

Board of Selectmen Meeting
Notice & Agenda
July 8, 2020

Notice is hereby given that the Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority will hold a public meeting on Wednesday, July 8, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, there is no physical location for this meeting. It will be held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020. Emails to the Board of Selectmen prior to the meeting may be sent to selectman@westportct.gov. Comments to be read during the public comment portion of the meeting may be emailed to BOScomments@westportct.gov. We will use our best efforts to read public comments if they are received during the public comment period, include your name and are brief; no longer than 3 minutes. Agenda to include but not be limited to the following and subject to revision:

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting of June 24, 2020.
2. To take such action as the meeting may determine, upon the request of the Westport Arts Advisory Committee and in accordance with the Policy for Gifts to the Town, to approve the acceptance of the bronze, *Pas des Deux* (2002) and a pair of terracotta bas reliefs, *Children's Stories I* and *Children's Stories II* (early 1990s), from the estate of Steffi Friedman to the Town of Westport Permanent Art Collection.
3. To take such action as the meeting may determine and in accordance with the conditions stated in the original Board of Selectmen application approval on June 10, 2020, to review, reevaluate and approve additional dates for the use of Town Property known as the Imperial Avenue Parking Lot for the Remarkable Theatre's drive-in movie event(s) in accordance with the Policy on the Use of Town Property, Facilities and Public Roadways.

Item #4 submitted after Westport News Publication Deadline

4. To take such action as the meeting may determine and in accordance with the conditions stated in the original Board of Selectmen application approval on June 16, 2020, to approve the request from the Westport Weston Chamber of Commerce to use Town property known as Imperial Avenue Parking Lot for additional "Supper and Soul Car Concerts" on August 7, 2020 and August 8, 2020 (rain date August 9, 2020) contingent upon compliance with comments and safety recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways.

Item #5 submitted after Westport News Publication Deadline

5. To take such action as the meeting may determine to approve an amendment to the Community Block Grant (CDBG) Program Westport Citizen Participation Plan as it relates to notice of public hearings.
6. To take such action as the meeting may determine to approve the amendment to the existing contract between the Town of Westport and J&M Transfer of Exeter, Rhode Island, for removal of sludge from the Water Pollution Control Facility.

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or eflug@westportct.gov at least three (3) business days prior to the scheduled meeting or event to request an accommodation.

7. Acting in its capacity as the Water Pollution Control Authority, to take such action as the meeting may determine to review and approve or deny the Re-Application of Summit Saugatuck, LLC for Extension of Private Sewer from Davenport Lane to Hiawatha Lane Extension; Allocation of Sewer Capacity; and Approval to Connect Residential Development, dated February 7, 2020.

James S. Marpe
First Selectman
July 2, 2020

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ITEM #1

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting of June 24, 2020.

Board of Selectmen Meeting
June 24, 2020
MINUTES (DRAFT)

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public meeting on Wednesday, June 24, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, there was no physical location for this meeting. It was held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020. In attendance were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Sue Pfister, Peter Ratkiewich, Bryan Thompson, and Eileen Francis, recording secretary.

MINUTES

1. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's Public Meeting of June 10, 2020 and the Special Meeting of June 16, 2020 are hereby APPROVED.

APPROVE AGREEMENT BETWEEN THE TOWN AND CCFC FOR CONGREGATE MEALS PROGRAM SUPPORT

2. Director of the Westport Center for Senior Activities Sue Pfister presented Item #2. Ms. Pfister explained the program and the agreement, which is the same as previous years with the exception of the frozen to go meals. Assistant Town Attorney Eileen Flug confirmed it passed legal review. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Agreement between the Town of Westport and Catholic Charities of Fairfield County, Inc. (CCFC) as it relates to providing (i) Frozen to Go Meals, (ii) meals for the Congregate Meals Program, and (iii) a dishwasher for the Westport Center for Senior Activities Meal Program as part of the CCFC Senior Nutrition Program to support Congregate Meals under the Older Americans Act Nutrition Program is hereby APPROVED.

Items 3 – 7 acting in its capacity as the Water Pollution Control Authority:

ITEMS 3-7 were presented by WPCA Collection Systems Supervisor Bryan Thompson.

APPROVE SANITARY SEWER CONNECTION AND ASSIGN SUPPLEMENTARY BENEFIT ASSESSEMENT AT 19 WOODSIDE AVENUE

3. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the sanitary sewer connection request for an accessory apartment and assignment of an additional supplemental sanitary sewer benefit assessment for property located at 19 Woodside Avenue, contingent upon compliance with the WPCA Collection System Supervisor's letter of June 15, 2020 is hereby APPROVED.

APPROVE SANITARY SEWER CONNECTION AT 161 COMPO ROAD SOUTH

4. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the sanitary sewer connection request for property located at 161 Compo Road South, contingent upon compliance with the WPCA Collection System Supervisor's letter of June 15, 2020 is hereby APPROVED.

APPROVE SANITARY SEWER CONNECTION AT 14 HILLANDALE ROAD

5. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the sanitary sewer connection request for property located at 14 Hillandale Road, contingent upon compliance with the WPCA Collection System Supervisor's letter of June 15, 2020, as revised and corrected to reflect the correct roadway (FROM "Sunrise Road" TO "Hillandale Road" in first paragraph), is hereby APPROVED.

APPROVE SANITARY SEWER CONNECTION AT 6 SALEM LANE

6. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the sanitary sewer connection request for property located at 6 Salem Lane, contingent upon compliance with the WPCA Collection System Supervisor's letter of June 15, 2020 is hereby APPROVED.

APPROVE SANITARY SEWER CONNECTION AT 15 MAPLE AVENUE NORTH

7. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the sanitary sewer connection request for property located at 15 Maple Avenue North, contingent upon compliance with the WPCA Collection System Supervisor's letter of June 15, 2020 is hereby APPROVED.

REVISION 1 – ITEM ADDED 06-22-2020

WAIVE LOW BID AND APPROVE AWARD OF CONTRACT FOR REPLACEMENT OF KINGS HIGHWAY BRIDGE

8. Director of Public Works Peter Ratkiewich presented Item #8. Mr. Ratkiewich provided background of the project. He explained that the low bidder was unable to complete the project within the timeline. FGB is able to perform the work starting immediately and within the deadline. Mr. Ratkiewich indicated that the bids were lower than the requested appropriation. Upon motion by Jim Marpe, seconded by Melisa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the waiver of the low bid and award of contract for the replacement of the Kings Highway Bridge over Willow Brook in the amount of \$1,447,756.00 to FGB Construction, in accordance with the letter from Public Works Director Peter Ratkiewich, dated June 22, 2020, is hereby APPROVED.

ADJOURNMENT

Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, the meeting adjourned at 9:50 AM.

Eileen Francis, Recording Secretary

DRAFT

ITEM #2

2. To take such action as the meeting may determine, upon the request of the Westport Arts Advisory Committee and in accordance with the Policy for Gifts to the Town, to approve the acceptance of the bronze, *Pas des Deux* (2002) and a pair of terracotta bas reliefs, *Children's Stories I* and *Children's Stories II* (early 1990s), from the estate of Steffi Friedman to the Town of Westport Permanent Art Collection.

June 29, 2020

Nancy Diamond
Co-chair
 Richard Epstein
Co-chair

Kathie Bennewitz
 Miggs Burroughs
 Eric Chiang
 Frederick Chiu
 John Dodig
 Lee Goldstein
 Dierdre Kelly
 Dierdre Price
 Kelle Ruden
 Carole Schweid

Elizabeth Strick
 Jim Marpe
First Selectman

Dear First Selectman Jim Marpe,

In accordance with the Policy on Gifts to the Town, Section 3(c), please accept the recommendation of the Westport Arts Advisory Committee of October 8, 2019, for the gift from the Estate of Steffi Friedman the bronze, *Pas des Deux* (2002) and pair of terracotta bas reliefs *Children's Stories I* and *Children's Stories II* (early 1990s) by Steffi Friedman (illustrated and described below) be accepted by the Town of Westport for the Town of Westport Art Collection.

Framing of the bas reliefs and transport (December 4, 2019) of the bronze from the late artist's Westport residence to Staples High School for temporary custody and storage has been covered by the estate as will its final installation at SHS interior courtyard.

Sincerely,
 Kathleen Motes Bennewitz, Town Curator

cc: Nancy Diamond & Richard Epstein, WAAC co-chairs; E Flug; Randa Trivisonno, WestPAC chair; Amy Kaplan, RTM LAM chair



Steffi Friedman (1925-2019)
Pas de Deux, 2002
 Bronze, edition 2 of 3
 64 in. h x 44 in. w by 40 in. d (40 in. x 44 in. base)
 Signed in bronze base: "Steffi Friedman ©2002 2/3"
 Value: \$5,000.00 by estate appraisal no. 62
Current Location: Staples High School, Facilities Storage (intended for SHS theater courtyard)



Steffi Friedman (1925-2019)
Children's Stories I and II, c. early 1990s
 Terracotta
 10 X 16 x 2.5 inches
 Framed in shadow box (2019): 16 in h x 21 in w x 4.75 in. d.
 Value: \$250.00 (each) by estate appraisal, nos. 44, 45
Current Location: Children's Library, Westport Library (on loan)



Nancy Diamond
Co-chair

Richard Epstein
Co-chair

Kathie Bennewitz

Miggs Burroughs

Eric Chiang

Frederick Chiu

John Dodig

Lee Goldstein

Dierdre Kelly

Dierdre Price

Kelle Ruden

Carole Schweid

Elizabeth Strick

Jim Marpe
First Selectman

ABOUT THE ARTIST

Steffi Friedman (1925-2019) had been a Westport resident since 1952 and took part in innumerable community activities. She was best known for her artistic talent and love of teaching. She was renowned sculptor and teacher, and her commissioned works are represented in more than 150 institutional and private collections throughout the country and worldwide.

In Westport her sculpture can be viewed in the courtyard at Temple Israel. Her work is characterized by her sensitive and versatile artistic nature and focus on motion and emotion. Known for her figurative sculpture and portraiture, she enjoyed working in many media, including stone, bronze, terra cotta and cast glass.

For over decades, she taught private classes from her home studio and at CAMP TERRA COTTA in VT, where she instructed students in both figurative and abstract concepts, in terra cotta wax, castelene and stone. Among other activities, she was a president of the Connecticut Society of Sculptors and volunteer teacher at Neighborhood Studios in Bridgeport, where she was most proud of her inner-city pupils and the positive effect she was able to have on their lives.

Steffi was born in Berlin, Germany in 1925, and along with her parents and sister she was able to leave Germany two weeks before Kristallnacht. She lived in Amsterdam (where she lived just two blocks away from Anne Frank's house from October of 1938 until the end of April 1939) and Panama before emigrating to Kew Gardens, New York.

She graduated from the Pratt Institute and worked as a commercial artist before marrying and moving to Westport, Connecticut. He continued her study of sculpture throughout her life, taking course at the Art Students League, Columbia University, Silvermine School of Art, and under Westport based sculptor Stanley Bleifeld.

ITEM #3

3. To take such action as the meeting may determine and in accordance with the conditions stated in the original Board of Selectmen application approval on June 10, 2020, to review, reevaluate and approve additional dates for the use of Town Property known as the Imperial Avenue Parking Lot for the Remarkable Theatre's drive-in movie event(s) in accordance with the Policy on the Use of Town Property, Facilities and Public Roadways.

Francis, Eileen

From: Tooker, Jennifer
Sent: Monday, June 29, 2020 7:34 PM
To: Doug Tirola; Derman, Marina
Cc: Francis, Eileen
Subject: Request to Be Placed on the 7/8/20 BOS Meeting Agenda

Hi Marina and Doug -

I understand you would like to come before the BOS again as you are coming to the end of your 4 screening "pilot and you would like to continue screenings throughout the summer.

Please submit a plan for the rest of the summer - all dates and times you would like to show movies (remembering the Farmers Market operates on Thursdays until 4pm). Also, please include the date you will dismantle the screen and other equipment in the Imperial Lot. Lastly, please include what Town resources you need going forward throughout the rest of the summer.

If you could submit this by Wednesday, 7/1, Eileen Francis will be able to request feedback from all appropriate Town Departments on how the first few screenings have gone, and have them react to your plans for the summer.

You do not need to use the standard application form you submitted before. I believe a Word document with a narrative capturing the above information will be sufficient.

Many thanks.

Jen

Sent from my iPhone

ITEM #4

4. To take such action as the meeting may determine and in accordance with the conditions stated in the original Board of Selectmen application approval on June 16, 2020, to approve the request from the Westport Weston Chamber of Commerce to use Town property known as Imperial Avenue Parking Lot for an additional “Supper and Soul Car Concert,” (date(s) TBD) contingent upon compliance with comments and safety recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways.



EVENT CHECKLIST

| | |
|--------------------------|--|
| Day, Date, Time of Event | Friday, July 3 and Rain date, Sunday July 5, 2020, 6:00 – 8:00 PM |
| Event | Supper & Soul Drive In Concert |
| Town Property | Imperial Lot |
| Event organizer | Westport Weston Chamber of Commerce |
| Organizer Contact Info | Matthew Mandell matthew@westportwestonchamber.com |
| Set Up/Breakdown Times | 2:00 PM – 10:00 PM |
| Req to Depts Sent | 6/10/2020 |
| BOS Approval Date | 6/16/2020 |
| FINAL APPROVAL DATE | 6/30/2020 |
| | |

| | Date |
|---------------------------------------|-----------------------------|
| Processing Fee | |
| Bond | Roll |
| Verified COI | 6/17/20 |
| Verified Hold Harmless | 6/29/20 not notarized |
| 3 rd Party (if Applicable) | N/A |
| Map/Route/Set-Up | 6/11/20 |
| After Action Report | |
| Bond Returned | |

| | |
|---|-----|
| Approvals/Comments (see att) | ✓ |
| Chief of Police | ✓ |
| Fire Chief | ✓ |
| Director of Public Works | ✓ |
| Director of Parks and Recreation | ✓ |
| Director of Westport/Weston Health District | ✓ |
| Westport Library | n/a |

APPLICATION FOR USE OF TOWN-OWNED PROPERTY, FACILITIES AND/OR PUBLIC ROADWAYS
 Completed applications must be submitted no later than 90 days in advance of scheduled event.
 Applications not received 90 days in advance of scheduled event may not be approved.

NAME OF NON-PROFIT ORGANIZATION: Westport Weston Chamber of Commerce

FUNDRAISING ENTITY: (If applicable) _____

ADDRESS: 41 Riverside Ave

CONTACT: NAME: Matthew Mandell CELL NUMBER: 718-757-6621

E-MAIL ADDRESS: Matthew.Mandell@westportweston.com

NAME OF EVENT: Support & Soul Drive in Concert

INDIVIDUAL IN CHARGE ON-SITE ON DAY OF EVENT: NAME: Matthew Mandell CELL NUMBER: 718-757-6621

OF PARTICIPANTS: 300 Admission Charge (IF ANY): TBA

DATE(S) OF EVENT: July 3, 2020 July 5, 2020

START DATE AND TIME: 2am (including set up) END DATE AND TIME: 10am Show 6-8pm (including breakdown)

TOWN PROPERTY AND/OR ROAD(S) TO BE USED: Imperial lot

****A LEGIBLE MAP OF THE ROUTE AND/OR EVENT SET-UP (INCLUDING PLACEMENT OF TENTS AND EQUIPMENT ON THE TOWN-OWNED PROPERTY) MUST ACCOMPANY THE APPLICATION.**

Please check any of the following that will be brought onto, provided, or used at the event:

Food/Beverages _____ Alcohol _____ Drones _____ Automobiles Tents _____
 Bouncy House _____ (Requires professional installation and trained staff on site.)

Third parties providing any of the above are required to sign the Town's Indemnity/Hold Harmless and provide insurance.

BELOW FOR OFFICE USE ONLY:

| | | | |
|---|---|------|------------------|
| INSURANCE & INDEMNITY AGREEMENT RECEIVED: | <u>Eileen Flug</u> | DATE | <u>6/29/20</u> |
| APPROVALS: | <u>[Signature]</u> Eileen Lavigne Flug, Assistant Town Attorney | | |
| | <u>[Signature]</u> Board of Selectmen/Traffic Authority/BOS Office | | <u>6/30/2020</u> |
| | (BOS Approval Date, if applicable) | | |

| Approvals/Comments | Date |
|---|------|
| Chief of Police | |
| Fire Chief | |
| Director of Public Works | |
| Director of Parks and Recreation | |
| Director of Westport/Weston Health District | |
| Westport Library | |

| | Completed |
|--------------------------|-----------|
| Processing Fee (\$100) | |
| Certified Check (\$1000) | |
| Certificate of Insurance | |
| Indemnity/Hold Harmless | |
| Map/Route/Set-Up | |
| After Action Report | |
| Certified Check Returned | |



WESTPORT

DEPARTMENT RESPONSES

| | |
|--------------------------|---|
| Day, Date, Time of Event | Friday, July 3 and rain date Sunday 5, 2020, 6:00-8:00 PM |
| Event | Supper & Soul Drive In Concert |
| Town Property | Imperial Lot |
| Event organizer | Westport Weston Chamber of Commerce |
| Organizer Contact Info | Matthew Mandell |
| Set Up/Breakdown Times | 2:00 PM – 10:00 PM |
| Req to Depts Sent | 6/10/2020 |

| | | |
|-----------|-----------------------------|---|
| DATE: | | |
| 6/12/2020 | <u>POLICE:</u> | <p>The Police Department has no problem with this request as long as the applicant adheres to the application. This department has spoken and met with Mr. Mandell multiple times about the event. Al</p> |
| 6/17/20 | | <p>I have no issue with this going forward however, the “sick station” should either be manned by EMS or the Health Department.</p> <p>Jillian</p> |
| 6/11/2020 | <u>FIRE:</u> | <p>From a Fire stand point, ok. Nate in his capacity of COVID Enforcement may have other concerns. R. Yost</p> <p>Please ensure the estimated audience count (240) complies with the Governor’s Covid orders in effect on the date of the concert.</p> <p>I recommend that the “Covid Station” be a dedicated position and not have other responsibilities (security, traffic). It may be difficult to enforce social distancing in an open parking lot at a concert. People like to dance (and need to at this time).</p> <p>Hopefully the permitted “gathering count” will be large enough on 7/4 that this will all be moot. Nathaniel Gibbons</p> |
| 6/15/2020 | <u>PUBLIC WORKS:</u> | <p>The lot must still be cleaned after every event. If trash barrels ultimately do get utilized, they must have locking covers, otherwise the seagulls and other birds will redistribute the trash after the concert goes have left and before the hauler arrives. The hauler, if used must remove the trash no later than the next morning. If events happen on Wednesday nights the lot must be made ready for the Farmers market the next day. If the lot is not cleaned up the organization will be charged for a full sweep of the lot by Public Works. The organizers should budget</p> |



WESTPORT

DEPARTMENT RESPONSES

| | | |
|-----------|--------------------------------|--|
| | | <p>for that contingency in their plan. Other than lot cleanliness this office has no other issues. Peter Ratkiewich</p> |
| 6/11/2020 | <u>PARKS & REC:</u> | <p>Based on the application, this is requesting to allow 70 cars with multiple people per car (at per car approx.. 280 people). At the current time, this request is in excess of the gathering requirements set forth in EO 7TT (currently 25 people). This is expected to increase by the date of the event, but this should be cleared through legal/state or some entity to ensure that it is in compliance, especially as it is stating people will not remain in their cars (as is the case with various drive-in movies that are taking place around the state). Jennifer A. Fava</p> |
| 6/12/2020 | <u>WWHD:</u> | <p>The Westport Weston Health District has no objection to the proposed use of town property for the event outlined. However, Under Governor Lamont's Executive Order 7PP, I am not sure if local Health has any jurisdiction regarding operations of Non-Public Health Facilities, under Section 2b. of that Order. The Chamber should also contact the State Department of Economic and Community Development for any questions concerning whether this proposal meets their guidelines. Mark A.R. Cooper,</p> |
| | <u>LIBRARY:</u> | N/A |

June 10, 2020

Board of Selectmen:

This is an application for the use of Town Property, known as the Imperial lot. Once again the Westport Weston Chamber of Commerce is collaborating with the Westport Library to produce another Supper & Soul, Dinner and Concert. This time though, due to the Covid-19 pandemic, we are looking to use an outdoor venue to create a socially distant and safe experience for the community. As you know the Chamber has run a number of large outdoor events including 9 Slice of Saugatucks, 4 Dog Festivals as well as the Blues Views and BBQ which was run on this very Imperial Lot. We are experienced event organizers.

Slated for Saturday July 4th, Independence Day, we are proposing to do a "Drive In Car Concert." Something totally new and engaging, while still meeting all rules laid down for events under Phase II of the State's ReOpening. The show hours would be 6pm - 8pm. A band has been selected as well as a sound team. Set up would begin by 2pm and breakdown by 10pm (those times estimated). We ask the lot to be closed Friday night.

Logistics:

This will be a ticketed event, this adheres to State Rules.

70 cars would be placed in a checker board pattern, north to south utilizing the current lines for parking in the lot. 4-5 person per car maximum (tba). Use would be every other row and every other column. This would be less than 50% of the current capacity. This also keeps drive paths available. Patrons would exit their cars and set up chairs in front of their cars in the empty space to enjoy the show. This would create social distancing of 9 feet side to side and over 12 feet front to back between parties and still allow space to stand in their delineated box. This spacing far exceeds state health rules for social distancing, ie 6 feet between parties dining at a restaurant. We would work with the Police to alert commuter users of the lot that no parking will be allowed during the weekend of the event.

Patrons would not leave their space except to utilize the bathroom - 2 porto potties will be placed for the show. They would be cleaned regularly. Patrons will be well aware of this provision and intermingling between groups will not be allowed. No one would be allowed to sit on their cars or in truck beds.

Gate opening time would 5pm. Cars would line up along the driveway into the lot. We would utilize the lower imperial lot to park staff cars and aid in the line up of the patrons' cars. Staff would guide each car to its designated space, starting at the front and moving back as each row is filled. At the end, staff would guide each car out in an organized

manner, again front to back row by row. The second lot would also afford access and egress for emergency vehicles.

One Police officer will be hired to aid in traffic in and out, as well as be on site for security. A manned "Covid Station" will be on site, as per State Rules, and this officer would be the first contact, if there was an ill individual, to then call EMS. 2 private unarmed security personnel will also be hired to secure the area from unticketed and/or walk in persons. Only people in cars will be allowed onto the site.

No food or beverages will be sold on site. As this is a Supper & Soul event, Take Out Dinner would be part of this event, but probably not built into the ticket price. All patrons would be instructed to carry in and carry out their garbage. Nonetheless we will clean up the lot after the event.

Stage / Band - A flat bed truck will be used as the stage. Use of this is being donated by a local company. Electricity will be provided by a generator. This will be checked by the Fire Marshal for proper grounding. No lighting will be needed as this show is during daylight hours. Small 10x10 tents will be used for the band and staff.

Sound - This will be a rock concert. It is anticipated that sound will carry beyond the area of the concert. We are well aware of the protocols and procedures instituted by the Levitt Pavilion and will follow those. We also realize this is not the enclosed Levitt and will have to be extra attentive. The concert is set to run from 6pm - 8pm in early evening, purposefully to ensure it is done before night fall. We anticipate there will be those who will still find this objectionable, but hope all will understand this is being done to keep our community moving forward during this crisis. This will not be a daily, or even weekly event. If successful, maybe there would be one more during the summer.

As both the Chamber and Library are non profits we meet the eligibility to request this event. It is anticipated that a third local non profit may receive a donation from proceeds, but who and what amount has not been determined.

Discussions have already begun with Town officials: Police, Fire, Public Works and Health. We look forward to working with them further to ensure a fun, safe and healthy event.

We look forward to meeting with you and to be approved for this new event.

Thank You,



Matthew Mandell
Executive Director
WWCC

CC: Bill Harmer Westport Library



Band Staff

STAGE

Portos

Covid Station

Entrance Exit

Emergency Exit

Staff Parking

APPROVED



TO: Finance Department

FROM: Donna Douglass
Selectman's Office

DATE: June 10, 2020

SUBJECT: Use of Town Roads BOND ROLLOVER

The Westport Weston Chamber of Commerce has a \$1000.00 bond on file. Please rollover that bond to accommodate its request for the Use of the Town Property for its Supper & Soul Drive In Concert to be held on July 4 & 11, 2020.

APPROVED



WESTPORT, CONNECTICUT

James S. Marpe
First Selectman

EVENT PERMITTEE
INDEMNITY AND HOLD HARMLESS AGREEMENT

(revised March 2018)

This Indemnity and Hold Harmless Agreement ("Agreement") is made this 29 day of June, 2020, by Westport Westport Chamber of Commerce ("Indemnitor") of 4 Riverside Ave, Westport, CT (address) for the benefit of the Town of Westport, a municipality in the State of Connecticut ("Town").

WHEREAS, Indemnitor has submitted an application (the "Application") for the Town's permission to use athletic facilities, parks, public roads, the Wakeman Town Farm, and/or other Town-owned property (the "Premises") for the purpose of

Drive in Car Concert @ Imperial Park, lot (the "Event") beginning Friday July 3rd (earliest start date, including set-up) and ending Sunday July 5th (latest end date including breakdown and rain date),

OR

WHEREAS, Indemnitor has requested permission to hang a banner (the "Banner") across Main Street or at Luciano Park or Compo Beach or at location on (date(s)),

NOW THEREFORE, in consideration of Indemnitor's receipt of said permission from the Town, Indemnitor agrees as follows:

- 1. Permission to use the Premises for the Event or permission to hang the Banner, as the case may be, may be revoked by the Town immediately upon the breach by Indemnitor of any term of this Agreement or any term or condition of the approved Application. This Agreement shall survive any such revocation, and Indemnitor shall remain bound by the terms of this Agreement.
2. Indemnitor shall indemnify, defend and hold harmless the Town and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers and representatives, to the fullest extent permitted by law, from and against any and all losses, claims, allegations, actions, awards, costs and expenses (including but not limited to, court costs and attorney's fees), judgments, subrogations and damages of every kind and character which may arise out of or result from, in whole or in part, Indemnitor's use of the Premises or hanging of the Banner, as the case may be, or from the negligent or willful acts or omissions of the Indemnitor or any of its employees or agents, subcontractors, third parties invited or authorized by the Indemnitor to participate at the Event, and/or anyone else for whose acts Indemnitor may be liable, in connection with the Indemnitor's use of the Premises or the hanging of the Banner, as the case may be.
3. Indemnitor shall (i) make no improvements or alterations to the Premises without specific prior written approval from the Town's First Selectman or the Director of Parks and Recreation, (ii) relinquish use of the Premises

upon expiration or termination of the Event in the same condition as it was prior to its entrance on the Premises, (iii) remove all litter, trash and other refuse from the Premises following the conclusion of its use, and (iv) use the Premises in strict compliance with the terms and conditions of the approved Application and all policies, procedures and conditions relating to the use of Town-owned properties, and in accordance with all applicable laws, rules, regulations and ordinances of all governmental authorities.

4. Indemnitor shall safeguard all who come upon the Premises and shall protect against any personal injuries and property damage resulting from Indemnitor's use of the Premises.
5. Indemnitor shall obtain the following insurance coverages from companies with an A.M. Best rating of A- (VII) or better:
 - a. **Commercial General Liability insurance** including Products and Completed Operations. Limits shall be at least: **Bodily Injury & Property Damage with an occurrence limit of \$1,000,000; Personal & Advertising Injury limit of \$1,000,000 per occurrence; General Aggregate limit of \$2,000,000 (other than Products and Completed Operations) per location; and Products and Completed Operations aggregate limit of \$2,000,000.**
 - i. If drones are permitted at, on or above the Premises, this coverage must include **drone liability insurance** for the limits above.
 - ii. If children at the Event will be under the care, custody or control of the Indemnitor or any employee, volunteer, or other agent of the Indemnitor or any subcontractor of the Indemnitor, this coverage shall include **Abuse and Molestation liability insurance** with a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for the actual or threatened abuse or molestation of anyone or any person while in the care, custody or control of any Indemnitor.
 - iii. If alcoholic beverages will be sold, provided and/or served and either (i) a fee is charged for the Event or (ii) an alcoholic beverage permit is obtained, **Liquor Liability insurance** in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, unless the Event is scheduled as an exception to the liquor liability exclusion on the Commercial General Liability policy.
 - iv. If automobiles are an integral part of the Event (car shows, road rallies, touch-a-truck, filming from automobiles, and the like), **Automobile insurance** in the amount of \$1,000,000 each accident combined single limit covering bodily injury and property damage for all owned, hired and non-owned autos.
 - v. If Indemnitor has employees, **Workers Compensation insurance** required by statute with Employer's Liability limits for at least the amounts of liability for bodily injury by accident of \$500,000 each accident, bodily injury by disease of \$500,000, and \$500,000 disease aggregate, including a waiver of subrogation in favor of the Town.
 - vi. If Indemnitor is renting a Town building, **Damage and Rented Premises insurance** in the amount of \$500,000 per occurrence.
6. Indemnitor shall provide the Town with Certificate(s) of Insurance on Acord 25 (2016/03) or later edition evidencing all insurance policies required by this Agreement, and all such Certificate(s) of Insurance, shall:
 - a. Name the "Town of Westport" as an **additional insured** and include ISO Form CG 2010 (04/13) and CG 2037 (04/13) or equivalent (except that this is not required for Workers Compensation insurance), and
 - b. Be provided on an **occurrence basis** and will be **primary and shall not contribute** in any way to any insurance or self-insured retention carried by the Town, and
 - c. Contain a **waiver of subrogation** in favor of the Town, and
 - d. Contain a **broad form contractual liability** endorsement or wording within the policy form to comply with the hold harmless and indemnity obligations of Indemnitor under this Agreement, and
 - e. Declare all **deductible and self-insured retentions**, and all such deductibles and self-insured retentions are subject to the approval of the Town.

- f. Show that policies are in effect for all of the days of the Event; otherwise a renewal certificate is required.
- g. Require notice of cancellation to the Town according to policy provisions.

7. If a high risk third party, as determined by the Town, (e.g., tent provider, bouncy house provider, valet parking service, fireworks provider) will be authorized to participate at the Event, the third party shall execute and deliver a separate Indemnity and Hold Harmless Agreement and provide the insurance coverages required hereby.

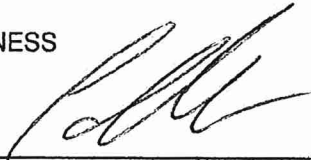
8. This Agreement and the Town's permission to use the Premises or hang the Banner, as the case may be, shall not be assigned by Indemnitor without the prior written approval of the Town's First Selectman, the Director of Parks and Recreation, or the Farm Director.

9. This Agreement and the Application and the Town's policies and procedures supersede any and all prior agreements and understandings with the Indemnitor regarding the subject matter of this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Connecticut. No provision of this Agreement shall be deemed waived by the Town unless the waiver is in writing and signed by the Town's First Selectman or the Director of Parks and Recreation. Any provision of this Agreement that is deemed unenforceable by a court of competent jurisdiction shall be deemed amended and construed to have a valid meaning that is the most protective to the Town, and if no such validating construction is possible shall be severed from this Agreement, and the enforceability of the remaining provisions shall not be impaired thereby.

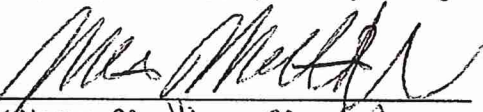
This Agreement shall be binding on Indemnitor and its heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Town of Westport and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers, representatives and assigns.

WITNESS

INDEMNITOR


 Print Name: Cara Aboes
 Print Address: 18 Ferry Lane East

Westport Western Chamber of Commerce
 Print Name of Indemnitor (the entity holding the Event)

By 
 Print Name: Matthew Mandel
 Print Title: Executive Director

STATE OF CONNECTICUT)

) ss:

Westport, Connecticut, June 29 2020

COUNTY OF FAIRFIELD)

Personally appeared _____ signer(s) and sealer of the forgoing instrument, and acknowledged before me the same to be his/her/their free act and deed, and acknowledged before me that he or she is authorized to execute this agreement on behalf of Indemnitor and to bind Indemnitor to its terms and that he or she holds the title with Indemnitor that is written below his or her name above.

 Notary Public
 Print Name:
 Print Address:
 My Commission Expires: _____
 Commissioner of the Superior Court

Re: Concert Insurance WWCC

Flug, Eileen <eflug@westportct.gov>

Wed 6/17/2020 4:58 PM

To: Matthew Mandell <matthew@westportwestonchamber.com>; Francis, Eileen <efrancis@westportct.gov>; Douglass, Donna <ddouglass@westportct.gov>; Fulton, Amy <afulton@westportct.gov>

I'm ok waiving the notary requirement during the COVID emergency. Would you please send it to me so I can review it?

Thanks,
Eileen

Eileen Lavigne Flug
Assistant Town Attorney
Town of Westport
110 Myrtle Avenue
Westport, CT 06880
203-341-1043

From: Matthew Mandell <matthew@westportwestonchamber.com>
Sent: Wednesday, June 17, 2020 4:54 PM
To: Flug, Eileen <eflug@westportct.gov>; Francis, Eileen <efrancis@westportct.gov>; Douglass, Donna <ddouglass@westportct.gov>; Fulton, Amy <afulton@westportct.gov>
Subject: RE: Concert Insurance WWCC

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hold harmless submitted and witnessed, but not notarized. Don't have access to a notary during covid. Let me know what you want to do?

From: Flug, Eileen [mailto:eflug@westportct.gov]
Sent: Wednesday, June 17, 2020 4:50 PM
To: Francis, Eileen; Douglass, Donna; Fulton, Amy
Cc: Matthew Mandell
Subject: Fw: Concert Insurance WWCC

The attached insurance for the outdoor Supper and Soul event passes legal review. I have not yet seen the hold harmless.

Eileen Lavigne Flug
Assistant Town Attorney

ITEM #5

5. To take such action as the meeting may determine to approve an amendment to the Community Block Grant (CDBG) Program Westport Citizen Participation Plan as it relates to notice of public hearings.

TOWN OF WESTPORT PARTICIPATION PLAN

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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SECTION 1. INTRODUCTION

The Town of Westport has designed this community-wide Citizen Participation Plan to provide for and encourage citizen participation in the Community Development Block Grant (CDBG) program. This Plan is an essential element of the Town of Westport's present and future community development process and has been developed to comply with the regulations and requirements of the CDBG program as administered by the Connecticut Department of Housing (DOH) and the U.S. Department of Housing and Urban Development (HUD). This Plan supersedes all other Citizen Participation Plans, which may have been adopted by the Board of Selectmen.

The primary goal of this Citizen Participation Plan is to provide all citizens of the community with adequate opportunity to participate in an advisory role in the planning, implementation, and assessment of the Town of Westport's CDBG program(s). The Plan sets forth policies and procedures for citizen participation, which are designed to maximize the opportunity for citizen participation in the community development process. Special emphasis has been placed on encouraging participation by persons of low and moderate incomes, residents of blighted neighborhoods, and residents of areas where community development funds are utilized.

Citizens are encouraged to participate in all phases of the CDBG program(s) and will be provided full access to program information. However, final responsibility and authority for the development and implementation of CDBG program(s) will lie with the Board of Selectmen. The Town of Westport will carry out its goals and duties under this Participation Plan in compliance with the Connecticut Freedom of Information Act.

SECTION 2. SCOPE OF PARTICIPATION

The Town of Westport will make reasonable efforts to provide for citizen participation during the community development process and throughout the planning, implementation and assessment of all CDBG program(s) undertaken by the Town of Westport. Local officials will make every effort to involve citizens in all phases of the development, implementation and assessment of community development programs including, but not limited to, the following phases:

- a. identification and assessment of housing and community development needs; determination of CDBG project(s) and documentation; and the development of CDBG application(s);
- b. changes and/or amendments to approved CDBG projects; and,
- c. assessment of CDBG program performance.

All phases of the community development process will be conducted by local officials in an open manner. Citizens of the Town of Westport are encouraged to participate at all levels and will be given access to program information during each phase of any CDBG program as outlined herein.

SECTION 3. CITIZEN PARTICIPATION CONTACT PERSON

Elaine Daignault, Director of The Department of Human Services, has been designated Citizen Participation Coordinator by the First Selectman and will serve as the contact person for all matters concerning citizen participation activities. This person shall be responsible for overseeing citizen participation throughout the community development process and the implementation of all citizen participation activities and functions, except those, which may be specifically delegated to other parties by this Plan.

The specific duties and responsibilities of the Citizen Participation Coordinator shall include, but not necessarily be limited to:

- disseminating information concerning proposed projects and the status of current project activities;
- coordinating various groups which may be participating in the community development process;
- receiving written comments;
- serving as a vehicle by which ideas, comments, and proposals from local residents may be transmitted to local officials and/or program staff;
- and, monitoring the citizen participation process and proposing such amendments to the Citizen Participation Plan as may be necessary.

The Citizen Participation Coordinator may be contacted at Westport Town Hall, 110 Myrtle Avenue, Westport, CT 06880, (203) 341-1050 during regular business hours. All questions concerning citizen participation in the community development process should be addressed to the Citizen Participation Coordinator.

SECTION 4. TECHNICAL ASSISTANCE

The staff of the Town of Westport shall provide technical assistance to individual citizens and citizen groups, especially those groups representative of persons of low or moderate income, as may be required to adequately provide for citizen participation in the planning, implementation and assessment of CDBG program(s).

Such technical assistance is intended to increase citizen participation in the community development decision-making process and to ensure that such participation is meaningful. Technical assistance shall also be utilized to foster public understanding of CDBG program requirements.

Technical assistance shall be provided on request and may include, but not necessarily be limited to: interpreting the CDBG program and its rules, regulations, procedures and/or requirements; providing information and/or materials concerning the CDBG program; and, assisting low and moderate income citizens, and residents of blighted neighborhoods to develop statements of views, identify their needs, and to

develop activities and proposals for projects which, when implemented, will resolve those needs.

Technical assistance may be obtained by contacting the Citizen Participation Coordinator.

SECTION 5. PUBLIC HEARINGS

Citizen participation in the community development process will be conducted on a community-wide basis and will actively involve the views and proposals of all citizens, especially low and moderate-income persons and residents of areas where CDBG activities are proposed or on going.

Public hearings will be held during all phases of the community development process, as outlined herein, to allow citizens to voice opinions and offer proposals concerning the development and performance of CDBG programs. Local officials will respond to questions and proposals from citizens at each public hearing. Any questions that citizens may have concerning a program will be answered and their comments, suggestions, and/or proposals will be received. Citizens may also express comments and views concerning the community development process or any specific CDBG project to the governing body at any regularly scheduled meeting.

5.1 Public Hearing Times and Locations

All public hearings will be held at times and locations, which will be accessible to all citizens, especially persons of low and moderate incomes, and residents of blighted neighborhoods and CDBG, project areas.

Public hearings will be scheduled for convenient times as determined by the Citizen Participation Coordinator. Public hearings may be held at any site, which, in the opinion of the Citizen Participation Coordinator, provides adequate access for citizen participation.

Hearings will normally be held at the Westport Town Hall, 110 Myrtle Avenue, Westport, CT This site is centrally located and generally accessible to all citizens. This building is also accessible to persons with disabilities. Hearings may, however, at the option of the Citizen Participation Coordinator, be held at an alternate location **or virtually based on public health and other emergent situations** to be specified in the public hearing notice(s).

5.2 Application Public Hearing

At least one public hearing shall be held during any CDBG program fiscal year prior to the submission of an application to the DOH for CDBG assistance. The primary purposes of the public hearing shall be to assess community needs and problems in an effort to determine the most critical needs to be addressed by the CDBG program; and

also to present for public comment and review the program activities, which have been selected by the Town of Westport to resolve the identified needs.

An application public hearing will be held during the initial stage of program development to discuss items regarding community development and housing needs, the CDBG program, and the application process. The objective of citizen participation at this stage is to provide meaningful, community-wide citizen input into the decision-making process during the assessment of community needs and the consideration of priorities and options associated with the development and submission of a CDBG application. Local officials will also entertain proposals and comments from citizens concerning community development activities at this hearing.

This hearing will normally serve to discuss and review the information appropriate for all applications submitted by the Town of Westport during any fiscal year. Substantial changes in community development or housing needs in the community as determined by local officials may necessitate another hearing to fulfill the role of the first public hearing prior to the submission of other CDBG applications late in the fiscal year.

Citizens will be provided with information concerning the CDBG program at this public hearing. Such information shall include, but not necessarily be limited to: the goals and objectives of the CDBG program; the total amount of CDBG funds available; the role of citizens in program planning, implementation, and assessment; the range of activities which may be undertaken; the process to be followed in developing a CDBG application; the application timetable(s); the application rating process; the schedule of meetings and hearings; activities previously funded in the Town of Westport through the CDBG program; and, an identification of projects which could result in the relocation of area residences or businesses; and the actions that would be undertaken if such relocation were necessary. Furthermore, the effectiveness of the Citizen Participation Plan in allowing citizen participation in the community development process and potential changes and/or amendments to the Plan will also be discussed at this meeting.

The Town of Westport may, at the option of local officials, review multiple CDBG project applications at one hearing when more than one application is to be submitted during the same fiscal year. Each such hearing shall be held prior to, and in preparation for, the application's approval by the Board of Selectmen.

A second objective of citizen participation during this stage is to inform citizens of the proposed project activities to be included in a CDBG application(s) and to solicit comments from citizens concerning these activities.

Citizens attending this hearing will be provided with information concerning the CDBG project(s) proposed including, but not necessarily limited to: the project application(s) to be submitted and the applicable CDBG fund; specific project activities to be included; the location of the project activities; the approximate cost estimate for

the proposed activities; the estimate of local match required; the impact of the project on low and moderate income persons; and, the approximate application submittal date.

5.3 Amendment Public Hearings

The Town of Westport will assure the opportunity for citizen participation during the implementation of any CDBG program(s) when changes to the project are under consideration by the Town of Westport. Citizen participation shall be obtained and considered in any amendments to a CDBG program, which involves changes in dollar amount spent on any activity, changes in program beneficiaries, changes in the location of approved activities, addition to or deletion of project activities, and major budget shifts between approved activities.

To ensure adequate opportunity for citizen participation during CDBG programs, the Town of Westport shall hold a public hearing on all formal amendments, which require the DOH approval. For "local" amendments (as defined by the DOH) and changes for which the DOH approval is not required, input from citizens concerning changes or amendments will be received at regularly scheduled meetings where such changes or amendments are considered.

5.4 Assessment of Performance Public Hearings

Citizens of the Town of Westport will be provided with the opportunity to comment on the performance of local officials, the Town of Westport staff, consultants, engineers, and contractors, and the actual use of CDBG funds during the implementation of a CDBG program. Citizens will also be requested to assess the performance of the Town of Westport in resolving identified community development and housing needs, and in achieving its community development goals and objectives. On-going community assessment of the effectiveness of the community development process is considered essential to the success of the CDBG program.

At the conclusion of each CDBG project, a public hearing will be held to review program activities and to assess program performance. This hearing shall be held prior to the submission of the Performance Assessment Report and any other required closeout documents to the DOH for a CDBG project. This hearing will be used to ensure community-wide participation in the evaluation of the CDBG program.

5.5 Additional Hearings

Other public hearings may be held as deemed necessary by the Citizen Participation Coordinator in order to inform citizens of community development project(s) and activities, and to solicit citizen opinions and comments. All additional hearings shall comply with the requirements set forth in this Plan.

5.6 Limited English Proficiency Residents

The Town of Westport has followed the guidance provided in the DOH's Language Access Plan to determine the need to undertake reasonable actions to facilitate the participation of persons with Limited English Proficiency. Local officials will undertake all reasonable actions necessary to allow such persons to participate in the community development process. Such actions may include the provision of an interpreter and/or the provision of materials in the appropriate language or format for persons with Limited English Proficiency.

5.7 Public Hearing Notice **Amendment to Citizen Participation Plan:**

Notice of public hearings will be published in a local newspaper **and/or posted electronically on the Town's website** at least fourteen (14) days prior to the first hearing date **or in special circumstances, based on the directives of the Department of Housing, at least five (5) days prior to the date of the hearing.**

The Citizen Participation Coordinator may waive hearing notice requirements in cases where unusual circumstances justify alternative means of notifying the general public. In such situations, shorter notice may be given, and public notices posted in public places **and/or on the Town's website** may be used in place of a notice published in the newspaper.

Each notice of a hearing shall include the time, date, place, and topics and procedures to be discussed. Notices for public hearings may be run or posted, separately or together, as may be deemed necessary by the Citizen Participation Coordinator of the Town of Westport.

Public hearings may be virtual based on local, state and federal directives. Notice of public hearing will be posted on the Town's website. If a virtual meeting is being held, the notice will also have a call in number for those individuals who do not have computer access. The Notice will include the opportunity to provide electronic comment for a period of not less than five days. As part of the Notice, the town will provide information on how citizens who have special needs may obtain the draft plan in a form which is accessible to them.

5.8 Accessibility to Low and Moderate Income Persons

The public hearing procedures outlined herein are designed to promote participation by low and moderate income citizens, as well as residents of blighted neighborhoods and CDBG project areas in any public hearing(s). Local officials may take additional steps to further promote participation by such groups, or to target program information to these persons should officials feel that such persons may otherwise be excluded or should additional action be deemed necessary. Activities to promote additional participation may include posting of notices in blighted neighborhoods and in places frequented by low and moderate-income persons, and

holding public hearings in low and moderate-income neighborhoods or areas of existing or proposed CDBG project activities.

5.9 Accessibility to Persons with Disabilities

The locations of all public hearings as described herein shall be made accessible to persons with disabilities as stated in Town's ADA policy. The Town of Westport shall provide a sign language interpreter whenever the Citizen Participation Coordinator is notified in advance that one or more deaf persons will be in attendance. The Town of Westport shall provide a qualified reader whenever the Citizen Participation Coordinator is notified in advance that one or more visually impaired persons will be in attendance. Additionally, the Town of Westport shall provide reasonable accommodations whenever the Citizen Participation Coordinator is notified in advance that one or more persons with mobility or developmental disabilities will be in attendance.

SECTION 6. PROGRAM INFORMATION

Citizens will be provided full access to CDBG program information during all phases of a CDBG project. Local officials of the Town of Westport shall make reasonable effort to assure that CDBG program information is available to all citizens, especially those of low and moderate incomes and those residing in blighted or Limited English Proficiency neighborhoods and/or CDBG project areas.

To facilitate citizen access to CDBG program information, the Citizen Participation Coordinator will keep all documents related to a CDBG program on file in the Westport Town Hall, 110 Myrtle Avenue, Westport, CT. Information from the project files shall be made available for examination and duplication, on request, during regular business hours. CDBG program information and materials, concerning specific CDBG projects will be available and distributed to the public at the regularly scheduled public hearings as outlined in this Plan. Furthermore, information concerning any CDBG project will be available at regularly scheduled council meetings where the program is discussed.

Materials to be made available shall include, but are not necessarily limited to: the Citizen Participation Plan; records of public hearing; mailings and promotional materials; prior CDBG program applications; letters of approval; grant agreements; the environmental review record; financial and procurement records; project design and construction specifications; labor standards materials; performance and evaluation reports; other reports required by the DOH and/or the HUD; proposed and approved CDBG program application(s) for the current year or project; written comments or complaints received concerning the community development program, and written

responses from the Town of Westport; and, copies of the applicable Federal and State rules, regulations, policies, requirements and procedures governing the CDBG program.

In no case shall the Town of Westport disclose any information concerning the financial status of any program participant(s) which may be required to document program eligibility or benefit. Furthermore, the Town of Westport shall not disclose any information which may, in the opinion of the Citizen Participation Coordinator, be deemed of a confidential nature.

SECTION 7. PROCEDURES FOR COMMENTS, OBJECTIONS AND COMPLAINTS

The public hearings scheduled, as described in this Citizen Participation Plan, are designed to facilitate public participation in all phases of the community development process. Citizens are encouraged to submit their views and proposals on all aspects of a community development program at the public hearings. However, to ensure that citizens are given the opportunity to assess and comment on all aspects of the community development program on a continuous basis, citizens may, at any time, submit written comments or complaints to the Town of Westport.

Any citizen or citizen's group desiring to comment or object to any phase of the planning, development or approval of the application for CDBG funds, or to the implementation of any CDBG program, should submit such comments or objections in writing to the Citizen Participation Coordinator. Should, after a reasonable period, a party believe that his/her comment or complaint has not been properly addressed or considered by the Citizen Participation Coordinator, then the aggrieved may appeal his/her case to the First Selectman.

Local officials shall make every effort to provide written responses to citizen proposals or complaints within fifteen (15) working days of the receipt of such comments or complaints where practicable. Should the First Selectmen be unable to sufficiently resolve an objection or complaint, it may be forwarded by the aggrieved party to the DOH.

Citizens may, at any time, contact the DOH and/or the HUD directly to register comments, objections or complaints concerning the Town of Westport's CDBG application(s) and/or program(s). Citizens are encouraged, however, to attempt to resolve any complaints at the local level as outlined above prior to contacting the DOH or the HUD.

All comments or complaints submitted to the DOH or HUD shall be addressed in writing to:

Connecticut Department of Housing
Attn: CDBG Small Cities Program
505 Hudson Street

Hartford, Connecticut 06106-7106

Or:

U.S. Department of Housing and Urban Development
Attn: Community Planning and Development Division
One Corporate Center
20 Church Street, 10th Floor
Hartford, Connecticut 06103-3220

Records of all comments, objections and/or complaints by citizens concerning the Town of Westport's CDBG program and subsequent action taken in response to those comments shall be maintained on file at Westport Town Hall, 110 Myrtle Avenue, Westport, CT and shall be made available for public inspection upon request.

SECTION 8. AMENDMENTS

The Town of Westport may, from time to time, modify the provisions outlined herein through amendment to this Citizen Participation Plan. It shall be the policy of the Town of Westport to periodically review and discuss the effectiveness of this Citizen Participation Plan in allowing citizen participation in the community development process and in helping to meet the community development needs and goals identified by the citizens of the Town of Westport. To this end, the effectiveness of the Plan will be discussed at public hearings held in conjunction with the community development program as discussed herein, and potential amendments to the Plan will be reviewed at this time.

Amendments to the Plan will be made as necessary. All amendments shall be approved by resolution of the Board of Selectmen and shall be incorporated into this Plan.

SECTION 9. AUTHORITY

No portion of this Citizen Participation Plan shall be construed to restrict the responsibility and authority of the elected officials of the Town of Westport in the development, implementation and execution of any Community Development Block Grant program.

APPROVED this, the _____ day of _____, 20__.

First Selectman

ITEM #6

6. To take such action as the meeting may determine to approve the amendment to the existing contract between the Town of Westport and J&M Transfer of Exeter, Rhode Island, for removal of sludge from the Water Pollution Control Facility.

AMENDMENT TO SLUDGE MANAGEMENT CONTRACT

This Amendment to Sludge Management Contract (“Amendment”) is made and entered into as of this _____ day of _____, 2020, by and between J&M Transfer, a Connecticut Corporation, with its principal business address at 315 Nooseneck Hill Road, Exeter, RI 02822 (“J&M Transfer”) and the Town of Westport, a municipal corporation with its principal business address at 110 Myrtle Avenue, Westport, Connecticut 06880 (“Town”).

WITNESSETH:

WHEREAS, J&M Transfer and the Town are parties to that certain Sludge Management Contract between them dated as of October 13, 2017 (the “Contract”); and

WHEREAS, J&M Transfer and the Town desire to extend the term of the Contract and amend its terms, as provided in this Amendment; and

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, and for other good and sufficient consideration given, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Contract is hereby amended as follows:
 - a. As provided in “Article III – CONTRACT PRICE ADJUSTMENT,” of the Contract, the definition of “Contract Price” is hereby deleted and replaced in its entirety with the following:

“Contract Price” shall mean **\$0.1189** (zero dollars and eleven point eighty-nine cents) per gallon for the remaining two years of the Contract Term, beginning July 1, 2020.
 - b. As provided in “Article V – CONTRACT TERM” of the Contract, the Contract Term is hereby extended for two (2) one-year extensions, subject to the annual appropriation of funds by the Representative Town Meeting. The term “Contract Term” shall include the 2-year extension provided hereby, and the Contract Term shall expire on June 30, 2022. There are no further extensions available after that date.
 - c. “Article XI – NOTICE” of the Contract is hereby amended to replace “Steve Edwards” with “Peter Ratkiewich.”
2. Except as amended by this Amendment, no other provisions of the Contract are changed and the Contract, as amended hereby, remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals on this _____ day of _____, in the year 2020.

Signed, Sealed and Delivered
in the Presence of:

WITNESS

TOWN OF WESTPORT, CT

James S. Marpe
First Selectman

J&M TRANSFER

Print Name:
Print Title:

ITEM #7

7. Acting in its capacity as the Water Pollution Control Authority, to take such action as the meeting may determine to review and approve or deny the Re-Application of Summit Saugatuck, LLC for Extension of Private Sewer from Davenport Lane to Hiawatha Lane Extension; Allocation of Sewer Capacity; and Approval to Connect Residential Development, dated February 7, 2020.

Subject application provided electronically and available with agenda material submitted to the Town Clerk's Office

WESTPORT POLICY REGARDING “PRIVATE SANITARY SEWER MAIN-
LINE EXTENSIONS” (MLE)

4. The Town Engineer will issue a letter recommending the board's approval or denial. The recommendation for approval will have a list of standard requirements, and the procedure is as follows:
 - a. The MLE must be designed by a licensed, Professional Engineer and in conformance with the town's current WPCA regulations. This proposed MLE shall be designed so that it shall not limit the Town's ability to service the overall potential sanitary sewer shed. In addition, it must not adversely affect any existing downstream facilities. The applicant is responsible to provide a service lateral for any and all properties that have frontage on this MLE.
 - b. An estimate representing the total construction cost must be submitted to the Town Engineer's office for approval.
 - c. Upon receipt of items a & b, the Engineer's office will review them for conformance with current town standards and current construction costs.
 - d. Upon completion of c, a bond of an approved format, shall be posted. The bond will be in the amount of the approved construction estimate plus a 10% contingency and a 10% inflation cost.
 - e. Upon receipt of the bond and the final approved plan, a "Permit Agreement" shall be executed and approved by the Town Attorney.
 - f. ***MLE Application Fee \$250.00 plus \$2.00 per linear foot of main line sewer as shown on the approved design. These fees must be paid for at the time of execution of the "Permit Agreement".***
 - g. After completion of "f", a "Sanitary Sewer Building Connection Permit" must be obtained from the Department of Public Works for the sole purpose of the installation of the MLE to cover all work as outlined on the approved design.
 - h. The total cost of construction shall be incurred by the applicant. (The applicant will also be subject to a "Benefit Assessment" as may be assigned by the WPCA. All subsequent applicants requesting approvals to connect to the MLE after its approval and acceptance will also be subject to an equivalent assessment.)
 - i. A charge of \$250.00 shall be levied against the applicant should they subsequently wish to rescind the approval granted by the WPCA.
5. The WPCA shall schedule a public hearing to hear the request.
6. At the time of construction, the Town Engineer's office will conduct periodic inspections to ensure the proper installation in conformance with the approved plan.

7. Upon completion of construction, the applicant is responsible to conduct all necessary testing.
 - a. An internal video inspection of the line in its entirety.
 - b. A pressure test equivalent to no less than 5 PSI, must be maintained for a period of time not less than ten minutes.
 - c. A copy of these test results must be submitted to the Town Engineer's office upon their approval.
8. The applicant is responsible to provide the Town of Westport with a "tie-card" illustrating the location of all service connections provided.
9. No individual "Sanitary Sewer Building Connection Permits" shall be issued until all applicable testing has been approved and all lateral "tie-cards" have been received.
10. The applicant must submit an As-Built plan and profile of the completed MLE to the Town Engineer's office for their review.
11. Upon approval of items 4, 6 & 7 the applicant **MUST** convey the MLE to the Town of Westport for its acceptance as a part of the WPCF.
12. The maximum allowable time from the issuance of a permit to construct a MLE to the time of acceptance shall not exceed one year.

If the above two items have not been confirmed by the Engineering office, the procedure is as follows:

The applicant shall apply to the Water Pollution Control Authority (WPCA), pursuant to Public Act 03-177, and the WPCA shall render a decision on the application as it deems proper under the law. If the WPCA approves the matter, it shall thereafter be referred to the Planning and Zoning Commission for a review under §8-24 of the General Statutes.

G:\Pw_off\Sewers\MLE PROCEDURES\MLE Procedures (Revised July 13, 2005) current.doc

Last Printed Date: July 6, 2007

NEGATIVE 8-24 REQUEST REPORT FROM PLANNING AND ZONING COMMISSION

(JUNE 12, 2020)



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145

Public Meeting: May 28, 2020
Decision: June 11, 2020

June 12, 2020

Honorable James Marpe, First Selectman
110 Myrtle Avenue
Westport, CT 06880

RE: §8-24 Request for a report from the Planning and Zoning Commission on the referral from the Water Pollution Control Authority regarding the re-application by Summit Saugatuck, LLC for a main line sanitary sewer extension on property from Davenport Ave. to Hiawatha Lane and Hiawatha Lane Ext. in the Residence B District

Dear First Selectman Marpe:

The following is offered in response to the Water Pollution Control Authority's referral:

Findings

1. The Water Pollution Control Authority (WPCA) adopted a policy regarding "*Private Sanitary Sewer Main-Line Extensions (MLE)*," revised 7/13/05.
2. This policy states in part:
 - A.*"The applicant shall submit, to the First Selectman, a letter requesting a reporting of an §8-24 application of the Planning and Zoning Commission, for the proposed 'Private Sanitary Sewer Main-Line Extensions' (this procedure is in accordance with the §8-24, Municipal Improvements, of the Connecticut General State Statutes). This request shall be copied to the Town Engineer, Conservation Director and the Director of the Westport / Weston Health District.*
 - B. *Following a positive reporting for the §8-24 application the applicant shall submit a letter to the WPCA requesting the approval to install an MLE. This shall also be submitted to the Town Engineer, Director of the Westport/Weston Health District and the Director of Conservation for their review..."*
3. Attorney Timothy Hollister of Shipman and Goodwin on behalf of Summit Saugatuck, LLC, did NOT follow the WPCA's policy, and did NOT submit a letter requesting the First Selectman seek an §8-24 Report from the Planning and Zoning Commission to extend the public sewer.
4. Instead, Attorney Hollister filed a re-application with the WPCA, received on February 11, 2020, to extend the public sewer on property from Davenport Avenue to Hiawatha Lane and Hiawatha Lane Extension.
5. The First Selectman referred the WPCA application to the Planning and Zoning Commission for an §8-24 Report in accordance with the WPCA's "*Private Sanitary Sewer Main-Line Extensions*" (MLE), revised 7/13/05 that states no approval shall be granted by the WPCA without a Positive §8-24 Report from the Commission. The referral was received by the Planning and Zoning Commission on February 25, 2020.

6. The Commission at their February 6, 2020 meeting revised their "Procedures to be Followed for §8-24 Reports," that was further clarified and corrected with a revised date of March 5, 2020.
7. The First Selectman's WPCA referral received February 25, 2020 was initially scheduled for review at a Public Meeting of the Planning and Zoning Commission on March 12, 2020.
8. The referral was subsequently rescheduled to a Public Meeting to accommodate the Town Attorney's schedule who was not available on March 12, 2020.
9. On March 13, 2020 the First Selectman withdrew and simultaneously resubmitted his referral and request for an §8-24 Report from the Planning and Zoning Commission.
10. On March 16, 2020 the First Selectman declared a Local Civil Preparedness Emergency (LCPE) associated with the COVID-19 public health crisis. This action included closing Westport Town Hall to the public resulting in the cancellation of all public meetings to minimize social contact consistent with guidance offered by public health officials.
11. On March 17, 2020 the First Selectman submitted a letter to the Planning and Zoning Commission withdrawing his WPCA referral. His letter cited his intent to investigate holding future public meetings in compliance with Governor Lamont's Executive Order No. 7B issued March 14, 2020.
12. On March 21, 2020 Governor Lamont issued Executive Order No. 7I suspending certain procedural requirements and extending by 90 days deadlines for action on all covered laws under various sections of the General Statutes including but not limited to Chapter 126, Municipal Planning Commissions.
13. On April 13, 2020 the First Selectman resubmitted his referral of the WPCA application to the Commission seeking an §8-24 Report.
14. Connecticut General Statute §8-24, Municipal Improvement, states:

"Sec. 8-24. Municipal improvements. No municipal agency or legislative body shall (1) locate, accept, abandon, widen, narrow or extend any street, bridge, parkway or other public way, (2) locate, relocate, substantially improve, acquire land for, abandon, sell or lease any airport, park, playground, school or other municipally owned property or public building, (3) locate or extend any public housing, development, redevelopment or urban renewal project, or (4) locate or extend public utilities and terminals for water, sewerage, light, power, transit and other purposes, until the proposal to take such action has been referred to the commission for a report. Notwithstanding the provisions of this section, a municipality may take final action approving an appropriation for any proposal prior to the approval of the proposal by the commission pursuant to this section. The failure of the commission to report within thirty-five days after the date of official submission of the proposal to it for a report shall be taken as approval of the proposal. In the case of the disapproval of the proposal by the commission the reasons therefore shall be recorded and transmitted to the legislative body of the municipality. A proposal disapproved by the commission shall be adopted by the municipality or, in the case of disapproval of a proposal by the commission subsequent to final action by a municipality approving an appropriation for the proposal and the method of financing of such appropriation, such final action shall be effective, only after the subsequent approval of the proposal by (A) a two-thirds vote of the town council where one exists, or a majority vote of those present and voting in an annual or special town meeting, or (B) a two-thirds vote of the representative town meeting or city council or the warden and burgesses, as the case may be. The provisions of this section shall not apply to maintenance or repair of existing property, buildings or public ways, including, but not limited to, resurfacing of roads."

15. The WPCA as a municipal agency is required to receive a Positive §8-24 report from the Planning and Zoning Commission to extend the public sewer or an affirmative vote by the Representative Town Meeting (RTM) to overturn a Negative §8-24 Report from the Commission by the terms of the statute.
16. The Planning and Zoning Commission is acting in its planning capacity when reviewing a request submitted pursuant to Chapter 126, §8-24 Municipal Improvement.
17. The Commission reviewed the following documents submitted by the applicant:
 - A. Re-Application of Summit Saugatuck LLC, for Extension of Private Sewer from Davenport Lane to Hiawatha Lane and Hiawatha Lane Extension; Allocation of Sewer Capacity; and Approval to Connect Residential Development, prepared by Attorney Timothy Hollister of Shipman and Goodwin, on behalf of Summit Saugatuck, LLC, dated February 7, 2020; and
 - B. Summary of Reasons for a Positive §8-24 Report on Summit's Re-application for a Sewer Extension along Hiawatha Lane, prepared by Summit Saugatuck LLC, dated May 20, 2020.
18. The Commission also reviewed staff reports prepared by the Planning and Zoning Director dated March 10, 2020, and supplemental comments dated March 12, and March 13, 2020. The three sets of staff comments had attachments including but not limited to correspondence received from members of the public voicing their opinion on the Request.
19. A second notice mailing was sent to property owners in the Davenport Ave. and Hiawatha Lane area after the withdrawal and resubmission of the §8-24 Request. This generated receipt of additional correspondence from members of the public in May 2020. All correspondence was made available to the Commission for their review and consideration and was posted on the Town's website alongside the §8-24 referral materials.
20. Included in the correspondence from members of the public were six (6) emails received from six (6) property owners eligible to be served by the sewer extension requesting the Commission reject the proposal.
21. The sewer extension if constructed has the potential to serve twenty (20) parcels. As shown in Tables 1-2 in the March 10, 2020 report prepared by the Planning and Zoning Director, eleven (11) of the 20 parcels are either already owned by Summit Saugatuck, LLC or are under option to purchase by Summit Saugatuck, LLC.
22. A remote Public Meeting of the Planning and Zoning Commission was held on May 28, 2020, consistent with Governor Lamont's Executive Order No. 7B.
23. Attorney Hollister and David Ginter the project engineer from Redniss and Mead who designed the sewer plan offered testimony to the Commission at their May 28, 2020 remote Public Meeting.
24. Whereas the Commission's "*Procedures to be Followed for §8-24 Reports,*" revised 3/5/20 identifies the Commission should hold a Public Meeting to invite residents to testify and offer comments in person on any §8-24 Request, the Commission declined to take live testimony during the public meeting held on May 28, 2020 as has been their practice with all 8-24 Requests during the COVID-19 pandemic, and instead the Commission reviewed correspondence submitted by the public prior to the public meeting.

- 25. Over 40-emails were received from Westport residents and/or their elected representatives, many of whom are potential beneficiaries of the proposed sewer extension recommending the Commission reject the proposal to extend the sewer.

THEREFORE BE IT RESOLVED it was moved by Mr. Lebowitz and seconded by Ms. Walsh to issue a **Negative Report** on the §8-24 Request seeking a report from the Planning and Zoning Commission on a referral from the Water Pollution Control Authority regarding the re-application by Summit Saugatuck, LLC for a main line sanitary sewer extension on property from Davenport Avenue to Hiawatha Lane and Hiawatha Lane Extension, located in the Residence B District.

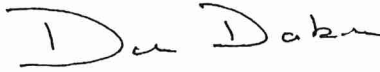
Reasons

- 1. A negative report is consistent with guidance offered in the **Future Land Use Plan** found in the *2017 Plan of Conservation and Development* showing no change to conditions currently designated as "Moderate Residential Density" for the Davenport Avenue and Hiawatha Lane neighborhood in absence of an approved amendment to the **Future Land Use Plan**.
- 2. A negative report is consistent with comments received from the Westport Weston Health District Director dated 2/27/20 that conclude that the properties eligible to connect to the proposed sewer located in the Hiawatha Lane and Hiawatha Lane Extension neighborhood can continue to utilize code complying individual subsurface sewerage disposal systems; connection to the sewer is not required to address any health or environmental needs.
- 3. A negative report is consistent with recommendations contained in the Utilities and Infrastructure Chapter of the *2017 Plan of Conservation and Development* which discourage a sewer extension if it could facilitate more intensive development in the absence of an approved zone text or map change permitting greater density than is currently allowed.
- 4. A negative report supports the receipt of opposition letters from a majority of those private property owners who could benefit from (and connect to) the proposed sewer extension, but who objected to the proposal.
- 5. There were concerns expressed by at least one commissioner of the potential for added and potentially substantial costs (sewer use charges, expenses associated with future lateral connections, etc.) that would be borne by those property owners who rejected the proposal, but whom would be mandated to connect to the sewer if extended if/when renovating their homes in the future.

VOTE:

| | | |
|-------------|-----|---|
| AYES | -7- | {Dobin, Stephens, Rutstein, Lebowitz, Walsh, Cammeyer, Olefson} |
| NAYS | -0- | |
| ABSTENTIONS | -0- | |

Sincerely,

A handwritten signature in black ink that reads "Danielle Dobin". The letters are cursive and somewhat stylized, with the first name "Danielle" and last name "Dobin" clearly legible.

Danielle Dobin, Chair
Planning and Zoning Commission

cc: Attorney Timothy Hollister, Shipman and Goodwin, for Summit Saugatuck, LLC
David Ginter, Redniss & Mead, Summit Saugatuck LLC sewer project engineer
Peter Ratkiewich, Public Works Director
Brian Thompson, WPCA Coordinator
Velma Heller, RTM Moderator
Matt Mandell, Chairman, RTM P&Z Committee
Ira Bloom, Town Attorney's Office
Peter Gelderman, Town Attorney's Office

PUBLIC WORKS REVIEW



WESTPORT CONNECTICUT

DEPARTMENT OF PUBLIC WORKS

TOWN HALL, 110 MYRTLE AVE.

WESTPORT, CONNECTICUT 06880

July 1, 2020

Mr. James S. Marpe
First Selectman
110 Myrtle Avenue
Westport, CT 06880

Re: Re-Application of Summit Saugatuck LLC for Extension of a Private Sewer From Davenport Lane to Hiawatha Lane and Hiawatha Lane Extension: Allocation of Sewer Capacity: and Approval to Connect Residential Development

Dear Mr. Marpe:

In correspondence dated February 7, 2020 to the Water Pollution Control Authority, the above referenced applicant requests approval to privately install an extension of the public sanitary sewer system to service their proposed development. Being consistent with the Authority's policy on "Main Line Extensions" (MLE) as revised on July 13, 2005, the applicant is required to obtain a positive report from the Planning & Zoning Commission for an 8~24 Municipal Improvements application. On June 11, 2020, the Planning & Zoning Commission unanimously issued a negative report on the proposed sewer extension. Being consistent with past events the Authority has historically upheld the negative report. Therefore, it is the recommendation of this office not to approve the extension request.

Respectfully,

Bryan H. Thompson
WPCA Collection System Supervisor

CC: Peter A. Ratkiewich, Director of Public Works
Mary Young, Director of Planning and Zoning
Ira Bloom, Town Attorney

WESTPORT WESTON HEALTH DISTRICT REVIEW
ATTACHED LETTER DATED DECEMBER 28, 2016

Francis, Eileen

From: Mark Cooper <mcooper@wwhd.org>
Sent: Thursday, June 18, 2020 12:32 PM
To: Francis, Eileen
Subject: RE: Summit Saugatuck Mainline Extension Request
Attachments: Westport Planning and Zoning Commission -Summit (003).pdf

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Eileen - The Westport Weston Health District did an extensive review of the Davenport Ave. to Hiawatha Lane Extension neighborhood for a development proposal several years ago. The findings at that time, as outlined in a letter dated December 28, 2016 (attached) addressed to both the First Selectman and Planning and Zoning Commission, concluded that a sewer extension is not needed for environmental reasons and that on-site subsurface wastewater disposal systems continue to be a sustainable option for single family residences. The Health District's conclusion has not changed since 2016.

Whether the Town wishes to extend sewers into this neighborhood for other reasons would be up to the appropriate Town officials to consider.

Mark A.R. Cooper, Director of Health
Westport Weston Health District

From: Francis, Eileen <efrancis@westportct.gov>
Sent: Thursday, June 18, 2020 11:29 AM
To: Mark Cooper <mcooper@wwhd.org>; Mozian, Alicia <AMOZIAN@westportct.gov>; Ratkiewich, Peter <Pratkiewich@westportct.gov>
Cc: Peter Gelderman <pgelderman@berchemmoses.com>
Subject: Summit Saugatuck Mainline Extension Request

Attached is the application of Summit Saugatuck for a Sewer Extension from Davenport Lane to Hiawatha Lane and Hiawatha Lane Extension, dated February 7, 2020. I believe you already have a hard copy and an electronic copy, but I have attached it nevertheless.

According to the Policy Regarding Private Sanitary MLE, also attached, this application shall be submitted to you for review. The WPCA plans to hear the request at its July 8, 2020 public meeting. With apologies for imposing a tight deadline, kindly provide comment prior to that date to give the board sufficient opportunity to review.

Thanks,

Eileen Francis
Selectman's Office Manager



**Westport Weston
Health District**

December 28, 2016

Mr. James Marpe, First Selectman and Chairman
Westport Water Pollution Control Authority
Town of Westport
110 Myrtle Avenue
Westport, CT. 06880

Westport Planning and Zoning Commission
Town of Westport
110 Myrtle Avenue
Westport, CT. 06880

Re: Application of Summit Saugatuck LLC For Extension of Private Sewer From Davenport Ave. to Hiawatha Lane Extension, Allocation of Sewer Capacity, and Conditional Approval To Connect Residential Development.

Dear Water Pollution Control Authority and Planning and Zoning Commission Members:

The Westport Weston Health District has been asked to respond to a number of questions. After a short description of the neighborhood, a Health District response follows the questions asked.

Hiawatha Lane is an established neighborhood developed in the mid 1950 and 1960s with each property connected to the public water supply. The average lot size is about one-half acre, some smaller, some larger. Soils in the neighborhood are predominately Agawam fine sand loam (AfB). There is also a smaller area of Hinckley gravelly sandy loam (HkB) and even a small area of Udorthents (UD)¹.

Agawam fine sand loam soil is described as well drained on plains and terraces in stream valleys with 3 to 8 percent slopes. Typically, the surface layer is dark brown fine sandy loam 9 inches thick. The subsoil is brown fine sandy loam 20 inches thick. The substratum is light yellowish brown and pale olive colored sand to a depth of 60 inches or more. Included in this soil can be small areas of excessively drained Hinckley soils, somewhat excessively drained Merrimac soils, well

drained Haven soils, and moderately well drained Ninigret soils. The rapid permeability of these inclusions can be a hazard of ground water pollution in areas used for onsite septic systems ¹.

Hinckley gravelly sandy loam is described as gently sloping, excessively drained soil on terraces, kames, and eskers in steam valleys. Typically, the surface layer is dark brown gravelly sandy loam 5 inches thick. The substratum is 10 inches thick. The substratum is light olive brown gravelly sand to a depth of 60 inches or more. The permeability of Hinckley soil is rapid in the surface layer and subsoil and very rapid in the substratum¹.

There is also a small area of soil characterized as Udorthents (UD). Udorthent soils consist of areas that have been altered by cutting or filling. Some of the filled areas are on flood plains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Some small UD areas may contain unacceptable materials such as logs, tree stumps, concrete and other unsuitable material. The properties and characteristics of this unit are variable and require onsite investigation and evaluation for most uses¹.

1. The applicant states that the Residence B lot size of 6,000 sq. ft. is "too small to permit a code complying subsurface sewage disposal system ('SSDS'), including reserve area, according to the Public Health Code." As Director of the Westport Weston Health District and local administrator of the Public Health Code, do you agree with this statement?

The Connecticut Public Health Code has no minimum lot size for residential construction. The requirement for the creation of a new building lot is that a parcel of property be able to accommodate a code complying septic system, reserve area, and meeting all separating distances for a water supply well, etc. Thus, "too small" is dependent on a variety of factors such as slope, soil type, presence of wetlands, potable water availability, home size and intensity of development.

It has been the experience of this writer that when evaluating property for development with on-site subsurface waste water disposal systems *and private wells*, at least one-half acre of dry, relatively level land with free draining soil is the minimum lot size that should be required to meet all current public health code requirements. In neighborhoods such as this with the availability of a public water supply and no private wells, soil type, home size and intensity of development become the primary factors.

This is an established residential neighborhood developed in the mid- 1950s and 1960s with a public water supply. There was no reserve requirement to repair and/or replace the septic systems when these homes were built. However, as the systems age and it becomes apparent a system repair and/or replacement is needed, a site evaluation is conducted and a plan developed to do so. To date, most all of the system additions and/or repairs have meet Health Code requirements except 28 Hiawatha Lane as noted by the applicant. However, there is new onsite subsurface wastewater disposal technology that reduces the leaching area needed, significantly. If this technology was available at the time 28 Hiawatha Lane undertook the repair, it would be fully compliant with the Health Code. For example, a recent code complying installation for a new 3 bedroom home, on a 5,254 S.F. lot (total lot size 1/8th of an acre) required 18 linear feet of Geomatrix Geo U1272. This system provided 518 square feet of leaching area

with plenty of room for a designated reserve area. A typical 4 bedroom home would require 660 square feet of leaching area, or about 20 linear feet of this product.

Based on a review of the available file information for each property on Hiawatha Lane, because of the availability of the public water supply, the predominance of good draining gravel soils in the neighborhood, and generally favorable site conditions, it appears the existing parcels allow for fully compliant septic system repairs and replacements, especially if the septic design utilizes newer approved waste water disposal technology.

2. Are the soil conditions at the project site appropriate for subsurface sewage disposal system?

Yes - for the majority of the project area. A review of each property file for the existing dwellings on Hiawatha Lane demonstrate that the septic systems have effectively worked in the existing soils with no and/or few problems since the mid-1950 and 1960s. New septic systems in the same soil, using newly approved septic waste water disposal technology, would be expected to function just as well. The predominate soil is characterized as moderately to somewhat excessively drained. This rapid soil permeability is not of concern because of the availability of the public water supply and the absence of any down gradient potable groundwater supplies. It should be noted that there is an area of udorthent soil where the soils are less than ideal because of past disturbance, filling, or proximity to wetlands. Soil testing witnessed by Health District staff confirm that 41 Hiawatha Lane has such soil conditions and may not be suitable a standard subsurface waste water disposal system. A preliminary investigation of this site in 2015 indicated that a potential septic system replacement area existed but that design specifics would dictated by soil conditions. A good portion of this udorthent soil may also be close to wetland soil and/or an active water course and existing pond which may need to be preserved for natural water flow and storm water runoff. As in any new development proposal, the project would need to be configured to avoid development of such areas with problematic soils and wetlands. This can be done by using a clustering development concept and/or reducing the density of the proposed development.

3. The applicant notes that there are “concerns about septic system failures and surface water in the project area”. Do you agree? Are the SSDS problems noted in the application (Tab 3) unusually high? Is the fact that lot 42 is pumped out “two to three times per year” indicative of a health issue or a code violation?

No, the Health District does not find an excessive repair rate on the existing septic systems and does not find nitrate levels from the existing septic systems to be a problem. A review of each property file for the existing dwellings on Hiawatha Lane revealed a low septic system failure/repair rate for the age of this neighborhood. Having 3 or 4 septic known systems in need of repair in a 50 - 60 year old neighborhood is not unusually high. In my opinion, it should be considered low.

The normal expected life span of a properly installed septic system is in the range of 15 to 20 years. With careful use and maintenance, systems can last longer. The majority of septic systems in this neighborhood have exceeded the average life span of most systems. Keep in mind the health code requirements were less stringent 50 years ago and the average water usage of modern living has been increasing over time. A septic system that met the water use needs of a family in 1960 would likely not do so today, thus the need to add additional leaching area to some of these properties over time.

The "repairs" noted by the applicant (tab 3) are summarized as follows:

- 11 Hiawatha - Failed, full leaching pit
- 17 Hiawatha - Not a failure, permit for larger tank size for house expansion
- 26 Hiawatha - Not clear - could have been a marginally functional system; added an additional leaching pit to existing system after 22 years of use.
- 28 Hiawatha - Failed system after 43 years of use.
- 38 Hiawatha - Not a failure, B100a permit and increased tank size for house expansion.
- 45 Hiawatha - Not a failure - could have been a marginally functional system; upgraded tank size and system for house expansion.

The fact that 42 Hiawatha Lane is pumped out "two to three times per year" is indicative that the septic system is undersized, functioning marginally and is most likely in need of expansion and/or repair. Frequent pumping is an acceptable strategy to prevent effluent from backing up into the house, and/or breaking out onto the lawn surface, to prevent a health code violation. One could surmise that if left un-pumped a failure would incur and an Order to Correct would be issued by the Health District if the property owner did nothing about it. A home owner can continue pumping to prevent a backup and/or break out, however, the Health District would suggest undertaking an actual system expansion and/or repair. In the long run, doing the repair would be more cost effective.

Surface water quality would be more of a concern if all these home had private wells. They are connected to the public water system. Therefore the accumulative impact of each individual septic system on the underlying ground water has no impact on the neighborhoods potable supply. Additionally, the neighborhood is bordered by Interstate 95 to the north and the Metro North Railway to the south, mitigating concerns about any immediate groundwater impacts migrating off site from the septic system. The state highway and railway are a greater potential source of contamination than the septic systems.

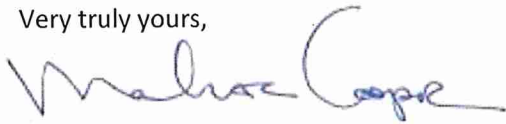
The application noted that soil test pits were conducted on 4 lots and that on 2 of them, ground water, and/or mottling, was observed between 29 and 30 inches below the ground surface. The Health District did not observe these tests and there is no record of them in our files. However, it is not surprising, nor unusual, to find ground water on various lots. The applicant is correct in stating that a high ground water level would make such a lot an area of special concern requiring a septic system designed by a professional engineer, submitted to and approved by the Director of Health. The majority of new septic systems are required to be designed by a professional engineer to overcome a high water table or some other site limitation. With the new subsurface waste water technologies available, code compliant septic systems can usually be installed. For areas where it cannot be demonstrated that a code compliant septic system can be installed, they cannot be approved as building lots.

Does the Westport Weston Health District concur with the applicant that the project area is unsuitable for continued sewerage disposal through SSDS? Could the project area be developed with 29 single family houses, each on a SSDS, without creating a health risk? Are there any existing health issues caused by the existence of SSDS at the project site?

No, the Health District does not concur. There may be areas of soil that are less than ideal and/or unacceptable, but the prominent soil is free draining sands and gravel. The Westport Weston Health District finds no environmental reason to consider this neighborhood as unsuitable for continued onsite residential subsurface waste water disposal. The project area could be developed into a number of homes, the number being determined by the size of the dwellings and associated accessory structures and/or amenities, the need to meet current regulatory setbacks, and a septic systems with reserve areas sized on the number of bedrooms. Use of the good soils could be maximized by a clustering concept or perhaps other innovative project design. Depending on a project configuration, lot sizes, and need to protect wetlands, some lots may not support large homes with more than 3 or 4 bedrooms but those are economic decisions, not environmental ones. The neighborhood soils have provided a more than adequate means to dispose of residential waste water for over 50 years without any known health risks being created. None would be expected from a development with properly designed and installed septic systems for houses sized and located to accommodate natural site conditions.

Should there be any questions and/or comments regarding this report, please feel free to contact me.

Very truly yours,



Mark A.R. Cooper, Director of Health
Westport Weston Health District

¹ Soil Survey of Fairfield County, Connecticut, United States Department of Agriculture, Soil Conservation Service in cooperation with Connecticut Agricultural Experiment Station and Storrs Agricultural Experiment Station.

CONSERVATION DEPARTMENT REVIEW



**WESTPORT, CONNECTICUT
CONSERVATION DEPARTMENT**

TOWN HALL - 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
(203) 341-1170 • FAX (203) 341-1088

TO: Water Pollution Control Authority

FROM: Alicia Mozian, Conservation Director

DATE: June 22, 2020

RE: Comments Regarding Request for Hiawatha Lane Sewer-line Extension

The Conservation Commission reviewed and approved Application #IWW-10619-18 and #WPL-10659-18 to redevelop several existing residential lots to build a 187 unit 8-30g affordable housing project. The existing site includes 10 single-family homes and two vacant lots. These homes will be demolished. Two lots to the north will be combined to form a new .75 acre parcel. The remaining eight house lots and two vacant lots to the south will be combined to form an 8.07 acre parcel. The north lot will have a three-story, multi-family residential building with below-ground and at-grade parking. The south lot will have three, three story multi-family buildings and one, four-story building with a connecting underground parking garage and at-grade parking. Related appurtenances include a playground and recreation area, a courtyard, walkways, paved drives and a stormwater management system.

The project is proposed to be served by public water and connection to a new sanitary sewer line with sanitary manholes and other related improvements along approximately 1,600 linear ft. of Hiawatha Lane and Davenport Avenue within the road right-of-way.

The on-site impervious coverage will increase from 1.1. acres to 3. 9 acres.

Attached are the Commission's October 26, 2018 findings and resolution. Please note Special Condition #17 which states:

“Submission of the Water Pollution Control Authority approval for connection of the development to the Town's sanitary sewer system prior to the issuance of a Zoning Permit. Failure to secure this authorization will render this approval null and void.”

Thank you for the opportunity to comment. Should you have any further questions please let me know.

Alicia/8-24/ WPCA Hiawatha Lane 2020

Conservation Commission

TOWN OF WESTPORT
Conditions of Approval

Application #IWW-10619-18 and #WPL-10659-18

**Street Address: 26, 36, 38,39, 41, 42, 43, 44, 45, 47 Hiawatha Lane
and Parcel A5, Lot 4 and Parcel A5, Lot 5 Hiawatha Lane**

Date of Resolution: October 26, 2018

Project Description: Demolition of 10 single-family residences and construction of a 187-unit multi-family rental development housed within five separate buildings with underground and surface parking and driveways, playground area and associated grading and drainage.

Owner of Record: Summit Saugatuck, LLC; Anne M. Mantia; Estate of Crystal Christensen; Hannelore Walsh; Frank P. Bottone; and, David H. Ogilvy

Applicant: Summit Saugatuck, LLC

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-10619-18 and #WPL 10659-18 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. Conformance to the Conditions of Approval of the Flood and Erosion Control Board hearing of July 11, 2018.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:

"The Village at Saugatuck, Town of Westport," prepared for Summit Saugatuck, LLC

1. Plans prepared by Divney, Tung, Schwalbe, LLP
 - a. Key Plan, Sheet SP-0.1, Scale 1" = 60', dated May 7, 2018 and June 29, 2018 revised to 7/27/18
 - b. Layout Plan (North), Sheet SP-1.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
 - c. Layout Plan (South), Sheet SP-1.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 9/28/18
 - d. Grading and Utility Plan (North), Sheet SP-2.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
 - e. Grading and Utility Plan (South), Sheet SP-2.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 9/28/18
 - f. Landscape Plan (North), Sheet SP-3.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
 - g. Landscape Plan (South), Sheet SP-3.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
 - h. Erosion Control Plan, Sheet SP-4.1, Scale 1" = 50', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
 - i. Erosion Control Phasing Plan, Sheet SP-4.2, Scale 1" = 80', dated 6/29/18, 2018, revised to 7/27/18
 - j. Erosion Control Details, Sheet SP-4.3, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
 - k. Site Details, Sheet SP-5.1, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
 - l. Site Details, Sheet SP-5.2, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
 - m. Site Details, Sheet SP-5.3, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
 - n. Site Details, Sheet SP-5.4, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 9/28/18
 - o. Site Details, Sheet SP-5.5, Scale As Shown, dated 6/29/18 revised to 7/27/18
 - p. "Operations and Maintenance Plan", Sheet OM-1, dated 8/17/18
 - q. "Proposed Stormwater Management Measures", Sheet SP-6.0, Scale 1"=50' dated 6/29/18
 - r. "Proposed Conservation Easement", Sheet CE-1, Scale 1"=30' dated 5/7/18
 - s. "Wetland (Upland) Review Area Diagram", Sheet WE-1.2 Scale 1"=30' dated 6/29/18
 - t. "Wetland (Upland) Review Area Diagram", Sheet WE-1.3 Scale 1"=30' dated 6/29/18
 - u. "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 and accompanying document entitled: "The Village at Saugatuck Hiawatha

Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018.

2. Plans prepared by Redniss & Mead
 - a. Site Development Plan Depicting Hiawatha Lane Sanitary, Sheet SE-1, Scale 1' = 30', dated May 7, 2018
 - b. Details Depicting Hiawatha Lane Sanitary, Sheet SE-2, Scale NTS, dated May 7, 2018
 - c. Pump Station Details Depicting Hiawatha Lane Sanitary, Sheet SE-3, Scale NTS, dated May 7, 2018
 - d. Cross Sections Depicting Hiawatha Lane Sanitary, Sheet SE-4, Scale As Noted, dated May 7, 2018
17. Submission of the Water Pollution Control Authority approval for connection of the development to the Town's sanitary sewer system prior to issuance of a Zoning Permit. Failure to secure this authorization will render this approval null and void.
18. The floor drain(s) in the proposed underground parking garages shall be connected to an oil and grit separator that shall be discharged to the Town sanitary sewer system. Detail design and maintenance plans for the oil and grit separator shall be submitted for review and approval by the Conservation Department and Engineering Department prior to issuance of a Zoning Permit.
19. Submission of the registration for the General Permit for discharge of stormwater and dewatering wastewaters from construction activities with the State of Connecticut Department of Energy and Environmental Protection for stormwater and erosion and sediment control management prior to issuance of a Zoning permit.
20. The Conservation Easement Area as shown on the map entitled "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 shall be expanded to include the 20 ft. non-disturbance buffer.
21. Signage shall be installed at intervals of 50 ft. along the Conservation Easement boundary to indicate to the reader that the area is a designated protected area.
22. A separate mylar showing the Conservation Easement Area and accompanying document shall be recorded on the land records prior to issuance of a Conservation Certificate of Compliance. No cutting, clearing, grading or building is allowed within the Easement Area without prior authorization from the Conservation Commission.
23. Said Conservation Easement Area shall be managed in accordance with the document entitled, "The Village at Saugatuck Hiawatha Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018. The management document shall be amended to include the placing and location of the signage as noted in Condition 21.
24. William Kenny, Wetland Scientist, Soil Scientist and Landscape Architect, or an expert of the same qualifying credentials, shall be retained by the applicant to ensure compliance with the management plan. Yearly progress reports shall be submitted by Mr. Kenny, or the selected expert, to the Conservation Department for three years commencing from the date the initial enhancement work is completed.
25. A detailed planting plan shall be submitted for the raingardens, the Ecological Enhancement Zone and native plantings within the Conservation Easement area for review and approval prior to issuance of a Zoning permit.

26. A separate maintenance plan for the green roof shall be submitted prior to issuance of a Conservation Certificate of Compliance.
27. A bond to cover the cost of sediment and erosion controls, raingarden plantings, native planting installation and invasive plant removal and three years of monitoring shall be submitted prior to issuance of a Zoning permit.
28. A final stormwater operations and maintenance plan shall be submitted for review and approval by the Conservation and Engineering Departments prior to issuance of a Conservation Certificate of Compliance.
29. A stand-alone copy of the stormwater operation and maintenance plan schedule, including maintenance of the green roof, shall be kept on the premises at all times. A logbook shall be maintained on the premises indicating the schedule for routine maintenance of the stormwater management and treatment components of the plan.
30. The structural integrity of the culvert at the intersection of Davenport Avenue and Hiawatha Lane conveying Indian Brook is unknown. The applicant has agreed to and shall inspect the culvert prior to the start of construction and conduct a load-bearing capacity analysis as to whether it can withstand the weight of heavy truck traffic hauling excess earth materials. A written report shall be submitted to the Conservation and Engineering Departments prior to issuance of a Zoning permit. Depending on the findings of the analysis, it shall be the responsibility of the applicant to secure any proper permits to repair or replace the culvert prior to the start of residential construction.
31. Once construction has commenced, the applicant shall conduct routine inspections of the culvert and make every effort to keep it clear of blockages and protect it during the construction process. Should it be damaged during the construction process, it shall be the responsibility of the applicant to secure all proper permits to repair or replace the culvert immediately upon discovery of damage.
32. Proof shall be submitted to the Conservation Department that the applicant and or its representative(s) has made a "good faith" serious effort to secure permission from Metro-North Railroad and the Connecticut Department of Transportation to clean the culvert under the railroad tracks. If permission is granted, the applicant shall submit a copy of the letter granting permission to clean the culvert prior to issuance of a Conservation Certificate of Compliance. Said culvert is the eastern-most culvert shown as Figure 4 in the letter dated June 12, 2016 by Pietras Environmental Group, LLC to Summit Development, LLC.
33. Written confirmation from the Engineering Department that the applicant has met the conditions of the July 11, 2018 Flood and Erosion Control Board's conditions of approval and the Town's Stormwater Management Drainage Design Standards shall be submitted prior to issuance of a Conservation Certificate of Compliance.
34. Once the houses at #28 and #36 Hiawatha Lane are demolished, an additional deep hole test shall be conducted for the drainage galleries for Building E. If the restrictive layer is higher than currently designed for, the entire infiltration system shall be adjusted accordingly so it is above the restricted layer. Said test pit results and any necessary adjustments shall be submitted for review and approval by the Conservation and Engineering Departments prior to start of construction for Building E.
35. A site monitor shall be retained for the duration of this project's construction and completion. Said selection shall be approved by the Conservation Department. Said monitor shall ensure compliance with the sediment and erosion control plans referenced herein with adjustments made in the field as needed. Said monitor shall conduct weekly inspections and after storm events greater than 1 inch with written reports submitted to the Conservation Department on a weekly basis.

FINDINGS

Application #IWW-10619-18

#WPL-10659-18

Lot A5/4, Lot A5/5, 28,36,38,39,41,42,43,44,45,47 Hiawatha Lane

Public Hearings: July 18, 2018, September 12, 2018, September 25, 2018, October 17, 2018

Receipt Date: IWW Application: May 16, 2018

Application Classification: Plenary

Application Request:

Applicant is proposing to redevelop several existing residential lots to build a 187 unit 8-30 g affordable housing project. The existing site includes 10 single family homes and two vacant lots. These homes will be demolished. Two lots to the north will be combined to form a new .75 acre parcel. The remaining eight house lots and two vacant lots to the south will be combined to form an 8.07 acre parcel. The north lot will have a three story, multi-family residential building with below ground and at-grade parking. The south lot will have three, three story multi-family buildings and one, four-story building with a connecting underground parking garage and at-grade parking. Related appurtenances include a playground and recreation area, a courtyard, walkways, paved drives and a stormwater management system.

The project is proposed to be served by public water and connection to a new sanitary sewer line with sanitary manholes and other related improvements along approximately 1,600 linear feet of Hiawatha Lane and Davenport Avenue within the road right-of-way.

The on-site impervious coverage will increase from 1.1 acres to 3.9 acres.

Regulated Activities:

- a. Southern Wetland System: There are four buildings proposed in the southwest portion of the site (Buildings A, B, C and D.) Of the four, two are located adjacent to a large wetland system that measures approximately 2.89 acres in size, (Buildings A and B.) All four buildings would be located outside the 75 ft. upland review area and the at-grade parking and driveway shoulders would be located outside the 30 ft. upland review area as well. No work is proposed within the wetland. The only work proposed is within the 20 ft. upland review area and is referenced by the applicant as an "Ecological Enhancement Zone" where invasive shrubs, vines and other vegetation would be removed and or controlled using herbicide applications. New, native trees, shrubs and ground cover planting would be installed. The wetland itself would be placed within the Conservation Easement Area which would be permanently demarcated with wood posts positioned 50 ft. on-center along the wetland boundary.
- b. Northern Wetland System: There is another building (Building E) with both underground and at-grade parking proposed in the northern portion of the property. All are located more than 75 ft from on-site wetlands.
- c. Eastern Wetland/Brook System: The regulated area in this portion of the project is restricted to that which is directly next to Indian Brook and is located in a confined

channel which mimics the top of the stream's embankment. The proposed regulated activity in this area is the Sewer Line Connection. The sewer line connection is proposed to cross Indian Brook. Work is proposed to take place in the street with the new sewer line to be installed beneath the brook. The work is located within the 20 ft upland review area and the WPLO area of Indian Brook.

Plans Reviewed:

"The Village at Saugatuck, Town of Westport," prepared for Summit Saugatuck, LLC

1. Plans prepared by Divney, Tung, Schwalbe, LLP
 - a. Key Plan, SP-0.1, Scale 1" = 50', dated May 7, 2018, revised to 7/27/18
 - b. Layout Plan (North), Sheet SP-1.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
 - c. Layout Plan (South), Sheet SP-1.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
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 - u. "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 and accompanying document entitled: "The Village at Saugatuck Hiawatha Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018.
2. Plans prepared by Redniss & Mead
 - a. Site Development Plan Depicting Hiawatha Lane Sanitary, SE-1, Scale 1' = 30', dated May 7, 2018
 - b. Details Depicting Hiawatha Lane Sanitary, SE-2, Scale NTS, dated May 7, 2018

- c. Pump Station Details Depicting Hiawatha Lane Sanitary, SE-3, Scale NTS, dated May 7, 2018
 - d. Cross Sections Depicting Hiawatha Lane Sanitary, SE-4, Scale As Noted, dated May 7, 2018
3. Plans prepared by Lewis Associates Land Surveying and Civil Engineering
- a. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 1 of 3, Dated March 17, 2016 and last revised to January 3, 2018.
 - b. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 2 of 3, Dated March 17, 2016 and last revised to January 3, 2018
 - c. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 3 of 3, Dated March 17, 2016 and last revised to January 3, 2018

Permits/Applications filed:

1. February 21, 2018, Conservation Commission approved Application #IWW/M-10540-18 for Amendment of Wetland Boundary Map A5 and B5.
2. Application #IWW,WPL-10619-18 of Summit Saugatuck for 187 Unit 8-30g affordable housing project was submitted May 14, 2018. The WPLO portion of the application was withdrawn July 23, 2018 in order to allow more time to review the application and was resubmitted on August 8, 2018. The contents of the previous WPLO application was incorporated into the current application #WPL-10659-18.

WPLO: There are two watercourses on the property. Indian Brook is located in the vicinity of the sewer crossing in the eastern portion of the project. An unnamed tributary to Indian Brook flows in the southern portion of the lot. The WPLO boundary is established 15 ft. from the wetland boundary associated with both the brook and the tributary.

The only regulated activity pursuant to the WPLO is the sewer connection taking place within Hiawatha Lane. The proposed sewer line would be placed beneath the brook which exists within a culvert beneath the street.

IWW Defined Resource (wetland or watercourse)

Wetlands and Watercourses occur on the subject property to the south and east.

The wetlands were flagged and the boundary was adopted by the Conservation Commission at its February 21, 2018 hearing of Application #IWW/M-10540-18. The boundary was initially flagged by Soil Scientist, Thomas Pietras, then confirmed by William Kenny. The Commission also retained the services of soil scientist, Eric Davison, who verified the flaggings by Mr. Pietras and Mr. Kenny.

Property Description: The ten existing, single family properties range in size from 0.35 to 0.81 acres, while the two undeveloped parcels are 0.16 and 2.85 acres in size. Most of the lands surrounding the single family houses are maintained in grassed lawns with scattered trees and shrubs. The southern portions of House #38, 32 & 44 plus a large portion of Parcel 4 are wooded. A State of CT-owned property is situated to the north of House # 38, 32 & 44 and to the west of House #36. Formerly, this State property contained buildings and asphalt parking associated with the I-95 toll booths. The toll booths were taken out in the late 1980's. These state lands are presently vacant and covered with a mix of grass fields with grades falling generally to the south. Elevations range from 32 feet at the northeastern corner of 28 Hiawatha Lane to just below 10 feet in the broad flatlands on Parcel 4.

In addition:

- a. The property is serviced by public water and on-site septic systems for the existing residences. A sewer line extension is proposed for the new proposed project.
- b. The property is not located within the Aquifer Protection Zone nor a groundwater recharge area.
- c. Property is outside the Coastal Area Management zone.
- d. The Town of Westport Wetlands Inventory prepared by Flaherty, Giavara Associates describes this system as a streamside floodplain with a wooded swamp and watercourse. A portion of the perimeter of this wetland system does contain tidal marsh vegetation. The perimeter of the wetland is developed residentially. There is evidence of water ponds temporarily within the wetland system.
- e. The WPLO boundary is 15' from the wetland boundary. The outlet of this wetland system is Indian Brook.
- f. The 100 year floodplain as designated by FEMA is set at elevation 10 ft. on this property. No work is proposed within this area. This floodplain is located within the southern wetland system.
- g. Landscape position is a backslope. Land surface shape is linear/linear.

Wetlands Description: Wetland soils are present on the southern portions of House #'s 39, 41 and 43 plus a large portion of Parcel 4.

A soil report summary was prepared by Tom Pietras on March 11, 2016 based on his inspection of the property on March 8, 2016. He describes the following wetland soils occurring on the property:

Raypol silt loam (12): The Raypol silt loam is a deep, poorly drained, friable loamy textured soil that developed over sandy and gravelly, glacial outwash. A water table is typically present within a foot of the surface from late fall through mid-spring.

Scarboro muck (15): this soil is a deep, very poorly drained soil with a thin (less than 15 inches) mucky surface that is underlain by sandy and gravelly, glacial outwash. This soil is subject to shallow (0 to 6 inches) seasonal ponding. The seasonal water table typically remains within six inches of the surface. On March 8, 2016, much of the Scarboro soil map unit identified on Parcel 4 contained shallow inundation that in places exceeded a foot deep. The wetlands on Parcel 4 may contain areas of deeper muck.

An intermittent watercourse discharges into the wetlands from a culvert which is located on the eastern side of 39 Hiawatha Lane. The watercourse flows in a southwesterly to westerly direction through the wetlands which are located on the southern portions of 39, 41 and 43 Hiawatha Lane and eventually into the broad wetlands on Parcel 4. A second intermittent watercourse channel is located in the far southern portion of 39 Hiawatha Lane and intersects with the first intermittent watercourse. The second watercourse extends onto property at 37 Hiawatha Lane where it connects with a larger brook. The Town of Westport GIS map shows a small pond, or inundated area, in the southern portion of 39 Hiawatha Lane within the delineated wetlands. There is evidence of a former, very shallow pond which has been silted-in. The intermittent watercourse which discharges from the culvert at 39 Hiawatha Lane passes through the former pond which presently supports young forested swamp vegetation.

The wetland area in the vicinity of the sewer crossing was flagged by soil scientist, William Kenny. He determined the soils in that area to be comprised of Udorthents which are soils that have been filled or excavated to a depth great then 2 ft. and are well drained to somewhat poorly drained.

According to the State of Connecticut Surficial Materials Map, the project area contains glacial meltwater deposits that were mapped as containing sand and gravel. Glacial meltwater deposits consist of layers of well-sorted to poorly sorted gravel, sand, silt and clay laid down by flowing meltwater in glacial streams and lakes which occupied the valleys and lowlands of Connecticut during the retreat of the last glacial ice sheet. The sand and gravel map unit is composed of mixtures of gravel and sand within individual layers and as alternating layers. Sand and gravel layers generally range from 25 to 50 percent particles and 50 to 75 percent sand particles.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

6.1 GENERAL STANDARDS

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

Findings: The proposed multi-family units are outside the 75 ft upland review area. The proposed surface parking lot is outside the 30 ft. upland review area.

In a report dated May 10, 2018 by William Kenny of William Kenny Associates, to the applicant, he summarizes that the proposed residential redevelopment is not expected to have adverse impacts to wetlands or watercourses on or off the site. The proposed project has been designed to avoid direct and indirect adverse impact to wetlands and watercourses. Direct adverse impact will be avoided as no wetlands or watercourse areas will be eliminated or degraded.

Mr. Kenny writes that indirect adverse impacts will be avoided by managing the quality and quantity of stomwater runoff before it enters wetlands and watercourse on and off the property. The applicant proposes to enhance wetlands through the removal of construction debris and other residential bulky waste, the control of invasive vegetation and the installation of native vegetation. In addition, the proposed ornamental landscape will be managed in accordance with Northeast Organic Farmers Association standards.

The Conservation Commission has retained the services of GHD to aid in its review of the application and what, if any, impact there will be to wetlands and watercourses as defined by the "Inland Wetland and Watercourse Regulations of the Town of Westport" and the Town's "Waterway Protection Line

Ordinance.” GHD’s analysis of proposed impacts is summarized in its memo to the Commission dated July 11, 2018.

Based on the documents provided to GHD, it found that:

- The applicant is not proposing any direct impact to wetlands or waterways on or adjoining the site;
- The applicant has identified that potential secondary impact to wetlands and watercourse related to construction (short-term) and increased impervious surfaces and stormwater run-off (long-term) could occur, if unmitigated.
- The applicant has provided an analysis and discussion of proposed mitigation measures to address potential short-term and long-term adverse impacts on the wetland and watercourse as a result of the project. The proposed mitigation measures include an erosion and sedimentation control plan to address potential short-term impacts due to construction activities and a comprehensive stormwater management plan to address potential long-term adverse impacts to the wetlands and watercourse.
- In all, GHD listed 22 action items that were to be addressed that would better protect the wetlands and watercourses.
- In response, a document entitled, “Response Document to July 11, 2018 memo of GHD” dated July 30, 2018 was prepared by Divney, Tung, Schwalbe. A second memo was submitted by Summit Saugatuck, LLC dated August 24, 2018 to the Westport Conservation Commission entitled “Response to July 11, 2018 Peer Review Memo of GHD” in which each of the GHD comments were addressed.
- A response document dated September 6, 2018 from GHD noted that the responses made to their initial July comments adequately addressed their concerns. In some instances, the plans were further amended with revisions submitted on October 1st noting a September 28, 2018 revision date.
- The plans were also revised to reflect comments from the Engineering Department’s September 7, 2018 memo to Conservation Director, Alicia Mozian. The September 28, 2018 plans were further reviewed by the Engineering Department, revisions made and a final memo from the Engineering Department, dated October 15, 2018 concludes that the “office is satisfied with the revisions made to the project. Per this review, the application is substantially complete and requires no further resubmission. While the granting of this approval is at the discretion of the Commission, we find no issues in my review that would preclude such action.”

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

Findings: The proposed development will increase the on-site impervious surface coverage by approximately 2.8 acres. Stormwater runoff will be installed and maintained to meet the Town's drainage design standards for water quality which includes treating the first inch of runoff from added impervious surfaces. The treatment train proposed will drain stormwater flowing from impervious surfaces into hooded deep sump catch basins, which will help remove oil and grease and sediment. The parking garage(s) will have an oil and grease separator(s) that will drain to the Town's sewer system. Runoff will then drain into recharge chambers that will infiltrate the stormwater into the surrounding soils or water quality basin which will further remove pollutants from runoff. Runoff from the remaining impervious surfaces will flow to the stormwater basins and raingardens and treated via infiltration in the surrounding soils. Rainwater that lands on the proposed parking garage's 11,000 sq.ft. green roof will be treated and detained by passing through the green roof vegetated medium into a roof drain system. Excess stormwater from the green roof will flow to either the subsurface recharge chamber to the north or the stormwater basin to the south for infiltration and further treatment. The Commission finds that the maintenance of the green roof is an integral part of the treatment train and as such provisions for its upkeep must be added to the overall Operations and Maintenance Plan for the property.

In addition, the applicant will be cleaning the existing Indian Brook culvert and existing wetland area of debris. The Commission further finds that every attempt to secure permission from the State of Connecticut to allow cleaning of the culvert under the railroad will further improve the water quality of the brook leading into the Saugatuck River.

Moreover, the 2.89 acre Conservation Easement Area which encompasses the vast majority of the on-site wetland will be left undisturbed. A 20 ft.- 50 ft. wide vegetated buffer will be enhanced with native plantings that will act as additional on-site filtering of any overland flow. The Commission finds that the proposed "Ecological Enhancement Zone" once established, should be included in the Conservation Easement Area.

Snow stockpile areas have been designated on the plans to ensure snow is not dumped into the Conservation Easement area. When deicing is required, Calcium Magnesium Acetate or other non-sodium based procures will be used. This requirement will be added to the Operations and Maintenance Plan for the property.

The proposed development is slated to be served by city water and sewer, though the Town's approval to connect to the sewer has not yet been granted. The Commission finds that failure to secure the sewer approval would render this approval null and void since the design is predicated on receiving this approval.

The buildings would be heated by natural gas. Any existing underground oil tanks now servicing the existing homes would be removed. The applicant purports that above-ground oil tanks from six of the 10 existing homes have already been removed. In addition, since the past use of the property has been historically residential, the applicant believes a Phase I site assessment is not warranted.

However, in the May 14, 2018 letter to Patricia Shea, Chair of the Conservation Commission, Timothy Hollister, attorney for the applicant states that: "one parcel adjacent to the proposed redevelopment, a lot still owned by the Connecticut Department of Transportation, was used until the 1980's as a paved support area for I-95 toll booths." In his June 12, 2016 report to Summit Development, LLC, Soil Scientist, Thomas Pietras further defines this areas located to the north of houses 38, 32, 44 and to the

west of house 36. The Commission finds that since the parcels under review now are in such close proximity to the state owned land that once generated possible contaminants by its use as a toll booth location, at minimum, a Phase I study should be conducted by the applicant. However, the Commission has opted to make this a recommendation to the Planning and Zoning Commission as the concern relates more closely to its purview in reviewing the public health and safety aspect of the proposal.

6.3 EROSION AND SEDIMENT

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

Findings: The erosion and sediment controls are probably one of the most significant considerations of this particular design due to the amount of proposed cutting and the proximity to the wetland. The site measures 8.8 acres total, 8.1 acres in the southern most section of the property where Buildings A,B, C and D are located. Building E is located in the northern section on .75 acres. All buildings will be served by both at-grade parking spaces and underground parking garages.

The property slopes from north to south with some steep slopes located to the north. The applicant has stated that there will be net cutting of the property with an estimated 25,725 cubic yards of fill being removed from the site. For perspective, assuming a typical dump trucks has a capacity of 20 yards, that equates to 1,286 dump truck loads of fill being hauled off the property.

The applicant has testified that the total site disturbance is estimated at 5.8 +/-acres with only 5 acres of land being cleared at a time and that the sediment and erosion control plan, is meant to also serve as the construction phasing plan, Sheet SP-4.2. The Conservation Easement Area measures 2.9 acres. This, plus the area to be developed equals the total 8.8 acres. The State of Connecticut requires that if the site disturbance is greater than 5 acres, registration of the site with the CT DEEP is required. The applicant agrees that they do plan on registering their plan for stormwater and sediment and erosion control with the State.

The applicant is proposing the use of double-rows of silt fencing, sediment traps, stockpiles with silt fence placed at a minimum of 55 ft. from any wetlands, wheel wash areas, dewatering pits, coir logs, catch basin inserts, mud-tracking pads. In addition, the Erosion Control Plan, Sheet SP-4.1 states that a Site Monitor will be employed that will report to the Conservation Department on a weekly basis and after a rainfall event of .5 inches or greater. Reporting will take place during the initial clearing, excavation, foundation construction, installation of sedimentation controls and time of final site stabilization.

The sediment traps will be converted to stormwater infiltration basins at the end of construction.

Stockpile areas are located throughout the project, one being in the far southwest corner of the developed area adjacent to the wetland in the location of the proposed playground. These piles will be hydro-seeded. In addition, any areas not worked for more than seven days are to be hydro-seeded.

The Commission's consultant, GHD, reviewed the erosion and sedimentation control plan and determined that the plans are adequate and meet the goal of trapping particulates at the source by promptly stabilizing disturbed areas, avoiding concentration of runoff, avoiding contamination of existing storm drains and maintenance of controls on a weekly basis and after storm events.

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.
- g) Planting plan included with application as mitigation for the proposed activities

Findings: The wetland areas on the site were evaluated for their ability to provide wildlife habitat by two soil and wetland scientists, Thomas Pietras and William Kenny. They describe the wetlands as being grouped into three areas: a forested swamp in the southeastern portion of the site primarily behind 39, 41 and 43 Hiawatha Lane, a shrub-sapling swamp/forested swamp complex in the southwestern portion primarily behind 43, 45 and 47 Hiawatha Lane, and Indian Brook and its fringe wetland.

In his June 12, 2016 report, Mr. Pietras states that on May 16, 2016 the inundated portion of the swamp area was investigated for amphibians and reptiles. A dip net was used to sample the waters and identify any species. No obligate vernal pool species were found. An American toad, green frog, several waterfowl and song bird species were sighted.

Mr. Pietras found that the forested swamp, intermittent watercourse, patches of upland forest and the dense woody understory and herbaceous layer provide food, cover and nesting sites for wildlife. However, the presence of a residential neighborhood to the north and the railroad to the south reduce the overall wildlife habitat value. Therefore, in general the forested swamp wetlands was determined to provide moderate wildlife habitat.

The shrub-sapling swamp and forested swamp are situated primarily within the vacant lot behind #43, 45 and 47 Hiawatha Lane. Mr. Pietras rated this area as moderate-high quality wildlife habitat for a range of species including reptile, amphibian, waterfowl, avian species and mammals.

Mr. Kenny re-investigated the site in April and September of 2017. In his May 10, 2018 report to the applicant, he also includes the evaluation of Indian Brook and its fringe wetlands. They were evaluated as having moderate wildlife habitat.

Mr. Kenny finds that the on-site wetlands will remain unchanged and or be slightly improved. The capacity of the wetlands and watercourses to provide wildlife habitat will be slightly improved as the wetland buffer areas will be cleaned of debris and vegetated with native plantings that will benefit wildlife using the wetlands.

A consultation of the CT DEEP Natural Diversity Data Base map for Westport was reviewed and no state or federal listed species and significant natural communities were identified in the forested swamp or in any portion of the of the project area.

Both of these wetland areas are proposed to be protected within a conservation easement area.

6.5 DISCHARGE AND RUNOFF

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

Findings: Discharge and runoff and water quality are linked very closely in this design proposal. As no direct impact to the wetland is anticipated, the indirect impact may come from how effective the stormwater runoff is treated before it is discharged to the ground or the wetlands. The treatment train for handling stormwater runoff is reviewed more thoroughly in the "Water Quality" analysis above.

- Initially, the Commission's consultant, GHD, listed 22 action items that were to be addressed that would better protect the wetlands and watercourses. They concluded that, if done and found acceptable, would "appear to be adequate to mitigate potential long-term adverse impacts to the wetlands and waterways."
- In response, a document entitled, "Response Document to July 11, 2018 memo of GHD" dated July 30, 2018 was prepared by Divney, Tung, Schwalbe. Also, a memo was submitted by Summit Saugatuck, LLC dated August 24, 2018 to the Westport Conservation Commission entitled "Response to July 11, 2018 Peer Review Memo of GHD" in which each of the GHD comments were addressed.
- A response document dated September 6, 2018 from GHD noted that the responses made to their initial July comments adequately addressed their concerns. In some instances, the plans were further amended with revisions submitted on October 1st noting a September 28, 2018 revision date.
- The plans were also revised to reflect comments from the Engineering Department's September 7, 2018 memo to Conservation Director, Alicia Mozian. The September 28, 2018 plans were

further reviewed by the Engineering Department, revisions made and a final memo from the Engineering Department, dated October 15, 2018 concludes that the “office is satisfied with the revisions made to the project. Per this review, the application is substantially complete and requires no further resubmission. While the granting of this approval is at the discretion of the Commission, we find no issues in my review that would preclude such action.”

- The Flood and Erosion Control Board reviewed and approved the application at its July 11, 2018 meeting.

However, as with any stormwater management plan, it is only as effective as it is maintained. This requires routine inspection and maintenance for the entire life of the project. The applicant has submitted an Operations and Maintenance Plan (Sheet OM-1) outlining how the stormwater features, including the green roof will be maintained over the life of the project. The Commission finds that this should be a stand-alone document with routine maintenance compliance recorded and available for inspection by Town representatives at any time.

The Commission further finds that in response to the testimony received by the neighbors about the flooding conditions in the area and due to the limited scope of the review by the Flood and Erosion Control Board at its July 18, 2018 review pursuant to the WPL Ordinance only, the Commission will be recommending to the Planning and Zoning Commission that, if and when the proposal is reviewed by them, they refer it again to the Flood and Erosion Control in order to provide the opportunity to consider the flooding conditions in the area on a watershed basis.

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: A playground recreation area is proposed in the southwest corner of the project area behind Building B. This is located outside the WPLO area and approximately 60 ft. at minimum from the wetland boundary in that area. There is also an area between Buildings A and B described as “Hiawatha Green.” This area sits above the below ground parking garage. The current application will not have a significant impact on recreational and public uses.

WPLO Findings

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Section 30-93 of the Waterway Protection Line Ordinance states that an applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited

to, impact on ground and surface waters, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

There are two watercourses on the property. Indian Brook is located in the vicinity of the sewer crossing in the eastern portion of the project. An unnamed tributary to Indian Brook flows in the southern portion of the lot. The WPLO boundary is established 15 ft. from the wetland boundary associated with both the brook and the tributary.

The only regulated activity pursuant to the WPLO is the sewer connection taking place within Hiawatha Lane. The proposed sewer line would be placed beneath the brook which exists within a culvert beneath the street.

- The Flood and Erosion Control Board approved the application on July 11, 2018.
- The Engineering Department gave a favorable review of the proposal after several plan changes and additions in its October 15, 2018 memo to Conservation Director, Alicia Mozian.
- The Commission's consultant found, that after several plan changes and additions, they found the project acceptable with certain conditions that would ensure the stormwater collection and treatment components of the plan would be maintained over the life of the development.
- The project development is located outside the 100 year floodplain.
- Soil and wetland scientists Thomas Pietras and William Kenny found no adverse impact to plant and aquatic life or habitat diversity since the entire wetland area would be protected in a Conservation Easement Area.
- No threatened or endangered species are found on the property.

The Conservation Commission finds that, with further conditions imposed to ensure design measures are implemented and maintained as proposed, the resources on the property as regulated by the Inland Wetland and Watercourse Regulations for the Town of Westport and the Waterway Protection Line Ordinance will not be adversely impacted by the proposed development.