March 4, 2020 meeting.

   Ms. Mozian asked how long the cement portion of the pier has been in place.

   Atty. Spirer stated he was uncertain but the previous owners of the property had owned the property for 40 years and believes the jetty has been there at least 30 years.

   Mr. Kelly showed the plans and photos of the proposal. He highlighted the spartina growth on the property to the north. He noted the Flood and Erosion Control Board approval of March 4, 2020. He indicated DEEP approval. He reviewed the Shellfish Commission's review and request to relocate any shellfish in the area. A follow-up investigation found no shellfish. A DEEP condition of approval states that there be no staging of material in the area of spartina.

   Mr. Perlman questioned the length of the dock and if it would interfere with the navigational markers.

   Atty. Spirer stated that it would not go any farther into the water than the dock that had been in non-compliance. The DEEP looks at this when doing their review of the proposal.

   Mr. Kelly stated the DEEP approval asks for comments from the Harbor Master.

   Ms. Mozian noted that the proposal is approximately doubling the size of the existing concrete pier there. She added the Harbor Master is asked for comments about a proposal the same as the Shellfish Commission prior to an application being submitted to DEEP.

   Atty. Spirer added the Harbor Master commented. The proposed dock is not close to the channel marker. It is no closer than the enlarged float.

   Mr. Bancroft asked if there is any dredging involved in this project.

   Atty. Sprirer stated there is no dredging contemplated. The only impact this project will have is from the pile driving.

Mr. Davis asked if the float will be removed from the water during the winter.

Atty. Spirer stated the float will be removed from the water during the winter and the ramp will be lifted but stored on site. This part of the Saugatuck River is brackish and does sometimes ice over.

Ms. Mozian asked how the spartina patch will be protected during the pile driving activity.

Atty. Spirer stated the spartina patch will not be impacted. That patch is not part of his property and they are not intending to disturb it. All work will be from the water.

Ms. Rycenga gave one additional minute for the public to submit comments by e-mail.

Neither Mr. Kelly nor Ms. Rycenga received any public comments.

With no public comments, the hearing was closed.

Motion: **Rycenga** **Second:** **Bancroft**
Ayes: **Rycenga, Bancroft, Carey, Davis, Perlman**
Nayes: **None** **Abstentions:** **None** **Vote:** **5:0:0**

Findings
Application #WPL-10950-20
101 Harbor Road
Public Hearing: April 15, 2020

1. **Application Request:** Applicant is proposing the extension and modification of an existing stone pier. Specifically, the work includes adding a 4' x 24' fixed wood pile and timber pier, a 3.5' x 34' ramp and an 8' x20' floating dock secured with four relocated tie-off pilings; and add three tie-off pilings. The site lies within the Waterway Protection Line (WPL) of the Saugatuck River.
2. **Plans reviewed:**
   a) "Dock Modifications 101 Harbor Road LLC – **Plan View**" Sheet 1 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: February 9, 2015
   b) "Dock Modifications 101 Harbor Road LLC – **Existing Conditions**" Sheet 2 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: November 6, 2015
   c) "Dock Modifications 101 Harbor Road LLC – **Plan View**" Sheets 3 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: February 9, 2015
   d) "Dock Modifications 101 Harbor Road LLC – **Profile and End View**" Sheets 4 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised November 6, 2015
   e) CT D.E.E.P. Permit #201501128-KB issued March 3, 2016 – To retain and relocate piling; install a pier, ramp and float; and install tie-off pilings

3. **Property Description:**
   Location of 25-year Flood Boundary: the 9 ft. contour interval.
   Location of WPLO boundary: 15 ft. landward of the 9 ft. contour. The entire dock is located within the WPLO area.
   Property contains Flood Zones AE (el. 13'), Limit of Moderate Wave Action line, and VE (el. 14') as shown on F.I.R.M. Panel 09001C0532G Map revised to July 8, 2013.
   Coastal Area Management (CAM): The property is located within the CAM zone. The coastal resources identified on the property include coastal hazard area and tidal wetlands. The off-shore area is classified as an estuarine embayment.
   Previous Permits issued:
   Shellfish Commission Determination February 4, 2015

4. **Permits/Approvals Granted by Others for the Dock:**

5. CT Dept. of Energy and Environmental Protection approved the dock on March 3, 2016. Condition of notable interest includes:
- The Permittee shall ensure that any workboat or barge utilized in the execution of the work authorized herein shall not rest on, or come in contact with, the substrate at any time. Any such workboat or barge shall not interfere with navigation or be berthed in an area of tidal wetlands.
- A 10 ft. setback from any wetlands adjacent to the work area, which are used for access to the work area.

6. The Flood and Erosion Control Board approved the application with conditions on March 4, 2020.

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

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

The Commission finds that the potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterway should focus on the impact, if any, to the plant and aquatic life in the vicinity of the proposed dock.

8. As part of the applicant's submission to the CT DEEP for the dock, the applicant had to obtain the comments of the **Westport Shellfish Commission**. This first occurred on July 10, 2012. The Commission found no objection to the dock but asked that the area be investigated for the presence of shellfish and if found, that they should be relocated. A letter dated June 17, 2014 was submitted by R. Richard Snarski, SS, PWS, of New England Environmental Service, who stated he performed an investigation and found not hard or soft shell clams. The Shellfish Commission revised its report to the CT DEEP on July 25, 2014 indicating that Mr. Snarski's investigation satisfied their earlier recommendation. A third Shellfish Commission review occurred on February 4, 2015 and found no objection to the decrease in tie-offs.

Additionally, at that time, no tidal vegetation was found near the proposed pier or float. Today, the existing concrete pier is adjacent to a healthy stand of Spartina growth. The Commission finds that a condition state that no access through or staging of material associated with dock construction can be done within 10 ft. of the tidal wetland area.

The Commission finds that the extension of the dock and modification of the pier will not cause additional adverse impacts to the waterway.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL-10950-20
Street Address: 101 Harbor Road
Assessor's: Map B02, Lot 139
Date of Resolution: April 15, 2020

Project Description: Applicant is proposing the extension and modification of an existing stone pier. Specifically, the work includes adding a 4' x 24' fixed wood pile and timber pier, a 3.5' x 34' ramp and an 8' x20' floating dock secured with four relocated tie-off pilings; and add three tie-off pilings. The site lies within the Waterway Protection Line (WPL) of the Saugatuck River.

Owner of Record: 101 Harbor Road LLC
Applicant: Alan R Spirer

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL-10950-20** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. All proposed decks shall be provided with a 6" gravel bed beneath.
12. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
13. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the **March 4, 2020** Conditions of Approval of the Flood and Erosion Control Board.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
    - **a.** "Dock Modifications 101 Harbor Road LLC – **Plan View**" Sheet 1 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: February 9, 2015
    - **b.** "Dock Modifications 101 Harbor Road LLC – **Existing Conditions**" Sheet 2 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: November 6, 2015
    - **c.** "Dock Modifications 101 Harbor Road LLC – **Plan View**" Sheets 3 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised: February 9, 2015
    - **d.** "Dock Modifications 101 Harbor Road LLC – **Profile and End View**" Sheets 4 of 4, Prepared by Docko, Inc. Dated December 7, 2011 and last revised November 6, 2015

17. Approval with the conditions imposed by CT DEEP Permit #201501128-KB, Flood and Erosion Control Board approval of March 4, 2020; and the approval by the Shellfish Commission dated: July 12, 2012, July 24, 2014, and February 4, 2015.
18. No work, including access or staging of material, can take place within 10 ft. of the tidal wetlands.

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: Carey**
Ayes: Bancroft, Carey, Rycenga, Davis, Perlman
Nayes: 0 **Abstentions:** 0 **Vote:** 5:0:0

3. 8 Murvon Court: Application #WPL-10955-20 by William Achilles, AIA to construct a new FEMA-compliant single-family residence with attached one car garage, crawl space and patio. Portions of the work are within the WPLO area of the Saugatuck River.

William Achilles, AIA, presented the application on behalf of the property owners. The proposal is for a new FEMA compliant single family residence with a crawlspace. He noted this application has already been heard by the Zoning Board of Appeals and the Flood and Erosion Control Board.

Mr. Kelly posted the existing conditions plan onscreen.

Mr. Achilles explained that all structures will be demolished.

Mr. Kelly posted the proposed conditions plan onscreen.

Mr. Achilles discussed the proposed conditions. The detached garage gets demolished and the driveway is shortened. The coverage decreases 8%. The patio and driveway will be permeable. Excavation will only be along the perimeter for the footings. There will be drainage galleries in the front and rear of the property. He stated the permeable surfaces are included in the drainage calculations, so that provides a bit of a safety net. The existing white pipe in the back yard is a sewer clean out. This pipe will be removed.

Ms. Mozian asked if the drainage gallery beneath the driveway will be H20 loaded.

Mr. Achilles stated yes.

Mr. Bancroft asked if the propane tank will be anchored.

Mr. Achilles stated it will be buried and strapped according to code. The a/c units and generator will be 1-foot above the 100 year base flood elevation.

Mr. Perlman asked about the stockpile location.

Mr. Achilles stated that there is none shown but that it would be in the front left corner near where the propane tank is located. However, there is virtually no excavation occurring with this project. There is no basement now.

Mr. Perlman questioned whether the crawlspace will flood and if there will be a sump pump.

Mr. Achilles stated the crawlspace is at 8.46 msl; the crawlspace will be 3.5 feet in height. The average grade of the property is 9 msl. They will pitch the slab. They will have flood vents as required. Sump pumps are not required and he is not recommending them in this case.

Ms. Mozian explained that the slab cannot be more than 1-foot below the bottom of the flood opening so that no more than 1-foot of water could build up in the crawlspace.

Ms. Rycenga stated the stockpile area should be shown on the plans. She asked about the staging area and the dumpster.

Mr. Achilles agreed. The dumpster location will be mid-house once demo is complete. After demolition clean-up, there will be little need and they can use the stockpile location for the dumpster.

Mr. Kelly gave the staff report. The coverage is being reduced. The existing site coverage is at 40.45% or 2,184 s.f. and the proposed site coverage is 32.62% or 1,762 s.f. The original house was built in 1928. The porous asphalt drive has detail but it should be certified by the design engineer that it was installed as designed.

Ms. Rycenga gave an additional minute to allow the public to submit comments by e-mail.

Neither Mr. Kelly nor Ms. Rycenga received any e-mail comments.

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

Motion:	**Rycenga**		**Second:**	**Davis**	
Ayes:	**Rycenga, Davis, Bancroft, Carey, Perlman**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**5:0:0**

Findings
Application #WPL-10955-20
8 Murvon Court
Public Hearing: April 15, 2020

1. **Application Request:** Applicant is proposing to construct a new FEMA-compliant single-family residence with attached one car garage, crawl space and patio. Portions of the work are within the WPLO area of the Saugatuck River.
2. **Plans reviewed:**
   a) "**Zoning Location Survey Map of Property** Prepared for Murvon LLC, 8 Murvon Court, Westport, Connecticut", Scale: 1"=10', dated May 12, 2019, prepared by Walter Skidd - Land Surveyor LLC
   b) "**Site Plan Details & Notes**, Murvon LLC 111 Harbor Road, Westport, Connecticut", Scale: 1" = 10', dated October 17, 2019 and last revised to January 16, 2020, prepared by Chappa Site Consulting, LLC
   c) **Architectural Plans** (Sheets A-1 through A-5) entitled: New Residence for Compo Luxury Homes LLC, 8 Murvon Court, Westport, CT", Scale: ¼" = 1-0', prepared by Achilles Architects
3. **Property Description:**
   Location of 25-year flood boundary: 9 ft. contour interval. Property is located entirely within the WPLO boundary of the Saugatuck River.
   Property is situated in Flood Zones AE (el. 11') as shown on F.I.R.M. Panel 09001C0551G Map revised to July 8, 2013.
   Proposed First Floor Elevation: 12.1'
   Proposed garage floor elevation: 9.2'
   Existing Site Coverage: 40.45% (2,184 sq. ft.)
   Proposed Site Coverage: 32.62% (1,761 sq. ft. *not including the 194 sq. ft. patio*)
   Sewer Line: municipal sewer will service the proposed new residence.
   The existing residence was built in **1928**.

4. **Aquifer**: Property underlain by Sherwood Island Aquifer, which is a coarse-grained stratified drift aquifer. The property is NOT within the Town's wellfield protection zone
5. **Coastal Area Management**: Property located within CAM zone. The coastal resource identified is coastal hazard area. Coastal hazard areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during "100-year" flood events. Coastal hazard areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential-type uses.

6. **Proposed Storm Water Treatment**: Storm water runoff from the residence is proposed to be discharged to underground pre-cast concrete galleries. One unit will be installed in the rear of the residence and two units are proposed for the front yard. The driveway runoff will be directed to the front units. The bottom of both galleries will be above the elevation of mean highwater. The proposed driveway and the rear patio are proposed as pervious construction. This consists of pavers or bluestone set on up to 1 ½" of bedding sand over an aggregate base that is 12" thick to provide a storage reservoir.

   Additionally, the drainage system has been designed to manage the Water Quality Volume from the site. This would accommodate the first flush (or 1" of rainfall) of runoff from the developed area and store it within the drainage system.
7. **Previous Permits issued:** none
8. The Flood and Erosion Control Board **approved** the application with conditions on **March 4, 2020**. The drainage proposal is acceptable to the Engineering Department.
9. **Discussion:** The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

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

   The Commission finds that the entire property lies within the WPLO boundary. The application proposes to construct a new FEMA compliant residence on a crawl space and rear patio to be served by municipal sewer.

   The Commission finds that the house will be constructed to conform to FEMA standards with the first habitable floor constructed at elevation 12.1', above the 100 year base flood elevation of 11'. Flood openings are proposed for the residence in order to meet the requirements for construction. Proper anchoring and concrete pad is proposed for a propane tank onsite. HVAC mechanicals and a generator are proposed above base flood elevation.

   A porous asphalt driveway construction detail has been provided with this application. The Commission finds that the that the design engineer shall witness and certify the construction of all permeable surfaces proposed for this project and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.

   The Commission finds that the potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. Proposed site coverage is to be 32.62%, which is significantly greater than the 10-25% cover that will affect water quality. The Commission finds that this is an improvement over the existing site coverage of 40.45%. The stormwater runoff associated with the proposed patio is designed to infiltrate to the aggregate reservoir beneath the pavers/top stone through the sand joints.

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

   Low Impact Development (LID) techniques are recommended to compensate or mitigate for the amounts of impervious coverage onsite. Some techniques include biofiltration uses for stormwater treatment and promoting pervious construction methods. Organic matter, plant roots and biologically active soil help remove nutrients and pollutants at the surface or in the upper biologically active soil horizons prior to discharge to the inert parent material and eventually ground and surface waters. The Commission finds that this is being accomplished by the applicant through the permeable driveway and patio.

Sediment and erosion controls are shown being installed around the perimeter of the property. Construction access and material stockpile area appears limited. No soil stockpile area is depicted; it is assumed that excess soil will be direct loaded and taken offsite. The site is generally flat in this area, therefore the silt fence should be adequate in stopping soil migration.

The Commission finds that the project, if constructed as designed, will not cause an adverse impact to the Saugatuck River.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 10955-20
Street Address: 8 Murvon Court
Assessor's: Map D04 Lot 114
Date of Resolution: April 15, 2020

Project Description: To construct a new FEMA- compliant single-family residence with attached one car garage, crawl space and patio. Portions of the work are within the WPLO area of the Saugatuck River.

Owner of Record: Murvon, LLC.
Applicant: William Achilles, Achilles Architects LLC

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10955-20** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least **forty-eight (48) hours** in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.

13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of **March 4, 2020**.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
- **a.** "**Zoning Location Survey Map of Property** Prepared for Murvon LLC, 8 Murvon Court, Westport, Connecticut", Scale: 1"=10', dated May 12, 2019, prepared by Walter Skidd - Land Surveyor LLC
- **b.** "**Site Plan Details & Notes**, Murvon LLC 8 Murvon Court, Westport, Connecticut", Scale: 1" = 10', dated October 17, 2019 and last revised to January 16, 2020, prepared by Chappa Site Consulting, LLC
- **c.** **Architectural Plans** (Sheets A-1 through A-5) entitled: New Residence for Compo Luxury Homes LLC, 8 Murvon Court, Westport, CT", Scale: ¼" = 1-0', prepared by Achilles Architects

17. Driveways, patio and walkways shall be constructed as permeable and remain so in perpetuity with said restriction placed on the land records prior to the issuance of a Conservation Certificate of Compliance.
18. Proposed propane tank to be installed in conformance with floodplain regulations and state building code as required by applicable departments.
19. The design engineer shall witness and certify the construction of all permeable surfaces proposed for this project and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.
20. The plan shall be revised to show the stockpile location in the southwest corner of the site, prior to the issuance of a Zoning Permit. Such stockpile shall also include an appropriate silt fence.

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: Perlman Second: Bancroft
Ayes: Perlman, Bancroft, Rycenga, Davis, Carey
Nayes: 0 Abstentions: 0 Vote: 5:0:0

4. 12 Hedley Farms Road: Application #IWW,WPL-10956-20 by William Achilles, AIA on behalf of Christine Gould & Alexander Christon to construct a pervious stone patio with barbeque, stone seating wall & free standing stonewall, free standing stonewall, stone chess set patio, expanded driveway and parking and stormwater drainage system. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary to Sasco Brook.

William Achilles, AIA, presented the application on behalf of the property owners. There had been proposed stepping stones across the pond but they had pulled that from this application prior to the hearing.

Mr. Kelly presented and shared the colored site plan onscreen.

Mr. Achilles described the five small projects that are a part of the proposal while Mr. Kelly highlighted each:

- New patio with free-standing wall with barbeque. The freestanding wall is about 9 inches tall. The patio is just inside the 30-foot upland review area and is permeable.

- A freestanding sitting wall ranging in height of 12 to 18 inches along the pond edge spanning a length of approximately 45 feet.
- A stone chess set patio that is permeable.
- Expansion the driveway in the northwest corner to square out that portion of the driveway.
- Driveway expansion and removal in the southwest corner due in part to people coming onto the property to access the Audubon property.
- Addition of a stormwater drainage system

Mr. Achilles noted there are two active permits in place at this time. One for a shed dormer and interior renovations and the other for landscaping. Some of the landscaping has been done but not all. Concrete drainage galleries are proposed in the northwest corner of the driveway. The drainage is designed as if there are no permeable surfaces onsite.

Mr. Kelly presented and shared the proposed landscape plan onscreen.

Mr. Achilles reviewed the proposed landscape plan. They are keeping only one tree in the barbeque patio area and replacing the rest with evergreen plantings. The large tree near the chess set will not be disturbed. The edge of the pond around the curved seating wall will be planted. The specific planting species in the northwest corner near the driveway expansion have not been finalized. In the front driveway, 5 Birches will be eliminated. These will be replaced by one tree and many viburnums.

Ms. Rycenga noted the previously approved garage permit. The generator has been installed but the garage has not.

Jessica Matteson, LA, agreed. She noted that the landscaping along the pond edge has been installed and is currently budding.

Mr. Carey asked if there are any intentions of building that garage.

Mr. Achilles stated there was a time extension granted but there are no immediate plans to build it.

Ms. Rycenga questioned whether the owners intend to build the garage.

Mr. Achilles stated not at this time.

Ms. Mozian stated that the permit was applied for in 2008 by a previous owner. It was good for 9 years as this was during the Great Recession. An additional 5 year extension was granted to 2022.

Mr. Kelly added the permit would have to be transferred to the new owners.

Mr. Bancroft asked about the placement of the chess board.

Ms. Matteson stated it was placed so as not to interrupt the view of the pond and in an area that is flat.

Ms. Mozian asked about the trees to be removed for construction access.

Ms. Matteson stated that only a few trees or shrubs will have to be removed.

Mr. Davis asked about the black hose going into the pond.

Ms. Matteson stated the hose provides a source of water to the plantings installed on the other side of the pond. It would be helpful if this could remain in place until they are well established and to establish a pollinator meadow, then it could be removed.

Ms. Mozian asked if the pollinator meadow is on the plan.

Ms. Matteson stated yes, it is on the previously approved landscape plan.

Mr. Carey noted the close proximity of the sitting wall to the pond.

Ms. Matteson stated she is comfortable with its proximity because of the way it is being constructed. It is a dry laid wall with no concrete. She added she will be onsite most of the time to supervise its installation.

Mr. Carey expressed concern with the length of the wall.

Mr. Achilles noted that it is already planted in this area. The slope is already stabilized and erosion is unlikely.

Ms. Matteson noted the wall is only 12 to 18 inches in height. It is partly there for safety because of the slope in the yard. They will be bringing in 8 to 10 c.y. of fill to make that area of the yard flat. The property owners currently are and have agreed to care for the property organically.

Mr. Achilles reiterated that this is minor grading. It has been waived by the regulations at the Planning & Zoning Department.

Ms. Rycenga asked about the width of the wall.

Mr. Bancroft noted it is 17 inches maximum according to the plans.

Mr. Kelly stated this is a dry laid wall and will provide some habitat. He noted he is more concerned with the construction of the wall especially if it is done in wet periods. If construction could take place in segments, opening up what could be done reasonably in a day rather than all at once, this would be a better choice.

Ms. Matteson indicated she agreed with this. She added the wall is 45 feet long.

Mr. Bancroft asked how deep the base is.

Mr. Achilles stated the base is only 18 inches deep.

Ms. Mozian asked how far the wall is from the pond.

Ms. Matteson stated there is a 6 foot riparian buffer between the edge of the pone and the proposed wall.

Ms. Rycenga asked about the size of the approved garage.

Ms. Mozian stated it is 516 s.f.

Ms. Mozian stated there are phragmites in the rear near the driveway. She noted the plantings are an integral part of the mitigation for the work being done and recommended a bond for the new plantings and the Conservation Certificate of Compliance not be released until both the previously approved and the proposed plantings are installed.

Ms. Matteson requested that the pollinator meadow plantings not be included in the required plantings. She had no objections to the riparian buffer plantings needing to be installed. She indicated the meadow plantings are on the other side of the pond and are not slated to be installed until the fall.

Ms. Mozian asked if an additional buffer area could be added somewhere.

Mr. Kelly expressed concern with depth to groundwater for the drainage galleries.

Mr. Achilles stated test pits have been done to ensure a proper gap between the bottom of the gallery and groundwater. He highlighted that organic landscape practices will be used.

Mr. Kelly reviewed the staff report. He noted the seating wall in an area of lawn with high usage. 45 feet is a small percentage of the entire pond perimeter.

Ms. Rycenga clarified that Ms. Matteson will oversee the work.

Ms. Matteson stated yes.

Mr. Achilles added that groundwater has been monitored since the garage addition was proposed.

Ms. Rycenga gave an additional minute to allow the public to submit comments by e-mail.

Neither Mr. Kelly nor Ms. Rycenga received any e-mail comments.

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

Motion: **Rycenga** **Second:** **Bancroft**
Ayes: **Rycenga, Bancroft, Carey, Davis, Perlman**
Nayes: **None** **Abstentions:** **None** **Vote:** **5:0:0**

Findings
12 Hedley Farms Road
Application #IWW,WPL-10956-20
Public Hearing: April 15, 2020

1. **Receipt Date: April 15, 2020**
2. **Application Classification: Plenary**
3. **Application Request:** Applicant is requesting to construct a pervious stone patio with barbeque, stone seating wall & free standing stonewall, free standing stonewall next to pond; stone chess set on-grade patio; ~~stepping stone walkway through pond~~*, expanded driveway and parking and stormwater drainage system. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary to Sasco Brook.
   *The applicant **withdrew the stepping stone walkway portion** of the application on March 11, 2019.
4. **Plans Reviewed:**
   a) "As-Built Plan prepared for Christine Gould & Alexander Christon, 12 Hedley Farms Road, Westport, CT", Scale 1" = 30', dated September 5 2018 and last revised to January 23, 2020, prepared by Leonard Surveyors, LLC.
   b) "Site Plan Details & Notes Christine Gould & Alexander Christon, 12 Hedley Farms Road, Westport, CT", Scale As Noted, dated December 10, 2019 and last revised to February 10, 2020. prepared by Chappa Site Consulting, LLC.
   c) **"**Drainage Computations for the Proposed Drive Expansion, Barbeque & Patio Improvements at 12 Hedley Farms Road, Westport, CT", dated February 10, 2020, prepared by Chappa Site Consulting, LLC.
5. ***Background Information:***
   - **Application #AA 473-81 In** 1981 an exemption from the Inland Wetlands and Watercourses regulation was issued for the construction of a new single family residence due to the fact that the lot was part of a subdivision approved prior to the adoption of the IWW regulations. The proposed site plan showed a residence located 32' from the edge of the pond.
   - **Application #WPL 633-82** Submission of a larger footprint than the original proposal for a single family residence and driveway to connect to Hedley Farms Road. Condition #5 of the resolution states the area between the waterway protection line and the pond shall be a no-mow, naturally landscaped area of native plantings and ground covers in conformance with consultants' (Dr. Philip Barske of Applied Ecology and Natural Resource Management) recommendations.

- **Application #WPL 794-83** For the dredging of the pond to remove 3000-3200 cubic yards of silt. Noted in the staff report submitted with this application is the following statement: "The subject property was given Waterway Protection Line approval for house construction in November 1982. However, once site activity began, conditions of the permit were violated and extensive, unauthorized clearing occurred on the property. Applicant's environmental representative compiled a vegetation plan, as required by the Conservation Department. An extensive revegetative landscape plan was also prepared by Dr. Barske as an integral part of the pond dredging application.
- **Application #IWW/M 8039-07** Amendment of wetland boundary map I-6
- **Application #IWW WPLE 8368-08** For a proposed detached two-car garage and generator pad. The garage was proposed within the 30' wetland setback and 20' wetland setback. The Garage was never built.
- **Application AA WPL/E 10708-18** For two shed dormers on the existing roof, a new exterior balcony, patio, and interior renovations. No Certificate of Compliance issued.
- **Application AA WPL/E 10915-19** For plantings throughout the property. No Certificate of Compliance issued.

6. Facts Relative to this application:

Portions of the proposed driveway and patio are within the 30' review area from wetlands. A landscape wall and chess patio area are located within the 20' review area from wetland and within the Waterway Protection Line boundary.
Lot Area: **87,769 sq. ft.** (2.0149 Acres)
Lot Coverage onsite increases **from 8,520 sq. ft. (16.0%) to 9305 sq. ft. (17.6%)**.
Most of the property lies within the Flood Zone AE (el. 13') from FEMA map 09001556G, Dated July 8, 2013.
The property is not located within the Aquifer/wellfield Protection Overlay zone or groundwater recharge area.
The WPLO boundary is located 15' from the wetland boundary.
The property is located within a Coastal Area Management Zone.
The wetland area encompasses 49.4% of the lot area.
The Town of Westport Wetlands Inventory prepared by Flaherty, Giavara Associates describes this wetland system as a streamside floodplain with a shrub and wooded swamp.
The original septic system failed in 2005 and a new system was installed south of the existing residence.
Soil report Summary- prepared by Henry Moeller dated April 12, 2007 describes the following inwetland soil occurring on the property:

Saco silt loam (Sa): This soil is a very poorly drained alluvial soil developed primarily on floodplains and depressions subject to sedimentation. The surface soil ranges from 20 to 40 inches or more in thickness and consists of very dark gray to black silt loam and very fine sandy loam. The surface may also have inclusions of muck on top less than 12 inches thick. The underlying subsoil and substratum also consist of silt loam, but may have inclusions of fine sandy loam to loamy sand, especially below 36 inches. The groundwater table is at or near the surface from ate fall through early spring. This soil is frequently flooded or ponded. The Saco series is classified as coarse-silty, mixed, nonacid, mesic Fluvaquentic Humaquepts.

Aquents (AQ): These mapping units consist of disturbed soils in which no natural soil profile or solum can be recognized. The drainage classification ranges from poorly drained to very poorly drained based on vegetation, topography, presence of a recently developed thin organic surface, location on the landscape, and other factors. There may be inclusions of piles of soil material that may not be poorly drained but is too small in area. In other areas the soils were graded, filled or completely removed down to the undeveloped substratum material. In filled areas there may be a perched water table or an impervious layer that creates an aquic moisture regime. The textures of the soil material include silt loam, fine sandy loam, sandy loam, silt, sand, and gravelly sandy loam.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

7. 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

Discussion: The Commission finds that land disturbance for this site development proposal is within 20 feet of the wetlands onsite and within the WPL, including portions of the drive, chess patio, and retaining wall. Additionally, approximately 10 cu. yds. of fill will be needed in the area of the wall.

As stated above, permit (Application # AA-WPL/E-10915-19) was for the planting of a buffer for most of the pond's southern edge and establishing a meadow. Most of these plantings were installed as of October 30, 2019. Portions of this current proposed project is shown within the 20' review area from the wetlands. These established vegetated buffer strips have traditionally been used to separate human activity within an upland from a wetland or water resource or any other valuable and/or sensitive environment. Vegetation growing along pond edges help to bind the soil, giving the banks stability. Vegetation slows the movement of floodwater through wetland areas, reducing erosive flow velocities on floodplain.

The Commission supports keeping all existing vegetation/plantings where possible and finds that additional plantings are needed around the pond area where lawn currently exists. The planting plan approved by staff in 2019 does propose said buffer but it is uncertain whether these plantings have been fully installed and or are viable. The newly submitted planting plan also introduces plantings in areas where existing trees and shrubs will be eliminated to make room for the driveway expansion and patio. The Commission finds that if any of the plantings from the previous permit are disturbed by the construction activities, then they shall be replaced/restored. The Commission further finds that a bond should be posted to cover the cost of the plantings within all regulated areas as they serve as a significant part of the mitigation for the project's impact on water quality.

8. 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

Discussion:
The Commission finds that stormwater runoff from driveways can be point sources of pollution, and runoff from lawn and patios can be non-point sources. This is based on knowledge of typical uses for driveway or road, and lawn and landscape runoff containing typical fertilizers, and pesticides, as well as sediments, hydrocarbons, and heavy metals.

Approximately 1,700 sf of the runoff from the existing and proposed driveway area will be directed to the underground precast stormwater galleries. This is done to offset the runoff volume from the proposed drive areas, walkways and patio. Additionally, the patio and walk areas are proposed as pervious designs. This design consist of an aggregate reservoir and sand joints between the pavers to allow water infiltration. In cases of impervious designs, rainwater cannot infiltrate the ground through these impervious surfaces and becomes runoff; consequently, more water reaches surface water resources faster than as infiltration would occur under natural conditions.

The Commission finds that test holes shall be required and witnessed by the Engineering Department to assure the bottom of the infiltrators will be sufficiently above the groundwater to provide water quality. This is echoed in one of the conditions of the Flood & Erosion Control Board's March 4, 2020 approval. The Engineering Department has reviewed the plans and noted it complies with the requirements.

Furthermore, the plantings previously approved by staff in 2019 coupled with those on the April 13, 2020 planting plan revision sketch will aide in further protecting the pond and wetland area north of the driveway expansion. A bond to ensure the survivability of the plantings is found to be required as the plantings are a main component of the water quality mitigation for the proposed work.

9. 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.

Discussion:

The Commission finds that, as identified in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, land use changes and land development activities affect the natural or geologic process by:

- removing the existing protective vegetative cover,
- prolonging the exposure of unprotected disturbed areas,
- exposing underlying soil or geologic formations less pervious and/or more
- erodible than the original soil surface,
- compacting soils with heavy equipment and increasing impervious surfaces,
- thereby reducing rainfall absorption and increasing runoff,
- modifying drainage areas,
- altering the topography in a manner that results in shortened times of concentration of runoff
- altering the groundwater regime

The Commission finds that the Site Plan identifies silt fence downslope from the areas of proposed work. The silt fence, if properly installed, should provide sufficient protection against any sediments entering the pond. An anti-mud tracking pad is proposed along Hedley Farms Road, required to access the patio and wall areas. This will provide sufficient protection from sediment entering the road, providing it is well maintained.

10. 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.

Discussion: The Commission finds that vegetation is the main source of organic detritus, and is thus the basis of the food chain. This vegetative zone also helps shade the water and provide cover for both fish and terrestrial animals. In many instances, the wetland areas and associated buffers provide habitat that serves the needs of many species. Buffers can offer protected sites for nests or dens, food sources, and a

corridor for safe travel. Such corridors also provide important links between larger habitat areas. The Commissions finds that the applicant shall install an enhanced buffer (as stated in Discussion of 6.1) to maintain and improve habitat opportunities around the pond.

11. 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

Discussion:

The Commission finds that 32 linear ft. of stormwater galleries are proposed for collecting storm water runoff within the driveway. The Engineering Department has reviewed the plans and note it complies with Town requirements. As noted above, a vegetated buffer was installed onsite under a previous permit. The Commission finds that the vegetation provides a buffer to the pond as well as providing biofiltration actions to treat stormwater runoff to remove soluble nutrients, slow runoff velocity and to provide an opportunity for infiltration. Staff recommends the applicant consider an enhanced buffer in addition to the existing vegetation to allow for infiltration of the stormwater runoff.

12. 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.

Discussion:
The Commission finds that the proposed activities will not significantly impact recreational and public uses.

13. Waterway Protection Line Ordinance

Section 148-9 of the Waterway Protection Line Ordinance states that the applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystem of the waterway, including but not limited to impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

Discussion:
The Waterway Protection Line Boundary occurs 15’ from the wetland boundary or 15’ from the 25-year flood plain whichever is more conservative. On this property, the boundary is established 15’ from the wetland boundary. Standards of Review 6.1 through 6.5 address the issues stated above.

The Flood & Erosion Control Board approved the application at the March 4, 2020 hearing.

The Commission finds the extent of disturbance for the patio, driveway and wall is to be limited to the existing lawn and disturbed areas. Additional plantings along the proposed patio and chess patio to treat the storm water runoff from the patio and to improve water quality. Provided erosion controls are used as

planned and proposed plantings are installed the proposed activity will not significantly impact resources as they are protected under the Waterway Protection Line Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL-10956-20
Street Address: 12 Hedley Farms Road
Assessor's: Map I06, Lot 011
Date of Resolution: April 15, 2020

Project Description: To construct a pervious stone patio with barbeque, stone seating wall & free standing stonewall, free standing stonewall next to pond; stone chess set on-grade patio; expanded driveway and parking and stormwater drainage system. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary to Sasco Brook.

Owner of Record: Christine Gould & Alexander Christon
Applicant: William Achilles, AIA; Achilles Architects

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-10956-20** 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. All on-site dumpsters shall be covered at the end of each work day and or when not in use.

SPECIAL CONDITIONS OF APPROVAL

17. Conformance to the plans entitled:
- **a.** "As-Built Plan prepared for Christine Gould & Alexander Christon, 12 Hedley Farms Road, Westport, CT", Scale 1" = 30', dated September 5 2018 and last revised to January 23, 2020, prepared by Leonard Surveyors, LLC.
- **b.** "Site Plan Details & Notes Christine Gould & Alexander Christon, 12 Hedley Farms Road, Westport, CT", Scale As Noted, dated December 10, 2019 and last revised to February 10, 2020. prepared by Chappa Site Consulting, LLC.
- **c. "**Drainage Computations for the Proposed Drive Expansion, Barbeque & Patio Improvements at 12 Hedley Farms Road, Westport, CT", dated February 10, 2020, prepared by Chappa Site Consulting, LLC.

18. Conformance to conditions of the Flood & Erosion Control Board approval of March 4, 2020.
19. A detailed planting plan shall be submitted for the area around the northern portion of the driveway expansion between the wetland and driveway, prior to issuance of a Zoning Permit.
20. A bond to cover the cost of plantings and sediment and erosion controls shall be submitted prior to issuance of a zoning permit. Said bond shall not be released for one full growing season and is also contingent on proof that the previously approved buffer plantings matured and are healthy.
21. All planting within 20' from the wetland area shall be done by hand. Mulching within this area shall be done with organic leaf mulch. Plantings shall be installed prior to the issuance of a CCC.
22. The site engineer shall oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC.
23. Erosion controls shall be installed prior to construction commencement, just outside the limit of disturbance as shown on the site plan.
24. The "black pipe" currently in the pond is permitted to remain for a time period not to exceed 24 months from date of approval.
25. The sitting wall shall be constructed to limit the amount of soil exposure, not to be more than what can be completed beyond a given day.

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: Carey Second: Perlman
Ayes: Carey, Perlman, Rycenga, Davis, Bancroft
Nayes: 0 Abstentions:0 Vote: 5:0:0

5. 26 Highland Road: Application #IWW,WPL-10960-20 by LandTech on behalf of Perkins Real Estate, LLC to construct a new single-family residence, driveway, deck, pool and associated site appurtenances. Portions of the work are within the upland review area and the WPLO area of Muddy Brook and Sasco Brook.

Curt Lowenstein, PE of LandTech, presented the application on behalf of the property owner. The project is for the demolition of the existing house to the foundation and construct a new single family residence, driveway, deck, pool and drainage. There is a previous permit for a new single family residence approved by the Conservation Commission approved in 2015. The project has received approvals from the Health Department and Flood and Erosion Control Board.

Mr. Kelly presented the aerial photo, existing conditions survey and the proposed site plan onscreen as needed.

Mr. Lowenstein noted the property is one acre and approximately half of that is wetlands. The property is served by public water and septic. The existing septic system is to the rear of the property and within the 50-foot upland review area. There is no drainage on the site. The house will be demolished down to the existing foundation. They will be using a majority of the existing foundation except for a slab-on-grade foundation for the new garage. They are proposing a new 10' by 30' lap pool in the approximate location of the existing septic system. The new septic system has been moved to the front yard outside the 50-foot upland review area. He noted the 2015 house approval did not use the existing foundation and come within 16 feet of the wetland. Under this proposal, they are 32 feet from the wetlands. A rain garden will capture the driveway and house runoff. A footing drain will discharge to a level spreader. The deck will have gravel beneath. They are proposing a mud tracking pad and silt fence backed by hay bales. Grass and lawn have become closer to the wetland. They are proposing new wetland plantings to improve the habitat and to provide a visual demarcation of the wetland.

Ms. Mozian noted the wetland flags are missing in the field. She stated these need to be reestablished prior to the silt fence being installed. She asked if the existing driveway would be used as a construction access.

Mr. Lowenstein stated the existing driveway would not be used as a construction access. It is close to the proposed septic area and they do not want people to get used to driving in that area and compacting the soil.

Ms. Rycenga asked about the depth of the pool.

Mr. Lowenstein stated that has not been finalized. Traditionally lap pools are 4 to 5 feet in depth.

Chris Allan, soil scientist and wetland scientist, stated the plantings will rectify some of the encroachments that have occurred over the years into the wetlands.

Steve Perkins, property owner, stated it would be his preference to have a pool that is 7 feet in depth for safety reasons.

Ms. Mozian indicated concern with the depth of a 7-foot pool. It would be a permanent diversion of groundwater. The test pits show the depth of groundwater at 33 to 44 inches.

Mr. Kelly noted the pool is in the location of the existing septic. This is a benefit. He is mostly concerned with the dewatering during construction.

Ms. Mozian asked if the house is a spec house. She noted that not all homeowners want a pool.

Mr. Perkins stated this house is a spec house.

Ms. Rycenga stated that perhaps the Conservation Commission could give staff permission to issue a separate administrative approval with certain parameters for the pool.

Mr. Kelly reviewed the staff comments. The rain garden is key to the plan. He believes the rain garden plantings should be augmented with real plantings not just seed mix to show that it is not just a landscape feature or another area to be mowed. He highlighted the buffer plantings. He recommended a site monitor.

Ms. Rycenga asked if there is a management plan proposed for the rain garden.

Mr. Kelly stated there is not but is asking for certification that it is installed correctly.

Ms. Rycenga suggested it be put on the land records via a management plan as it is integral to the drainage system for the house.

Ms. Rycenga stated she is not comfortable with issuing the pool permit at this time. There is not enough information at this time.

Mr. Carey stated he is comfortable with deferring issuance of the pool to staff. Staff needs to see depth of pool and construction methodology.

The Conservation Commission after discussion deferred a separate pool permit to the staff to issue administratively. If they feel uncomfortable with the proposed plans, they can return to the Commission with those plans.

Ms. Rycenga gave the public an additional one minute to e-mail comments.

Neither Mr. Kelly nor Ms. Rycenga received any e-mail comments.

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

Motion:	**Rycenga**		**Second:**	**Bancroft**	
Ayes:	**Rycenga, Bancroft, Carey, Davis, Perlman**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**5:0:0**

Findings
26 Highland Road
#IWW, WPL 10960-20
Hearing Date: April 15, 2020

1. **Receipt Date: April 15, 2020**
2. **Application Classification: Plenary**
3. **Application Request:** Applicant is requesting to construct a new single-family residence, driveway, deck, and associated site appurtenances* Portions of the work are within the upland review area and the WPLO area of Muddy Brook and Sasco Brook. IWW and WPLO Regulated Areas

   *The pool, submitted as a part of this application, has been denied based on a lack of information to allow for a decision. The Conservation Commission allows for the applicant to return to Conservation Staff with an application with missing information (pool depth and dewatering procedures) and allows Staff to assess and issue permit administratively if they see fit. Alternatively, the applicant may return to the Commission to review a pool application separately.

4. **IWW and WPLO Regulated areas**
   IWW setbacks determined for this property include a 50’ review area for the residence, 35’ review area for the pool, 30’ review area for the deck, a 20’ non-disturbance buffer for the proposed grading, drainage, and/or other alteration from wetland boundaries. The Waterway Protection Line Ordinance dictates that the WPLO boundary be located 15’ from the 25 year floodplain, 15’ from the wetland boundary, or 15’ from the top of bank, whichever is more conservative. For this project, the location of the WPLO will be 15’ from the wetland line.
5. **Plans Reviewed:**

a) "Site Improvements for a Proposed Single Family Residence Site Plan Prepared for Perkins Real Estate LLC, 26 Highland Road, Westport, Connecticut", Sheet C-1 and C-2, Scale: 1"= 20', dated January 23, 2020 and last revised to February 26, 2020, prepared by Landtech
b) "Stormwater Management Report for 26 Highland Road, Westport, Connecticut", dated January 9, 2020 and last revised to February 26, 2020, prepared by Landtech
c) Architectural Plans entitled: "Perkins Family Addition 26 Highland Drive, Westport, CT", (sheets H1, H2), dated January 10, 2020 and last revised to February 3, 2020, prepared by John Jones Architect

6. Previous permits on file:

- **#AA-4085-90**: Installation of swale and filling for maintenance of lawn
- **#IWW/M-10100-15**: Amendment of wetland boundary: Map G15
- **#IWW, WPL-10086**: New house, septic, and plantings. This work never started and there is a new owner.

7. **Background Information:**

The Flood & Erosion Control board issued the approval with conditions on March 4, 2020.
The WWHD issued approval for the new house, deck, and pool on February 12, 2020.

8. Facts Relative to this application:

A portion of the proposed residence is located within the 50' IWW upland review area setback.
A portion of the grading and the drainage appurtenances are within the WPLO area and within the 20' IWW upland review area setback.
Town wetland boundaries are shown on the plan.
The property is not located within the Aquifer/wellfield Protection Overlay zone or groundwater recharge area.
The property is not located within a Coastal Area Management Zone.
The proposed total coverage is 19.4%
Tax Assessors card indicates the original residence was constructed in 1958, prior to Inland Wetland Regulations and Waterway Protection Line Ordinance.
The Health Department has approved the septic system application for a four-bedroom residence. The existing septic system will be removed.
Christopher Allan, Professional Registered Soil Scientist of Landtech conducted an on-site investigation of the property on August 26, 2014 and flagged the wetland boundary.

- The wetland soils on the property are described as follows:
  Leicester, Ridgebury and Whitman (3): These soils are mapped together because they react similarly to most uses and management. Theses poorly and very poorly drained soils are formed in drainageways.
- The non-wetland soil are described as the following:
  Paxton and Montauk fine sandy loam: These soils consist of well drained loamy soils formed in lodgement till. The soils are very deep to bedrock and moderately deep to a densic contact. They are on upland till plains, hills, moraines and drumlins.

The following includes **regulated activities** pursuant to the Inland Wetlands and Watercourses Regulations proposed in this application:

- The new residence is proposed (at the closest point) approximately 31'± from the delineated wetland boundary, most of the rear of the house is within the 50' IWW review area from wetlands. The existing foundation will be reused, in place, and the new house will utilize the exiting basement slab. Additionally, there are areas of new foundation that will be located outside the 50' review area.
- A pool is proposed (at the closest point) approximately 23'± from the delineated wetland boundary and within the 35' IWW review area. It is located where the existing septic system is, which will be abandoned.
- Two decks are proposed within the 30' IWW review area. The lower deck is proposed within the WPLO boundary. A portion of the lower deck is also in the 20 ft. setback.
- The footing drain discharge is within the 20' IWW review area and the WPLO boundary (approximately 9'± from wetland line).
- Grade changes are proposed within the 20' IWW review area and the WPLO boundary (approximately 6'± from wetland line).

- Mitigation plantings are proposed. These occur within flagged wetland limits, the 20' non-disturbance area, and the WPLO boundary. Plant size are not included on the submitted materials. The Commission finds that 3' to 4' shrubs and 2" caliper trees are required as part of the mitigation.
- The silt fence and the limit of disturbance are proposed within the WPLO boundary and the 20' non-disturbance area.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

9. 6.1 GENERAL STANDARDS

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

Discussion:
The Commission finds that the existing septic system installed immediately adjacent to the wetlands is to be removed and relocated greater than 60' from the flagged wetland boundary. A new code compliant system (60' of Eljen Mantis, 5 bedroom) is proposed to be installed. The footprint of the proposed residence will encroach no closer than that of the existing residence. Approximately thirty-five feet of the existing wetland vegetation behind the residence was previously removed and is currently being maintained as lawn. The Commission finds that this area will be revegetated with native plant species suitable for a wetland environment. Forty-two (42) plants are proposed along with a New England Wetmix seed mix. The small wetland pocket on the southern property boundary is also proposed to be revegetated. Japanese stilt grass has been identified onsite as an invasive species and is proposed to be mechanically removed.

10. 6.2 WATER QUALITY

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

Discussion:
The Commission finds that the proposed landscaping removes manicured lawn within the wetland boundary and proposes to be revegetated with native wetland species to help restore and protect water quality. A permit issued in 1990 allowed the property owner to fill and reseed a portion of the backyard due to repaving of Highland Road and erosion activity that was occurring as a result. From review of the attached sketch plan, the fill activity was to take place to approximately 37' from the rear of the residence. The distance from the rear of the residence to the existing tree line is now currently approximately 50'. Due to this previous over clearing, the planting restoration proposal is similar to the proposal for the house construction permit approved by the Conservation Commission in 2015. This removes approximately 25 feet of lawn, which is in the biological wetlands.

Erosion control fencing is proposed to be installed adjacent to the flagged wetland line. Minimal grade changes are proposed up to the silt fence and will need adjustment to blend in the final grade. The

Commission finds that the erosion control fence set at the perimeter of the site disturbances and as shown on the plans should be adequate to retain sediment and soils from entering the wetlands as long as it is properly maintained. The Commission finds that the monthly sediment and erosion reports and site monitoring are required to ensure the controls are effective.

An existing asphalt driveway at approximately 20' from the wetland edge at its closest point is to be removed and the area restored to lawn. Furthermore, as a result of the increase in impervious surfaces proposed with this development, the applicant is proposing a surface rain garden as the stormwater retention system. This has been sized to handle the first inch of runoff for water quality. The Commission finds that the "…attenuation and treatment of stormwater improves the groundwater entering the wetland..." The Commission finds that this will be an improvement over the existing site condition without drainage, and, allows for water quality treatment through biofiltration. The Commission finds that the site engineer shall oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC. In addition, the plantings for the rain garden include only a seed mix. The Commission finds that the list shall be amended to include plantings as well, especially around the boarder, to prevent the likelihood it would be mowed over by future owners. Seed mix alone, while it contains wildflowers, takes 2-3 years to mature.

A new code compliant septic system is to be installed on the western property line further from the wetlands as an existing system immediately adjacent to the wetlands is being removed.

11. 6.3 EROSION AND SEDIMENT

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

Discussion:
The Commission finds that the proposed pool design does not provide enough information for the management of dewatering ground water during construction based on the fact that a pool depth has not been decided upon by the applicant. The Commission finds that the pool is **denied** and will not be approved as part of this project.

The Commission finds that the remaining proposed activities will not cause erosion and sedimentation to the wetlands provided the silt fence, backed by hay bales, be installed appropriately and maintained throughout the construction process. The Commission finds that monthly sediment and erosion reports and site monitoring are required to ensure the controls are effective. The Commission further finds that the wetland boundary as previously flagged by Soil Scientist, Christopher Allan, have been removed and need to be reinstalled prior to work commencement.

12. 6.4 NATURAL HABITAT STANDARDS

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

Discussion:

The Commission finds that the existing conditions on the parcel limit habitat potential within the wetland immediately adjacent to the residence due to the presence of a manicured lawn. Plantings within the wetlands will help to reestablish a portion of the wetland boundary and offer an opportunity to increase biodiversity. The proposed site development proposal will result in supplementing vegetation within the biological wetland.

The Commission finds that the additional plantings and removal of manicured lawn in an effort to supplement the vegetation in the wetlands is proposed as a means to improve habitat potential. Native plant installation will also improve natural habitat in this area by providing more plant diversity and native habitat within wetland limits.

13. 6.5 DISCHARGE AND RUNOFF

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

Discussion:

A surface rain garden retention system is proposed to handle the collection of roof runoff and driveway runoff for a 25 year storm. The rain garden is currently proposed as the main treatment for stormwater for the property therefore we find it important that it functions appropriately. The Commission finds that the site engineer oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC. Additional plantings within the raingarden other than the seed mix are recommended per the reasons previously stated.

There is no site grading proposed in proximity to neighboring properties and therefore it is not anticipated to have the potential for additional runoff to be directed to the adjacent or adjoining properties. The Commission finds that the site monitor shall oversee any excavation to ensure sediment and stormwater runoff do not affect the wetlands.

The Commission finds that the pool is proposed in an area where groundwater will likely be encountered. The test pit data shows groundwater anywhere from 3 to 4 feet below grade. These pits were taken in the front of the residence. The Commission finds that groundwater will be encountered due to ground water levels closer to wetlands. **Leicester, Ridgebury and Whitman (3)** soils typically have seasonal high groundwater levels of 0-10" below grade. The Commission finds that the dewatering summary in the "General Erosion & Sediment Control Notes" of the site plan is not adequate The Commission finds that the pool, submitted as a part of this application, has been denied based on a lack of information to allow for a decision. The Commission finds that the missing information (pool depth and dewatering procedures) limits their ability to make a decision for the pool.

The FECB approved the application at its March 4, 2020 meeting. It was determined that the proposal met the Town of Westport drainage requirements.

14. 6.6 RECREATIONAL AND PUBLIC USES

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

Discussion:

The proposed activities will not significantly impact recreational and public uses.

15. Waterway Protection Line Ordinance

Section 148-9 of the Waterway Protection Line Ordinance states that the applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystem of the waterway, including but not limited to impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

The Waterway Protection Line boundary exists 15' from the wetland line. The Flood & Erosion Control Board has approved this application on March 4, 2020 with standard conditions.

The Commission finds that the implementation of additional native plantings within the wetlands will reduce the amount of manicured landscaping and utilized to maximize biofiltration to minimize the impacts from the increase in runoff. Habitat diversity will be improved with the additional wetland plantings. The natural rates and processes of erosion and sedimentation will be improved with the additional plantings.

Provided erosion controls are properly placed and installed, excavated materials are hauled off the site, tree protection fencing is installed and planting is implemented as proposed, the proposed activity will not significantly impact resources as they are protected under the Waterway Protection Line Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL-10960-20
Street Address: 26 Highland Road
Assessor's: Map G15 Lot 023
Date of Resolution: April 15, 2020

Project Description: Applicant is requesting to construct a new single-family residence, driveway, deck, and associated site appurtenances. (*The pool, submitted as a part of this application, has been denied based on a lack of information to allow for a decision.) Portions of the work are within the upland review area and the WPLO area of Muddy Brook and Sasco Brook.

Owner of Record: Perkins Real Estate LLC
Applicant: Curt Lowenstein, 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-10960-20** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.

5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of March 4, 2020.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
    - **a.** "Site Improvements for a Proposed Single Family Residence Site Plan Prepared for Perkins Real Estate LLC, 26 Highland Road, Westport, Connecticut", Sheet C-1 and C-2, Scale: 1"= 20', dated January 23, 2020 and last revised to February 26, 2020, prepared by Landtech
    - **b.** "Stormwater Management Report for 26 Highland Road, Westport, Connecticut", dated January 9, 2020 and last revised to February 26, 2020, prepared by Landtech
    - **c.** Architectural Plans entitled: "Perkins Family Addition 26 Highland Drive, Westport, CT", (sheets H1, H2), dated January 10, 2020 and last revised to February 3, 2020, prepared by John Jones Architect
17. The wetland boundary as previously flagged by Soil Scientist, Chris Allan, shall be re-established in the field prior to work commencement.
18. The silt fence backed by haybales as indicated on the site plan shall be installed in the field prior to work commencement.
19. A site monitor shall be selected with contact information provided to the Conservation Department staff prior to start of work commencement. Said monitor shall provide monthly sediment and erosion reports to ensure the sediment and erosion controls are effective through construction, until the site is stabilized.
20. The site engineer will oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC.
21. Install erosion control prior to construction commencement just outside the limit of disturbance as shown on the site plan.
22. All planting within the wetland area shall be done by hand. Mulching within this area should be done with organic leaf mulch.
23. The Conservation Department shall be contacted 48 hours prior to construction commencement.
24. The Wetland Restoration Planting Plan shall be amended to include the height and/or diameter breast height (dbh) or caliper of proposed trees and height for shrubs. Trees shall be a minimum of 2" caliper. Shrubs a minimum height of 3'-4'. Said amended plan shall be submitted prior to issuance of a zoning permit.
25. The restoration plan for the pocket wetland shall be increased to include more plantings.
26. The raingarden planting plan shall be amended to include actual plantings as well as a description of the proposed seed mix. Said amended plan shall be submitted prior to issuance of a zoning permit.

27. A bond to cover the cost of plantings shall be submitted prior to issuance of a zoning permit and held for one full year following time of installation.
28. A maintenance/management plan shall be provided for the raingarden and submitted to the Conservation Department for review and approval. This plan shall be recorded on the Land Records prior to the issuance of a Conservation Certificate of Compliance.
29. The pool is not approved at this time. The applicant may submit an application to the Conservation Department Staff with an application for issuance of a pool permit in the same location. This permit shall be managed administratively, if staff finds the submitted plans acceptable.

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

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

Motion: Rycenga Second: Bancroft
Ayes: Rycenga, Bancroft, Davis, Carey, Perlman
Nayes: 0 Abstentions: 0 Vote: 5:0:0

Work Session:

1. Receipt of Applications

Ms. Mozian noted there was one application to officially receive.

- **8 Lone Pine Lane:** Application #IWW/M-10961-20 by Yehuda E Elias to amend wetland boundary map #D11.

Ms. Mozian noted there were also three WPLO applications submitted so far but Thursday, April 16, 2020 was the application deadline.

2. Status of enforcement activity.

Ms. Mozian noted the inclusion of Gillian Carroll's enforcement report. She added the staff is tracking a couple of new complaints and violations but those will be included in the next enforcement report.

3. Approval of February 19, 2020 meeting minutes.
The February 19, 2020 meeting minutes were approved with corrections.

Motion:	**Rycenga**		**Second:**	**Bancroft**	
Ayes:	**Rycenga, Bancroft, Carey, Davis, Perlman**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**5:0:0**

4. Approval of January 31, 2020 Show Cause meeting minutes.

The January 31, 2020 Show Cause meeting minutes were approved as submitted.

Motion:	**Rycenga**		**Second:**	**Bancroft**	
Ayes:	**Rycenga, Bancroft**				
Nayes:	**None**	**Abstentions:**	**Carey, Davis, Perlman**	**Vote:**	**2:0:3**

5. **222 Wilton Rd.** Application #IWW, WPL/E-10978-20 by Land Tech on behalf of FBCH Holdings, LLC to legalize a patio and fill within the 100 ft. upland review area.

Mr. Kelly reviewed the history of the parcel. He noted Ms. Mozian's staff report/memo. This parcel is part of a 2 lot subdivision and a free cut. In that subdivision, a previous Conservation Commission action required a 100-foot setback for this lot because of the slopes existing on the lot. The developer proposed a new house, deck, grading, drainage and a septic outside the required 100-foot setback and a permit was granted. The property is currently bank owned and the contract purchaser is now trying to get a Certificate of Occupancy. The existing conditions show that a patio, portion of the septic and the grading are within the 100-foot setback. Mr. Kelly reviewed the approved plans, the existing conditions plans and the proposed plans with the Commission. The proposed plans remove the septic out of the 100 foot setback but seek to legalize the patio and fill within this area. A split rail fence is also proposed at the top of the embankment.

Ms. Mozian stated that even if the Commission approves the encroachments; these encroachments will still need approvals from the Zoning Board of Appeals and the Planning & Zoning Commission. The neighbor at 5 River Lane has indicated concern that any work done is done with protection of his property in mind.

Ms. Rycenga stated she spoke with Ted Gill of the Engineering Department earlier in the day and he indicated that they want to see a structural engineer certify the steep slope created by the fill is stable as this fill was not approved or overseen at the time it was installed. This lot was the last to be built and was used as a stockpile area for the development of the subdivision.

Ms. Mozian reviewed the proposed resolution.

The Commission found that the patio and fill would have no adverse impact to the adjacent wetland and watercourse.

Motion to legalize patio and fill within the 100 foot setback with conditions including placement of a split rail fence on top of the embankment.

Conservation Commission
Town of Westport
Conditions of Approval
Application #IWW, WPL/E-10978-20
Address: 222 Wilton Rd. Assessor's Map C12, Lot 12
Date of Resolution: April 15, 2020

Motion: To approve Application #IWW, WPL/E-10978-20 to legalize a patio and fill within the 100 ft. upland review area with the following conditions and with the understanding that the septic system and drainage appurtenances installed within the 100 ft. upland review area will be relocated.

1. Conformance to Land Tech plans dated April 8, 2020 entitled "Proposed Site Improvement Plan" Sheet C-1.
2. Final inspection required by the Conservation Department.
3. The "Permit to Discharge" from the Westport-Weston Health District shall be submitted prior to issuance of a Conservation Certificate of Compliance.
4. Submission of Engineering Department approval prior to issuance of a Conservation Certificate of Compliance.
5. Any drainage piping within the 100 ft. upland review area shall be removed or abandoned in place. Abandoned pipes shall be cut and capped with concrete and inspected by the Engineering Department.
6. The split-rail fence shown on the plans shall be installed prior to issuance of a Conservation Certificate of Compliance.
7. Silt fence and haybales shall be installed as indicated on the April 8, 2020 Land Tech plan prior to commencement of work related to the relocation of the septic system and drainage system investigation, installation and abandonment as the case may be.

8. The slope adjacent to the rear or southern property line shall be fully stabilized as described on the April 8, 2020 Land Tech plan

Motion: Rycenga **Second: Perlman**
Ayes: Rycenga, Perlman, Davis, Bancroft, Carey
Nayes: None **Abstentions: None** **Vote: 5:0:0**

6. Other Business – **None**

The April 15, 2020 Public Hearing of the Westport Conservation Commission adjourned at 11:37 p.m.

Motion: Rycenga **Second: Perlman**
Ayes: Rycenga, Perlman, Bancroft, Carey, Davis
Nayes: None **Abstentions: None** **Vote: 5:0:0**