



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

**MINUTES  
WESTPORT CONSERVATION COMMISSION  
JANUARY 15, 2020**

The January 15, 2020 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 307/309 of the Westport Town Hall.

**ATTENDANCE**

**Commission Members:**

Anna Rycenga, Chair  
Paul Davis, Vice-Chair  
Donald Bancroft, Secretary  
Tom Carey  
Stephen Cowherd  
Paul Lobdell  
Mark Perlman

**Staff Members:**

Alicia Mozian, Conservation Department Director  
Colin Kelly, Conservation Analyst  
Gillian Carroll, Conservation Compliance Officer

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

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Alicia Mozian  
Conservation Department Director



- **20 Jennie Lane** – Wood chips were removed by Bert’s Tree Service on Saturday November 30, 2019. Plantings will be installed in the spring by the homeowner.
- **34 Burr School Road** – 12/4/2019 – Michael Garaffa notified the Conservation Department that the fill removal would be taking place on Dec. 6, 2019. The Conservation Dept. inspected the removal of fill process. Sediment and erosion controls were installed prior to the commencement of work.

1/3/2020- Attorney Porto contacted the Conservation Dept. to be sure no further action was needed to be met until the Spring of 2020. The Conservation Dept. confirmed implementation of the planting plan in the spring will be the final step prior to removal of the C&D off the land records.

- **61 Richmondville Avenue** – Violation Inspection done on 12/16/2019. The pipe directly discharging into the Saugatuck River has been removed. However, the Engineering Dept. has not yet verified they have met their conditions for drainage. The violation will remain until confirmed by the Engineering Department.
- **20 Webb Road** – A fine and Cease & Correct Order was issued for installation of a pipe within the wetlands.

The Citation Hearing was held on December 6, 2019 - the Citation Hearing Officer, JoAnn Davidson, stated she believes the fine should remain, whether David Vyerib knew about the work (violation) taking place or not, it is his responsibility as the property owner at that time to be in compliance. David Vyerib paid the \$2,000.00 fine to the Town of Westport that day for conducting work in a regulated area without a permit (\$1,000) and for doing so within the 20 ft. setback (\$1,000).

The Show Cause Hearing was held on December 13, 2019. David Vyerib and the homeowner, Jason Heaps, were there to present their case and answer Commissioner’s questions. Dean Martin is the newly hired Engineer who was not present. The Commission felt that before making any decisions, D. Martin needs to familiarize himself with the property and come up with a feasible resolution, if there is one. No plans were submitted as of 1/8/2020. There is a scheduled continued Show Cause Hearing for January 13, 2020.

The Commission revised the Order, which included conditions that need to be met before the Cease & Correct can be released.

- **36 Marion Road** – Issued the property a Notice of Violation on January 3, 2020 after receipt of a complaint from the homeowner of 36 Marion Road on Jan. 2, 2020 for drainage issues in front of home where the catch basin is. Both the Engineering and the Conservation Dept. inspected the property; water is ponding over catch basin creating a public safety issue. Drainage from a previous owner was altered without consulting Conservation or Engineering. The front yard of the home was supposed to have a detention pond and at some point in time, there was a pipe installed which connects to the catch basin and now extends to the wetlands to divert the water from ponding in a detention pond. The pipe is now clogged that is directed into the wetlands due to lack of maintenance of the wetlands with deliberate stockpiling of leaves, grass clippings and other debris. Unfortunately, this new homeowner, who has now lived in this home for 3 years, appears to have inherited a bad situation. The homeowner was given permission, with the supervision of Engineering Dept., to trench a channel in the wetlands to alleviate the clogged pipe in hopes of creating a running stream again so that the catch basin will be able to drain into the pipe and water from the road will no longer be an issue.

1/6/2020 – Engineering went onsite to inspect work that had been done. Minimal trenching was performed and needs be dug deeper to see results and no leaves have yet to be removed.

1/8/2020 – G. Carroll and Ted Gill from Engineering inspected work being performed. Recommending homeowner to seek professional help to remove pipe clog, which will be supervised by both departments once someone has been hired.

- **8 Lone Pine Lane** – Enforcement action being taken for clear cutting of 19 trees along Deadmans Brook.

Mr. Lobdell arrived at 7:00 p.m.

**4. 2019 Annual Report on permit and enforcement activity.**

Ms. Carroll reviewed the 2019 numbers and comparison data to past years for enforcement, complaints and permitting.

Mr. Kelly noted the trends have plateaued for the enforcement activity.

Ms. Mozian commented on the relationship between the number of complaints and presence of a Sediment and Erosion Inspector. Staff is seeing the complaints increasing with the position unfilled. The job is currently posted.

Ms. Rycenga asked what account the fees collected from the fines that are issued.

Mr. Kelly noted that the fees collected go in to the general fund account.

**Public Hearing: Room 307/309. 7:10 p.m.**

By Roll Call, it was noted that all members visited and observed the sites in preparation for the public hearings and work session items for this meeting.

- 1. Sidewalk Extension along Compo Rd. North between Main Street and Cross Highway:** Application #IWW,WPL-10942-19 by Town Engineer, Keith Wilberg on behalf of the Town of Westport to construct a 5-foot wide concrete sidewalk along the north side of Compo Road North between Main Street and Cross Highway. Work is within the upland review area and the WPLO area of Willow Brook.

Keith Wilberg, PE, Town Engineer, presented the application on behalf of the Town. This sidewalk is being built using a Local Transit (LOTICIP) grant for 80/20 State/Town ratio. There will be a 0.3 cfs increase in runoff from the sidewalk. The sidewalk will be slightly pitched toward the road where the runoff will be collected by catchbasins. There is less than 500 s.f. of disturbance from grading anticipated in the upland review area, not the wetland itself. The existing railing will be moved toward the road to accommodate the sidewalk. Less than 30 c.y. of fill is anticipated. An erosion control blanket is anticipated on the steep slopes. The plantings that were just installed in 2016 with the recent DOT project may be lost. They will try to save some, otherwise they will have to replant. They are hoping to start the project this summer. The sidewalks are proposed to be concrete because of the product's longevity and is the standard for State projects. The proposed steep slope exceeds the Excavation & Fill slope requirements. A variance is required unless the Town Engineer grants a variance. In this case, he will grant the variance. He submitted an overall sidewalk plan.

Ms. Mozian asked about maintenance and treatment of the sidewalk.

Mr. Wilberg stated the Town is responsible for maintaining the sidewalk. The Town does use salt.

Ms. Mozian noted this is another reason the planted buffer on the slope is so important.

Mr. Kelly highlighted key points in his staff report. Vegetation on the steep slope is very important. The Oak tree nearest the culvert should be protected during construction. There is no work proposed within the wetland; the work will be done from the roadside. He recommended that whatever plants were installed by the State should be saved and/or restored.

Ms. Rycenga asked if State DOT permits are required.

Mr. Wilberg stated DOT is the next stop for permits.

Ms. Rycenga emphasized the need to inspect sediment and erosion controls and blankets throughout the duration of the construction as we want to ensure that the stormwater runoff runs over the top of the blankets.

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

**Motion:** Cowherd **Second:** Lobdell  
**Ayes:** Cowherd, Lobdell, Bancroft, Carey, Davis, Perlman, Rycenga  
**Nays:** None **Abstentions:** None **Vote:** 7:0:0

### Findings

**Sidewalk Extension along Compo Road North,  
 Between Main Street and Cross Highway  
 #IWW, WPL 10942-19  
 Public Hearing: January 15, 2020**

**1. Application Request:**

Applicant is requesting to construct a 5-foot wide concrete sidewalk along the north side of Compo Road North between Main Street and Cross Highway. Work is within the 30' upland review area and the WPLO area of Willow Brook.

**2. IWW and WPLO Regulated Areas:**

IWW setbacks determined for this property include a 30' review area for elements including the sidewalks and guiderails and a 20' non-disturbance buffer for the proposed grading and bank stabilization from wetland boundaries.

The Waterway Protection Line Ordinance dictates that the WPLO boundary be located 15' from the 25-year floodplain.

**3. Plans and supplemental material reviewed for this application include the following:** "Main Street Sidewalk Improvement Project Westport, CT Conservation Commission Submission", Scale: As Noted, dated 12/12/19, prepared by Tighe & Bond, Inc., **sheets C-002, C-103, C-104, and C-200**

**4. Background Information:**

The State of Connecticut DOT completed renovations within the right-of-way of Main Street and Compo Road North (State Route 136) circa 2016-17. This included culvert replacement for Willow Brook

**5. Facts Relative to this application:**

- a) Property is within the Aquifer Protection Overlay Zone.
- b) Property is outside Coastal Area Management Zone.
- c) The 100-year floodplain of Willow Brook is determined by Flood Profiles Study presented by the Town of Westport Engineer.
- d) Wetland and Watercourse information compiled from GIS information and field located boundaries located from Westport Land Record Mapping.
- e) The wetland system is associated with Willow Brook and its floodplain. Web Soil Survey identifies the wetland soils as Ridgebury Leicester, and Whitman Soils (3), 0-8 percent slopes which are common in drainage ways.
- f) The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as a "streamside floodplain" and as a wooded swamp primarily consisting of Red Maple. The perimeter of this wetland is 100% residential.
- g) Approximately ±170 linear feet of the project for new sidewalks will be within the upland review area of wetlands. The total project includes installation of new sidewalks from the intersection of Canal Street (and Main Street) to Weston Road (and Main Street) and along Compo Road North from Cross Highway to Main Street. Approximately ~4000 linear feet of sidewalks, of which only ~570 linear feet is new, and the remaining is refurbishment/replacement of existing sidewalks.
- h) Flood & Erosion Control Board reviewed and approved this application on January 8, 2020.

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

**6.1 GENERAL STANDARD**

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

**Discussion:** The Commission finds that land disturbance for this project will be limited to the installation of the sidewalks and guide rails and the associated fill to establish a stable slope. The sidewalk and guiderail

system are set at minimum design standards along the existing travel ways for Compo Road North and Main Street. The Commission finds that the decision to select the eastern side of Compo Road North for the sidewalk is based on suitability. The western side has significant slopes to contend with, would require more fill within the regulated areas, and has a limited area of right-of-way compared to the development on the eastern side. Additionally, the eastern side of Compo Road North provides a gentler slope to begin with along with a larger right-of-way.

Commission finds that the existing vegetation will be disturbed to conduct the work. Woody vegetation, herbaceous plants and grasses cover most of the work site. Two oaks have been planted at the toe of slope and are within the work area. The woody vegetation should be relocated as they were recently planted as part of the State DOT restoration for their previous work.

## 7. 6.2 WATER QUALITY

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

**Discussion:** The Commission finds that the design of the proposed sidewalk will pitch runoff towards the existing roadway and follow the existing gutter line. Sediment and erosion controls will be deployed during site construction. This includes the use of hay bales and silt fencing along the base of the slope and silt sacks within the catch basins. All work is expected to be done from the uplands or road surface, no equipment is expected to operate within the regulated wetland or watercourse.

## 8. 6.3 EROSION AND SEDIMENT

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

**Discussion:** As stated above, the sediment and erosion controls will be deployed at the start of site work and shall be maintained during site construction. This includes the use of hay bales and silt fencing along the base of the slope and silt sacks within the catch basins. The Commission finds that the worksite will not have room for stockpiling; therefore, all materials will be direct loaded into awaiting dump trucks.

Erosion control blankets will be installed upon completion establishing the proposed slope. The Commission finds that the contractor shall apply a New England Roadside Matrix Wet Meadow Seed Mix, or comparable, prior to installation of the blanket to promote vegetation establishment on the steep slope. This will aid with slope stabilization and outcompete invasive species from taking control of the disturbed areas.

## 9. 6.4 NATURAL HABITAT STANDARDS

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

**Discussion:** The proposed project is located along a maintained roadway. The roadway crosses Willow Brook's culvert that was recently updated in 2016-2017. The state appears to have completed a planting to aid with slope stabilization and restoration as part of their work. The Commission noted two oak trees planted near the toe of slope and several

woody shrubs planted along the embankment. One oak is located approximately 18 ft. from the existing guiderail (west of the traffic light pole), and the other oak is located approximately 10 ft. from CL&P pole #25171.

The proposal shows portions of the existing slope being disturbed to allow for the installation of the sidewalk and metal guiderail. The Commission finds that most of the site work abutting Main Street could be done with removal and replanting of the woody shrubs to meet the plan expectations and still allow the planted oak in that area remain with minor grade work. However, the slope closer to Compo Road North appears steeper and may require slope paving/tree well to preserve the location of the oak located near CL&P pole #25171. Similarly, the woody vegetation should be removed and replanted if possible.

The grading and planting is within the 20' non-disturbance buffer. The Commission finds this restoration planting along with the erosion control matting and seed mix is a proper mitigation measure for the disturbance associated with this project. The Commission finds that this planting will naturalize the embankment and provide a transitional interval from the road to the wetland system.

#### **10. 6.5 DISCHARGE AND RUNOFF**

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

**Discussion:** *The sidewalks are designed to have a positive pitch to shed stormwater to the gutter line of the existing road. Stormwater will flow through existing established pathways reconstructed/re-established by the State DOT work for the 2016-2017 renovation. No new drainage system is proposed with this project.*

#### **11. 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:** This project is a portion of the overall Main Street Side Walk Improvement Project that extends from Canal Street to Weston Road. The Town has been asked by the public to "increase sidewalk capacity and connectivity" throughout town and this project will aid in connecting more neighborhoods, specifically connecting Main Street to Cross Highway sidewalks.

#### **12. Waterway Protection Line Ordinance**

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

The Waterway Protection Line Boundary occurs 15' from the wetland boundary or 15' from the 25-year flood plain whichever is more conservative. On this project, the boundary is established 15' from the 25-year flood elevation as agreed with the Town Engineering Department. The discussion of the Standards of Review 6.1 through 6.5 stated above address the criteria for consideration by the Commission.

The Flood & Erosion Control Board reviewed and approved this application on January 8, 2020.

**Conservation Commission  
TOWN OF WESTPORT  
Conditions of Approval  
Application # IWW, WPL-10942-19  
Street Address: Compo Road North**

**Between Main Street and Cross Highway**  
**Date of Resolution: January 15, 2020**

**Project Description:** Applicant is requesting to construct a 5-foot wide concrete sidewalk along the north side of Compo Road North between Main Street and Cross Highway. Work is within the upland review area and the WPLO area of Willow Brook.

**Owner of Record:** Town of Westport

**Applicant:** Keith Wilberg, Town Engineer

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW,WPL 10942-19 with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
5. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
6. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
7. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
8. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
14. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
15. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
16. All on-site dumpsters shall be covered at the end of each work day and or when not in use.

**SPECIAL CONDITIONS OF APPROVAL**

17. Conformance to the plans entitled:  
 "Main Street Sidewalk Improvement Project Westport, CT Conservation Commission Submission", Scale: As Noted, dated 12/12/19, prepared by Tighe & Bond, Inc., sheets C-002, C-103, C-104, and C-200
18. Conformance to Flood & Erosion Control Board January 8, 2020 conditions of approval.



19. Erosion controls are to be installed prior to construction commencement. Contact Conservation Department staff prior to installation of controls.
20. All excess materials will be direct loaded, no stockpiling allowed on site.
21. Woody vegetation recently planted as part of the State DOT restoration shall be removed prior to regrading activities and replanted in same location when completed, prior to issuance of CCC. The two oaks shall be preserved in place and protected with slope paving or tree wells.
22. New England Roadside Matrix Wet Meadow Seed Mix, or comparable, shall be utilized prior to installation of the erosion control blanket to promote vegetation establishment on the steep slope.

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

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

**Motion: Davis                      Second: Lobdell**  
**Ayes: Davis, Lobdell, Carey, Rycenga, Bancroft, Cowherd, Perlman**  
**Nays: 0                      Abstentions:0                      Vote: 7:0:0**

2. **King's Highway North Bridge:** Application #WPL-10943-19 by Town Engineer, Keith Wilberg, on behalf of the Town of Westport to remove the existing bridge and replace it with a new bridge in the approximate place and in-kind. The site lies within the WPLO area of Lee's Canal Raceway (Willow Brook).

Keith Wilberg, PE, Town Engineer, presented the application on behalf of the Town. They are proposing a 3-sided bottomless culvert with reinforced concrete allowing for the natural stream bottom. The existing bridge will be completely removed and new stone bridge built. The existing bridge was built approximately in 1930. In 1991, the State DOT inspected and it received a bad grade. In 2016, the State DOT failed it because of the condition of decking and abutments and downgraded the weight limit to 4 tons. Parapets have been hit several times. BL Engineers designed the bridge replacement. The existing bridge is 28 ft. wide. The proposed bridge will be 34 ft. wide and designed with a H-20 live load rating. The span is 13 to 14 ft. wide currently and is going to 22 ft. This is the area the stream passes through. The current elevation of the road is 7 ft. They are not proposing a higher bridge but it will handle more flow. A CT DEEP Certificate of Permission was issued in July 2019, Flood Erosion and Control Board approved this on January 8, 2020 and he will be applying for a CAM and CGS 8-24 for municipal improvements. Mr. Wilberg highlighted the 4 abutting property owners on which some of the work will occur. The Town did get permission from each to secure the permit but are still working on getting easements to do the work. Aquarion is replacing the waterline in the same location. Mr. Wilberg described that methodology as going 10 ft. below the streambed and enter on either side within the roadbed. This will be done first before the bridge is replaced. Eversource also need to replace their electric lines. However, the pole on the northeast side does not have to be replaced. They are also going to repitch slightly the road to direct runoff to a catchbasin and a biofiltration area. The sewer lateral for the Storch building will be replaced. The sewer main line will not be replaced. Flood Study shows 540 cfs flow during storm event for Willow Brook, which is 2% of 12,000 cfs for the Saugatuck River. The new culvert will be more than enough to manage normal flows. They have provided 2 by-pass pipes and a cofferdam to manage 3.5" storm (2 year storm) over a 24 hour period during construction. If we get a predicted storm greater than that, the site will need to be buttoned up.

Mr. Lobdell asked if the existing bridge has flooded.

Mr. Wilberg stated it does and described the conditions.

Mr. Lobdell asked if the new bridge will flood.

Mr. Wilberg stated it will but it can handle a 2-year storm.

Mr. Wilberg described the methodology for the bridge construction including use of cofferdams, dewatering, reroute Willow Brook, digging down to -5 feet to put in new footing and then install the pre-cast concrete culvert. The bottom of the new arch will be 5' 3" msl. Flooding will still occur but will not be any worse. A bio-retention area is proposed on southeast corner on the Storch property. They would like to use the existing

catchbasin, retrofit with a dirtbag and then silt sac. The leak off will be eliminated. Instead, runoff will go to biofiltrations. They are sized to handle 1.28 acres or 56,000 s.f. to treat the first inch. The Town is still in negotiations with Dr. Storch to get approvals.

Mr. Davis stressed the importance of maintaining the biofiltration basin.

Ms. Rycenga asked about fish migration.

Mr. Wilberg indicated they expect the project to take 10-12 months. The road will be closed 8-10 months. Due to fish spawning, there will be no work in the water between April 1<sup>st</sup> to June 30<sup>th</sup>. Due to the Diamond Back Turtle, we need to be vigilant to their presence. This is a requirement of the DEEP COP.

Ms. Rycenga asked if there is a back-up plan is the easements are not secured.

Mr. Wilberg stated the Town would have to use Eminent Domain. He noted there is a planting plan included. The specifics of the biofiltration basin have not been completed.

Ms. Rycenga asked fellow Commissioners if the biovention pond has to be shifted off the Storch property, are they okay with staff approving the changes. All indicated they were satisfied referring the modifications to staff for an administrative approval.

Ms. Mozian noted the Flood and Erosion Control Board approved the proposal at its January 8, 2020 hearing with two Special Conditions.

Mr. Kelly highlighted his staff report. He noted the presence of phragmites to the north but tidal wetlands vegetation to the south. There will be 4 trees removed and 3 trees and 36 shrubs will be replanted. Work will be done primarily at low tide. The natural stream bottom needs to be reestablished using the existing substrate. The alternative of not replacing the bridge would cause major traffic jams and pose a safety threat due to the structural integrity of the existing bridge.

Ms. Rycenga called for Members of the Public to speak on the application.

Dr. Mark Storch, owner of and with a practice at 43 Kings Highway North, noted that the area floods regularly now. He thinks floods will worsen over time and the biofiltration area will be an eye sore and non-functioning since that area is regularly inundated anyway. He is also questioning the proposed plant types in it and asked if they are salt tolerant? He questioned if they will be aesthetically pleasing and prevent erosion?

Ms. Rycenga suggested Dr. Storch work with the Conservation staff and Engineering Department to amend the plantings and review the biofiltration basin.

Mr. Wilberg noted BL Companies designed this biofiltration basin as a compromise with CT DEEP and they are aware this area will flood.

Ms. Mozian stated the biofiltration could be shallower and bigger rather than smaller and deeper. It should be heavily planted. The plants selected do include colorful foliage and berry producing.

Mr. Perlman asked if the bridge was in imminent danger of collapse.

Mr. Wilberg stated yes.

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

<b>Motion:</b>	<b>Bancroft</b>	<b>Second:</b>	<b>Perlman</b>
<b>Ayes:</b>	<b>Bancroft, Perlman, Carey, Cowherd, Davis, Lobdell, Rycenga</b>		
<b>Nays:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>7:0:0</b>

**Findings**  
**Application # WPL 10943-19**  
**Kings Highway North Bridge**

– *Over Lee’s Canal Raceway (Willow Brook)*  
Public Hearing: January 15, 2020

**1. Application Request:**

The Town of Westport is requesting to conduct improvements to remove an existing bridge and replace it with a new bridge in approximate place and kind. Work proposed is within the WPLO boundary of Lee’s Canal Raceway, which also carries Willow Brook.

**2. Plans reviewed for this application:**

- a) **“Connecticut Department of Energy and Environmental Protection License Certificate of Permission Section 401 Water Quality Certification**, Town of Westport, c/o Peter Ratkiewich 110 Myrtle Ave Westport CT, License Number **201905135-COP**”, dated July 2, 2019,
- b) **“COP Proposed Construction Methodology & Sequencing**, Town of Westport BL Projects 16C6055 Replacement of Bridge No. 158-021 Kings Highway North over Willow Brook”, 3pgs.
- c) **“USGS Topographic Location Map Kings Highway North over Willow Brook Westport, CT”**, Dated June 7, 2019, Scale: 1”=800’, prepared by BL Companies, Sheet FIG-1
- d) **“Existing Conditions Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=60’, prepared by BL Companies, Sheet **FIG-2**.
- e) **“Existing Conditions – Vegetation Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-3**.
- f) **“Proposed Structure – Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-4**.
- g) **“Proposed Structure – Elevation**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 3/32”=1’, prepared by BL Companies, Sheet **FIG-5**.
- h) **“Proposed Structure – Details**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: As noted, prepared by BL Companies, Sheet **FIG-6**.
- i) **“Proposed Structure – Details**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: As noted, prepared by BL Companies, Sheet **FIG-7**.
- j) **“Water Handling Plan – Stage 1A**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-8**.
- k) **“Water Handling Plan – Stage 1B**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-9**.
- l) **“Water Handling Plan – Stage 2**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-10**.
- m) **“Road Closure Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June, 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-11**
- n) **“Regulated Impact Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-12**.
- o) **“Proposed Planting and Restoration Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-13**.

**3. Property Description:**

**Location of 25-year flood boundary:** 9 ft. contour interval. Property is located entirely within the WPLO boundary. **Bridge is situated in Flood Zone AE (el. 10’)** as shown on F.I.R.M. Panel 09001C0413G Map revised to July 8, 2013.

**Existing Bridge deck width: 13’**

**Proposed Bridge width: ~22’**

**Elevation of lowest bridge member:** elevation 5.5’+/-

Areas of tidal resources adjacent to the bridge were identified by BL Companies staff.

4. **Aquifer:** Property underlain by Saugatuck River Aquifer, which is a coarse-grained stratified drift aquifer. The property is within the Town’s Aquifer Protection Overlay Zone.
5. **Coastal Area Management:** Property located within CAM zone. The coastal resource identified is coastal hazard area. Coastal hazard areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during “100-year” flood events. Coastal hazard areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential-type uses.
6. **Proposed Storm Water Treatment:** The Commission finds that the current stormwater is directed into catch basins located within the gutterline of the road. This runoff discharges directly into the river. The proposal now consists of water quality improvements by directing the discharge of that stormwater to a bioretention area located at the flared end of the drainage pipe upland from the water’s edge and tidal wetland vegetation. The reservoir will be approximately 3’ deep and be planted with a detention basin restoration mix. The storm water will be allowed to flow into this system and overflow across land before discharging to the river. The Commission finds that this area

will be inundated during times of high tide, but it will still provide water quality treatment for stormwater during other tides. The Commission finds that this bioretention installation, while not optimum (based on constraints of site size and elevation restrictions), is an improvement over the current drainage. Additional native shrubs and plantings are proposed around the basin/reservoir and bridge abutments to add additional biofiltration areas.

**7. Permit History:**

- The Flood and Erosion Control Board has approved the application on January 8, 2019. The drainage proposal is acceptable to the Engineering Department.
- The CT DEEP reviewed the proposal and issued a Certificate of Permission on July 2, 2019 (201905135-COP) Highlighted conditions of the COP include #2, 3,4,5,6, and 7.

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

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

The Commission finds that the entire bridge lies within the WPLO boundary and within the FEMA 100yr flood zone. The application proposes to construct a new bridge in the same general location of the existing deteriorating bridge. The location of the bridge is at the confluence of the Saugatuck River with Lee’s Canal, which also carries Willow Brook. The tidal waters, Coastal Jurisdiction Line (CJL), and tidal vegetation resources have been identified onsite on the upstream and downstream sides of the bridge. The tidal wetlands and areas to the north of the bridge include marsh vegetation areas dominated by a typical stand of *Phragmites australis* reeds. The tidal wetlands to the south of the bridge include typical high marsh vegetation and shrubs along the embankment and an island in the waterway to the south dominated by *Phragmites australis* reeds. The tidal areas here include rocky shore and mud flat.

The existing bridge construction consists of mortared fieldstone abutments with a concrete deck crossing over. Fieldstone walls and an asphalt roadway deck are above. The Commission finds that the stone masonry is in poor condition overall and in need of repair/replacement. The existing bridge manages tidal flow through a ~13’ opening up to elevation ~5.5’. The new bridge proposal will keep that similar elevation level, but expand the flow under the bridge by increasing the width to a ~23’ opening.

Several existing utilities currently cross the watercourse in this area, and will be maintained with the proposed new bridge. The existing sewer force mains will remain as-is with minimal changes to accommodate construction. The water main is proposed to be replaced which, requires “written approval” for replacement as a condition of the COP. The Public Works Department is working with Aquarion Water Company to obtain the proper approvals for this work, which will involve the “pipe-jacking” technique. This work will take place within two access pits dug into the roadway, on either side of the bridge and will not be within the waterway. The Commission finds that the Conservation Staff will review this plan, as it meets the requirements for a WPL exemption due to its limited scope and location. A proposed telecoms duct bank is included with the design as well.

The Commission finds that some vegetation will be removed within the areas of the embankments to aid in site work access management. Four trees have been identified (36”, 18”, 8” and 6” d.b.h.) for removal along with areas of various shrubs. The plan includes a restoration planting that consist of 3 small trees and 36 shrubs. The landscaping notes depict appropriate methodologies for managing the plantings onsite.

The Commission finds that the application includes a “Proposed Construction Methodology & Sequencing” which was approved as part of the COP. Stage 1A establishes installation of sediment erosion controls, then installation of twin bypass pipes and a cofferdam system. These pipes will carry the normal stream flows. Then activities concentrate on the construction of the eastern side of the bridge abutment. Stage 1B concentrates on the construction of the western side of the bridge abutment. Stage 2 consists of the installation of the 3-sided box culvert to construct the bridge crossing and other work to finish the crossing.

A dewatering plan for this the excavation has been prepared and has been shown on the plans. Additional dewatering discharge points may be needed based on site conditions and the ability of the cofferdams and site soils to manage water in the work area. The Commission finds that all discharge points of water should be managed to be filtered through a system as indicated in the submitted detail of “temporary dewatering discharge receptacle” for the file.

The Commission finds that the excavation work is proposed to be done from the roadway to minimize disturbance to the wetlands areas. The cofferdam should be installed at time of low tide. The total project construction time-estimate has not been established but the COP directs certain times limits for work. They allow for work within December to April, and have specific conditions to meet for May to November. The COP limits any stream work from April 1<sup>st</sup> to June 30<sup>th</sup> to allow for fish migration.

Erosion control fencing will be installed as shown on FIG-12. The Commission finds that staff will be available to assess and address problem areas during construction and direct additional controls. All constructions materials and equipment laydown areas should be left in areas upland and surrounded by silt fence to minimize site runoff.

The Flood and Erosion Control Board has reviewed and approved this application on January 8, 2020.

The extent of disturbance is limited to the proposed activities as shown on the plan. Provided erosion controls are used and best management practices are employed as required both during construction and during long-term monitoring after project completion, as well as the reasons as enumerated above, the proposed activity will not significantly impact resources as they are protected under the Waterway Protection Line Ordinance.

The Commission finds that the work associated with bridge construction application does not significantly impact natural resources as they are protected by the Waterway Protection Line Ordinance

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application # WPL 10943-19**  
**Kings Highway North Bridge**  
**– Over Lee’s Canal Raceway (Willow Brook)**  
**Date of Resolution: January 15, 2020**

**Project Description:** To remove an existing bridge and replace it with a new bridge in approximate place and kind. Work proposed is within the WPLO boundary of Lee’s Canal Raceway, which also carries Willow Brook.

**Owner of Record:** Town of Westport

**Applicant:** Keith Wilberg, Town Engineer

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10943-19** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.

10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an “as built” survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of January 8, 2020.

### SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
  - a. **“Connecticut Department of Energy and Environmental Protection License Certificate of Permission Section 401 Water Quality Certification**, Town of Westport, c/o Peter Ratkiewich 110 Myrtle Ave Westport CT, License Number **201905135-COP**”, dated July 2, 2019,
  - b. **“COP Proposed Construction Methodology & Sequencing**, Town of Westport BL Projects 16C6055 Replacement of Bridge No. 158-021 Kings Highway North over Willow Brook”, 3pgs.
  - c. **“USGS Topographic Location Map** Kings Highway North over Willow Brook Westport, CT”, Dated June 7, 2019, Scale: 1”=800’, prepared by BL Companies, Sheet FIG-1
  - d. **“Existing Conditions Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=60’, prepared by BL Companies, Sheet **FIG-2**.
  - e. **“Existing Conditions – Vegetation Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-3**.
  - f. **“Proposed Structure – Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-4**.
  - g. **“Proposed Structure – Elevation**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 3/32”=1’, prepared by BL Companies, Sheet **FIG-5**.
  - h. **“Proposed Structure – Details**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: As noted, prepared by BL Companies, Sheet **FIG-6**.
  - i. **“Proposed Structure – Details**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: As noted, prepared by BL Companies, Sheet **FIG-7**.
  - j. **“Water Handling Plan – Stage 1A**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-8**.
  - k. **“Water Handling Plan – Stage 1B**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-9**.
  - l. **“Water Handling Plan – Stage 2**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-10**.
  - m. **“Road Closure Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June, 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-11**
  - n. **“Regulated Impact Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-12**.
  - o. **“Proposed Planting and Restoration Plan**, Kings Highway North over Willow Brook Westport, CT”, Dated June 2019, Scale: 1”=30’, prepared by BL Companies, Sheet **FIG-13**.
17. Cofferdam installation shall be done at time of low tide. Any dewatering discharge points shall be filtered through approved dewatering system shown in plans
18. Excavation work to be done from roadway.
19. No stream work will be done within the dates of April 1<sup>st</sup> to June 30<sup>th</sup>.
20. The bioretention area and plantings must be installed as designed prior to issuance of a Conservation Certificate of Compliance. Any deviation from the plan must be approved by Conservation Department staff. Engineering Department staff is encouraged to reconsider the location of the biofiltration area to accommodate concerns by the abutting property owner.
21. The applicant shall secure a separate permit for the water main replacement.
22. The natural existing streambed substrate shall be reused for placement in the bottom of the culvert.

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

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

**Motion: Carey                      Second: Perlman,  
Ayes: Carey, Perlman, Davis, Rycenga, Bancroft, Cowherd, Lobdell  
Nays: 0                              Abstentions: 0                      Vote: 7:0:0**

- 3. 6 Quentin Road:** Application #WPL-10938-19 by RI Pools on behalf of Peter and Amanda Low to construct a pool, patio and associated pool equipment. Work is within the WPLO area of Gray's Creek.

Franco Iannone of RI Pools presented the application on behalf of the property owners, who was also present. He described the proposed drainage. The Construction access is off Roosevelt Road. A dewatering bag will be onsite. It is expected they will hit groundwater during excavation since the depth of the pool is below the mean high water level.

Ms. Mozian asked if they could schedule excavation in a week when the tides were more favorable and/or try to confine excavation to low tide as much as possible.

Ms. Rycenga concurred. She asked about the depth of the pool.

Peter Low, property owner, indicated he had no objections to this.

Mr. Iannone stated the pool will be 6 feet deep. He noted the pool mechanicals will be put on the roof above FEMA flood elevation on the masonry garage.

Ms. Mozian asked why the perimeter plantings were not being saved.

Mr. Low stated they want to eliminate the existing trees to gain more yard area. He added Fastigate Beech or Red Maple will be substituted for Hornbeams, which Ms. Mozian noted were non-native. The Paper Birch will also be transplanted.

Ms. Rycenga asked if all the trees will be removed along the southern border.

Mr. Iannone indicated that some will be removed but not all.

Ms. Mozian asked if the existing cedars could remain during the construction as a means of providing soil stabilization.

Mr. Iannone stated he believes this will be a quick project and the trees will be in the way.

Ms. Rycenga stated that they will need the excavator to remove the trees first and then proceed to excavate the pool. The site is limited and confined. She recommended a planting bond. She asked about the level spreader location.

Mr. Iannone stated the original plan did not have a level spreader, only yard drains. Engineering made them add the level spreader to the plans.

Ms. Rycenga explained that it is important to maintain the level spreader yearly and after a large storm event for it to function as designed.

Mr. Bancroft asked about the 4 small proposed expanded pervious patio areas.

Mr. Iannone stated that is being done for aesthetics.





impervious surfaces. Stormwater runoff that overflows from the pool area will be directed to one unit (8 linear feet) of a 12" concrete gallery. The base elevation of gallery is 4.2'.

The Commission finds the site engineer has proposed to capture 4" of storage within the pool itself with an overflow directed to the detention system. The extensions to the patio areas, as proposed, will be open joint bluestone with bedding sand in the open joints with sand underneath, followed by a ~4" thick gravel layer to act as a reservoir.

The Commission finds sheet flow runoff from the site's lower areas will be captured in three area drains and directed to an infiltration trench with a bottom elevation at 4.0'. This is designed to compensate for the fill and pool placed in the yard, which was formerly the low point. The infiltration trench has been similarly sized to manage the expected runoff volumes. The Engineering Department has determined that they are satisfied with this design to meet the town standards.

The Commission finds the applicant provided a landscape plan along the perimeter of the pool construction area to replace the mature plantings already there. The new plantings will provide some biofiltration treatment for any minimal surface flow runoffs from smaller storms, although the function will be mostly visual barriers for this portion of the yard dependent on the size of the plantings. The Commission finds that all new proposed plantings are native to North America and therefore the plan will need to be revised.

**Grading:** The grading in the vicinity of the pool will be elevated from the present yard. Grades will change from a low elevation of ~4.9' to a coping elevation of 6.2'. The Commission finds the rear yard will be filled with approximately 25 yds. of fill expected to be used around the pool structure.

7. **Previous Permits issued:** None on file
8. The Flood and Erosion Control Board approved the application on January 8, 2020. The drainage proposal is acceptable to the Engineering Department.
9. Westport Weston Health District approved the construction on December 9, 2019.
10. **Discussion:** The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

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

The site currently contains a residence constructed in 1930. The whole property lies within the WPLO boundary. The application proposes to construct a pool, fence, patio, mechanicals and associated grading and drainage. The pool will be 6' deep.

The Commission finds that the application site plan shows installation of a silt fence around the worksite and side yard. Access to the pool area will be through the anti-mudtracking pad leading from Roosevelt Road. The Commission finds these sediment erosion controls should be adequate during construction. However, the existing mature trees along the southern property line should remain in place during construction as an added means of erosion control during construction.

The pool equipment will be placed on the garage roof above the BFE. There is an existing fence surrounding the property with portions in the Town right-of-way. The Commission finds that the plans note that a new FEMA compliant safety fence is proposed to enclose the rear yard. FEMA Technical Bulletin 5 recommends fences with generous openings so as to not divert floodwaters.

The potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. The total impervious coverage, as depicted on the survey by Leonard Surveyors, LLC, is currently **23.38%; 3,144 Sq. Ft. (without patios)**. Proposed site coverage with the pool is to be **24.9%; 3,356 Sq. Ft. (without patios)**, which is above the threshold

of the 10-25% impervious coverage that will influence water quality. The Commission finds that the new portions of patio be constructed as permeable.

The Commission finds the test pit data indicates no mottling, no groundwater encountered down to 72" (6' below grade). This is approximately the proposed elevation of the bottom of the pool with the "over-dig" excavation expected of 1-2'. The Site plan includes Note #9 to manage any dewatering procedures. The Commission finds that the groundwater should not be a major concern within the excavation but the contractor should be prepared to dewater if needed. The Commission finds that a site meeting with the contractor during excavation is required to address dewatering concerns or uncontrolled sediment movement from the site.

Provided construction methods as described above are used during construction activity, it is the finding of the Commission, that this application does not significantly impact natural resources as they are protected by the Waterway Protection Line Ordinance.

**Conservation Commission**  
TOWN OF WESTPORT  
**Conditions of Approval**  
**Application # WPL 10938-19**  
**Street Address: 6 Quentin Road**  
**Assessor's: Map D03 Lot 022**  
**Date of Resolution: January 13, 2020**

**Project Description:** To construct a 14' x 28' inground swimming pool (42" up to 6' in depth), a patio, fence, and associated pool equipment. Work is within the WPLO area of Grays Creek.

**Owner of Record:** Peter & Amanda Low

**Applicant:** Franco Iannone, R. I. Pools, Inc.

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10938-19** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.

12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
14. Conformance to the conditions of the Flood and Erosion Control Board of January 8, 2020.
15. Conformance to the previously adopted "Standard Pool Conditions" for pools located near wetlands or watercourses as applicable and as enumerated below:
  - a. The pool is to be serviced by a diatomaceous earth, sand/cartridge or some other kind of re-circulating, closed filter system.
  - b. Pool chemicals should be stored in an enclosed container in an enclosed area preferably above the 100 year flood elevation. Pool equipment should be located at or above the 100 year flood elevation.
  - c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer should be maintained between the pool and the waterway or wetland.
  - d. Alternative use of chlorine for sanitation should be sought from the pool company. These include: salt chlorine generators, ozonators, ionizers, or mineral purifiers.
  - e. Pools should be covered over the winter or when they will not be in use for long periods of time, i.e three (3) or more months.
  - f. When discharging pool water at the end of the season for winterization, no direct discharge to a watercourse or wetland is allowed; a 50ft separating distance with some kind of energy dissipation at end of hose is required.
  - g. The pool water to be discharged shall have a pH between 6.5 and 8.5. The chlorine level shall be less than 0.1 mg/l and not cause foaming or discoloration of the receiving waters.

#### SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
  - a. "**Site Development Plan Proposed Pool** Prepared for Peter & Amanda Low 6 Quentin Road Westport, CT", Sheet 1 of 1, Scale: 1" = 10', dated December 6, 2019, last revised to December 30, 2019, prepared by Ochman Associates, Inc.
  - b. "**Drainage Report** for 6 Quentin Road Westport, CT", dated December 6, 2019 and last revised to December 30, 2019, prepared by Ochman Associates, Inc.
  - c. "**Plot Plan** Prepared for Peter & Amanda Low 6 Quentin Road Westport, CT" Scale: 1"=10', dated August 24, 2019 last revised to November 14, 2019, prepared by Leonard Surveyors. LLC
  - d. **Building Plans** titled "Low Residence 6 Quentin Road Westport, CT", dated November 12, 2019 Scale: As Shown, prepared by R.I. Pools, Inc.
  - e. **Landscape Plans** titled "Low Residence 6 Quentin Road Westport, CT", dated December 16, 2019 Scale: As Noted, prepared by Fifield Piaker Elman Architects, P.C.
17. A Revised planting plan showing all native plantings shall be submitted for review and approval prior to the issuance of a Zoning Permit.
18. A bond shall be posted to cover the cost of plantings to be held for one full growing season, prior to the issuance of a Zoning Permit.
19. Pool mechanicals must be located above Base Flood Elevation of 11 ft. m.s.l.
20. Submit a FEMA compliant fence detail prior to issuance of a Zoning Permit. Install a FEMA compliant fence to enclose the rear yard prior to issuance of CCC.
21. The proposed new patio shall be constructed as permeable. The design Engineer shall certify that the patio has been installed as permeable and shall submit certification prior to the issuance of CCC.
22. All excess excavated material shall be removed from the site prior to issuance of CCC.
23. The contractor shall make every effort to schedule the pool excavation to take place during favorable tides to reduce the need for dewatering efforts.

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

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

**Motion: Bancroft**

**Second: Davis**

**Ayes: Bancroft, Davis, Carey, Rycenga, Cowherd, Perlman, Lobdell**

**Nayes: 0      Abstentions: 0      Vote: 7:0:0**

4. **18 Roosevelt Road:** Application #WPL-10945-19 by Kousidis Engineering, LLC on behalf of Russell and Katherine Pfeffer to construct an addition and new patio. Work is within the WPLO area of Gray's Creek.

This agenda item was postponed to the February 19, 2020 Public Hearing.

5. **41 Richmondville Avenue:** Application #IWW, WPL-10944-19 by Kousidis Engineering, LLC on behalf of 41 Richmondville LLC for the conversion of the main historic structure into a condominium complex as well as the construction of detached garages, a pool, and a reconstructed parking lot. Work is within the upland review area and the WPLO area of the Saugatuck River.

Jim Kousidis, PE, presented the application on behalf of the property owners. He noted William Kenny, of William Kenny Associates, Dan White of Mountain Laurel, Rick Redniss of Redniss & Mead, and property owners Sam Gault and Joe Feinlieb were also present.

Mr. Kousidis discussed the existing drainage pattern on the site. He noted that everything shown in green will be removed; this equals 23,000 s.f. of impervious surface (asphalt) removed and reclaimed as grass. This is a 20% reduction in impervious area. Four garages will be built. There are two points of discharge existing now.

Mr. Perlman asked if the historic building has to stay or whether the whole thing could be demolished and new homes built instead.

Rick Redniss, AICP for the applicant stated the building is a pre-existing non-conforming building and use. They will be submitting a text amendment for readaptive use.

Mr. Carey noted economically, they could not remove and rebuild conforming single family houses because it would not make economic sense. The owners need to maximize their investment.

Mr. Kousidis noted the drainage calculations are based on new construction. Right now, nothing is being treated for stormwater. There are two leak-offs from the parking lot into the canal that will be eliminated. The original drainage plans showed a detention gallery in the rear. However, further site investigation revealed the presence of a sanitary sewer manhole and sewer easement. Therefore, he had to redesign the plans, which were just submitted. The sewer main location will remain in its current location. However, they do not know where the connection to the building is. Sediment and erosion controls are proposed. There are 3 catchbasins proposed. Also, a 50 foot drainage easement exists. They are removing asphalt from it and it will be lawn. A bioretention area sized to meet the 25-year storm is proposed. It will have substrate above the detention gallery. The depth was increased based on comments staff received from Mike Dietz of UConn, who specializes in raingarden design and function.

Ms. Rycenga asked about the number of trees to be removed. She noted that she observed 34 to be removed at the site walk.

Mr. Kousidis noted 34 trees will be removed in the area of the driveway.

Ms. Rycenga asked about the location of the dumpster relative to its proximity to the Canal. She indicated it should be relocated further away from the Canal as they can be a major source of stormwater pollution if they are not properly operated and maintained.

Mr. Kousidis stated that any leak-off will drain into a catchbasin, then will go to the raingarden.

Mr. Redniss added that the location of the dumpster is in the best interest of the neighbors.

Ms. Rycenga stated she understood but her concern is the proximity to the watercourse and suggested they explore other possible alternatives related to location.

Mr. Kousidis noted there are 33 units proposed with 76 parking spaces. The existing building has 100 parking spaces. The current building is approximately 2/3 occupied.

Ms. Rycenga asked if the sewer easement is on the land records.

Mr. Kousidis stated there was some vague language but new easements will be recorded.

Mr. Perlman asked if there are any sump pumps.

Mr. Kousidis stated no. There is no basement and none is proposed.

Ms. Rycenga noted this property is in the Aquifer Protection Overlay Zone. She asked what the fuel source is.

Mr. Kousidis stated the fuel source is natural gas but have yet to locate the main gas line feed to the building.

Ms. Mozian asked how the building will meet the FEMA requirements.

Mr. Kousidis stated the building is in the 100 year flood according to FIRM (Flood Insurance Rate Map) but not by elevation. After construction, they will be applying for a CLOMR to amend the FIRM. The new garages will have flood vents. Flood and Erosion Control Board continued their hearing to February 5, 2020 in order to review revised plans.

Mr. Kelly asked about the construction sequence.

Mr. Kousidis stated the construction sequence is on the S&E Plans. The first step will be to install sediment and erosion controls and mud tracking, demolish building, work on building itself, and then do the stormwater work. Plantings will be installed prior to asphalt removal. The stockpiles will be on the north side away from the Canal.

Ms. Rycenga asked what the estimated time frame schedule of construction is.

Mr. Kousidis stated it will take approximately 18 months to construct.

Ms. Rycenga asked about snow shelves and permanent markers on site.

Mr. Kousidis noted possible areas including looking into whether the bioswale can be used.

Ms. Rycenga asked if an HOA will be established.

Mr. Kousidis stated yes.

Ms. Rycenga suggested the plans be revised to reflect dedicated snow shelves and markers.

Bill Kenny, Soil Scientist, Wetland Scientist, Landscape Architect, stated the landscape plan had to be revised to accommodate the sewer and drainage easements. There would not be a wetland onsite if not for the canal. The wetland is an old segment of the canal. He submitted a 1934 aerial, current aerial and the Town GIS map. The flow today is primarily from the stormwater runoff and stormwater culvert coming down on the east side of the property. It is his opinion that there will be improvement based on:

- They are not proposing to fill wetland;
- There will be a 20% reduction in impervious area;
- They are providing a stormwater treatment for pollutants;
- They are pulling back impervious surface from the Canal and revegetating; and
- Runoff from garages results in less pollutants than from parking lots.

Ms. Mozian clarified the wetland mapping matches the Town line and will not require a map amendment.

Mr. Davis asked if test pits were dug to determine depth to groundwater.

Mr. Kousidis stated there were. Depth to groundwater is 5 to 6 feet.

Mr. Kenny discussed the planting plan. Herbaceous planting will be sedge grasses/meadow mix in the bioswale to tolerate dry to wet conditions. He reviewed the drainage easement. Native shrubs are proposed in back of the garage and trash enclosure. The screening plantings design has been severely impacted due to the presence of the sewer and drainage easement. They are now rethinking these plantings.

Ms. Rycenga asked if the screening plantings could be on the adjacent owner's properties. She noted a maintenance plan is needed for the bioswale, rain gardens, etc.

Mr. Kenny agreed.

Ms. Rycenga asked about lawn pesticides and chemicals will be used.

Mr. Kenny stated they will try to conform to NOFA guidelines.

Mr. Davis asked about light pollution.

Mr. Kenny stated they will use appropriate lighting. The pines no longer serve the same purpose they once did. Some have died.

Ms. Rycenga asked Mr. Kenny if he feels in his professional opinion if this is an improvement.

Mr. Kenny stated yes.

Mr. Kelly asked if sediment runoff will be an issue. He further asked if there were any objections to having a site monitor.

Mr. Kenny indicated no objections because of the size of the project. He added the site is flat, underlain by sand and gravel, which results in little erosion. Additionally, most of the asphalt will remain until the end.

Mr. Davis asked what is the cut and fill volume. How many truckloads?

Mr. Kousidis stated he would provide the total cubic yards for the next meeting. The demolition debris gets immediately removed off-site.

Ms. Rycenga asked about the structural integrity of the building to remain.

Mr. Kousidis indicated he is not sure, the architect is not present.

Ms. Rycenga asked for that to be addressed at the next meeting.

Dan White, LEP with Mountain Laurel Environmental, stated that several environmental reports done earlier. In 2009, 4 monitoring wells were installed. High levels of metals were found above acceptable levels moving from north to south of the property. This suggests the source is off-site. Old studies did not take into account the former raceway. The whole area is sand and gravel. He believes the raceway also filled in with sand and gravel. Water flows better through the fill material; it is not as compacted. They did some sampling and used ground penetrating radar. In 2009, they did not specify how sampling was done, so they did new ones that did. Lead found in MW4 (north part of the site) with results of 4.02 ug/l but none in the south. They are not sure of the source. Lead paint, dumping, but concentrations are below acceptable concentrations.

Mr. Bancroft noted that 15 ug/l is considered safe for drinking water.

Ms. Mozian noted that Mr. Bancroft had a career working for a water company.

Mr. White stated they also looked for hydrocarbons. Levels were below acceptable levels. Again, these appear from an outside source. Also, a hydraulic cylinder was found and removed.

Ms. Rycenga asked if the monitoring wells will be removed.

Mr. White stated they most likely will. They will not be needed and will be damaged during construction. The property has been on sewer since the 1960's so there are no septic tanks. The property was built in 1819.

Mr. Carey asked if it is surprising that the site is pretty clean given its past usage.

Mr. White stated they only found tank graves and hydraulic cylinder. Also, they deliberately put a well in the raceway to pick up old contaminants since it is most likely where the flow would be because of unconsolidated fill.

Ms. Mozian noted anecdotal information from a person who grew up in the neighborhood, who used to see the canal change color. She asked if the contaminants that would have caused this are now gone.

Mr. White stated yes. This is a likely occurrence the person can attest to but the contaminants are gone now. He added they sampled deliberately in the Raceway location in order to pick up any contaminants but did not find any.

Mr. Kelly asked about fill and use of the fill as shown on the boring logs.

Mr. White stated there is always a potential for finding an unknown. If anything is found, it would most likely be coal ash but they have not found any.

Mr. Carey asked if there is any asbestos present in the building.

Joe Feinlieb stated there is.

Mr. Carey asked if the State of Connecticut has a different standard for soil quality based on whether the land use will be commercial or residential.

Mr. White stated there is. Residential is more restrictive. That standard is what they used for their analysis.

Mr. Kelly asked if DEEP oversight is necessary.

Mr. White stated no and they do not require reporting. However, the owners standard of care is to clean up site to meet the regulation standards.

Mr. Kelly noted the Phase I showed mercury in the Post Office collection box.

Mr. White stated that apparently mercury was disposed of in the U.S. mailbox. Incidents occurred throughout town. They ended up wrapping the mailbox in plastic and removed it but some de minimus amount remained.

Mr. Kelly noted the Remediation Report attests that the site is clean.

Mr. Kousidis assumes there will be feedback from Engineering and they will make changes accordingly prior to the Flood Board meeting on February 5, 2020.

Ms. Mozian asked for the Commission's view of whether a third party reviewer was needed.

The sense of the Commission was a third party review was not needed.

Ms. Mozian highlighted the additional information needed before the next meeting:

- Comment from the architect regarding structural integrity of portion of building to remain;
- Snow storage and marker locations;
- Staging area plan;
- Maintenance plan for raingarden and bioswale;
- Site monitor;
- Dumpster location;
- Cubic yards of excavation and fill and approximate number of truck loads; and

- Amended planting plan for screening.

Ms. Rycenga asked if there were any members of the public to speak regarding the application.

Joel Green, Esq. representing the Mill Bank Road neighbors stated they are in the process of reviewing the plans, so would like the opportunity to ask more questions at the next meeting. He did add that they like the dumpster location in the southern portion of the site.

With no further comments from the public, the hearing was continued to February 19, 2020.

**Motion:** Rycenga    **Second:** Davis  
**Ayes:** Rycenga, Davis, Bancroft, Carey, Cowherd, Lobdell, Perlman  
**Nays:** None                          **Abstentions:** None                          **Vote:** 7:0:0

### **Work Session II:**

#### **1.** Receipt of Applications

Ms. Mozian noted there was one application to receive:

- **128 Bayberry Lane:** Application #IWW/M-10948-20 by James Belta on behalf of the estate of Dina M and James S Belta to amend wetland boundary map G13.

Ms. Mozian stated the application is complete and could be placed on the February 19, 2020 Public Hearing.

**Motion:** Rycenga    **Second:** Davis  
**Ayes:** Rycenga, Davis, Bancroft, Carey, Cowherd, Lobdell, Perlman  
**Nays:** None                          **Abstentions:** None                          **Vote:** 7:0:0

#### **2.** 2020 Meeting Calendar

Ms. Mozian noted the inclusion of the 2020 meeting calendar in the Commission's packets.

#### **3.** Approval of November 20, 2019 meeting minutes.

The November 20, 2019 meeting minutes were approved as submitted.

**Motion:** Carey    **Second:** Bancroft  
**Ayes:** Carey, Bancroft, Cowherd, Davis, Lobdell, Perlman, Rycenga  
**Nays:** None                          **Abstentions:** None                          **Vote:** 7:0:0

#### **4.** Approval of December 13, 2019 Show Cause Hearing minutes.

The December 13, 2019 Show Cause Hearing minutes were approved as submitted.

**Motion:** Carey    **Second:** Lobdell  
**Ayes:** Carey, Lobdell, Cowherd, Davis  
**Nays:** None                          **Abstentions:** Bancroft, Perlman, Rycenga                          **Vote:** 4:0:3

#### **5.** Election of Officers

Motion to nominate Anna Rycenga as Chair.

**Motion:** Carey    **Second:** Bancroft  
**Ayes:** Carey, Bancroft, Cowherd, Davis, Lobdell, Perlman, Rycenga  
**Nays:** None                          **Abstentions:** None                          **Vote:** 7:0:0

Motion to nominate Paul Davis as Vice-Chair.



**Motion: Rycenga Second: Lobdell**  
**Ayes: Rycenga, Lobdell, Bancroft, Carey, Cowherd, Davis, Perlman**  
**Nayes: None Abstentions: None Vote: 7:0:0**

Motion to nominate Tom Carey as Secretary.

**Motion: Rycenga Second: Davis**  
**Ayes: Rycenga, Davis, Bancroft, Carey, Cowherd, Lobdell, Perlman**  
**Nayes: None Abstentions: None Vote: 7:0:0**

Motion to nominate Don Bancroft as Sergeant at Arms.

**Motion: Rycenga Second: Carey**  
**Ayes: Rycenga, Carey, Bancroft, Cowherd, Davis, Lobdell, Perlman**  
**Nayes: None Abstentions: None Vote: 7:0:0**

**6. Other Business**

- a. Ms. Rycenga reminded members to submit the Conflict of Interest forms requested by the Finance Department.
- b. Ms. Mozian noted she will be calling members schedule an Executive Session meeting to discuss pending litigation for **107 Old Road**.
- c. Ms. Mozian noted Mr. Cowherd will be promoted to Regular Member and Mr. Corroon will be an alternate.

Ms. Rycenga congratulated all the new leaders and thanked all the members for electing her as chair again. She stated she looks forward to working with all the members and contributing her skill, knowledge and expertise to the Chairman position for another year.

The January 15, 2020 Public Hearing of the Westport Conservation Commission adjourned at 11:19 p.m.

**Motion: Rycenga Second: Bancroft**  
**Ayes: Rycenga, Bancroft, Carey, Cowherd, Davis, Lobdell, Perlman**  
**Nayes: None Abstentions: None Vote: 7:0:0**