

**MINUTES
WESTPORT CONSERVATION COMMISSION
JULY 16, 2014**

The July 16, 2014 meeting of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 201/201A of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Acting Chair
Anna Rycenga, Secretary
Robert Corroon
Paul Davis, Alternate
John Washburn

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the July 16, 2014 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Changes or Additions to the Agenda. The Commission may amend the agenda by a 2/3 vote to include items not requiring a Public Hearing.

Work Session I: 7:00 pm, Room 201/201A

1. Receipt of Applications

There were no applications to officially receive.

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

There was no enforcement report, but there were no violations to report.

3. 88 Partrick Road: Request for release of remaining bond monies being held for plantings as required by Permit #IWW,WPL/E-8293-08.

Ms. Mozian reported that plantings have been in for a year and are thriving. She recommended release of the remaining bond in the amount of \$5,133.80.

Motion to release the remaining bond monies held for plantings.

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

4. 14 Stony Point Rd.: Request by Howard Lathrop on behalf of Debbie and Rick Smilow to amend Resolution #WPL-9336-13 by modifying the approved grading plan.

Ms. Krynicki reviewed a marked up map showing the requested modifications. The regrading is quite extensive around the whole house. Work is to accommodate the landscape design plan. Part of the regrading intrudes into the state jurisdiction which is at elevation 5.3 msl. She indicated that staff agrees with the proposal provided there is no regrading below existing elevation 6.0 msl.

Ms. Rycenga requested that elevation 6.0 be delineated in the field prior to work commencement.

Motion to amend Resolution #WPL-9336-13 to modify the approved grading plan.

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

5. Approval of June 18, 2014 meeting minutes.

The June 18, 2014 meeting minutes were approved as written.

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

6. Other Business

Public Hearing: Room 201/201A, 7:15 p.m.

1. 60 Compo Beach Road: Application #WPL-9804-14 by Roberge Associates Coastal Engineers on behalf of the Town of Westport to improve navigation in the marina including dredging the southern

bank in the marina and stabilizing the bank with rip-rap. Tidal wetland plants will be moved prior to construction and re-planted after construction. Work is within the WPLO area of the Saugatuck River.

Peter Ratkiewich, PE, Town Engineer, introduced the application. He stated the Town has been preparing for this project for the last 1 ½ to 2 years by getting permits from the CT DEEP.

Devin Santa, Project Manager with Roberge Associates, explained the details of the project. He stated the embankment of the southern end of the basin is eroding, which has led to the narrowing of the channel for boat access and making it shallower. There is 600 l.f. of work proposed along the southern bank and will not encroach into the area of spartina. They have received DEEP and ACOE approvals. The work will be based from the upland and will take place between October 1, 2014 and January 31, 2015. It will expand the width of the channel from 12 feet to 25 feet. Regarding the dewatering, the material is clean sand and gravel. It has been tested to be clean. The material will be placed for dewatering in an upland area adjacent to the basin, which will have haybales and silt fence around it. DPW will most likely be using the material in projects around town.

Mr. Ratkiewich explained that the dewatered material is good construction material including use on various municipal parking lots. The roadway will be closed during the work activity. He stated regarding the replanting of the slope, the replanting will be high tide bush. The dredging will be confined to October through January but the plantings will be part of the contract in that the embankment would need to be replanted before final payment to the contractor is made. He noted that the high tide bush replacement is also a condition of the DEEP permit.

The seasonal water line hose presently there will be placed into a conduit.

The rip-rap will range from 1 to 4 feet in diameter.

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

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

Findings
60 Compo Beach Road
Application # WPL 9804-14

1. **Application Request:** The purpose of the proposed project is to improve navigation in the Marina. This will be done by dredging the southern bank in the marina and stabilizing the bank with rip-rap. The slope has been eroding and filling in the fairway over time. Approximately 90 square feet of existing tidal wetland vegetation will be moved prior to construction and replanted after construction. Work will be within the WPLO of the Saugatuck River.
2. Plans reviewed for this application:
 - a. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Title Sheet & General Notes", dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - b. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Vicinity Map", Scale: 1"= 3000', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - c. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Detailed Vicinity Map", Scale: 1"= 150', dated March 1, 2013, prepared by Roberge Associates Coastal Engineers, LLC
 - d. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Existing Site Plan", Scale: 1"= 100', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC

- e. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Proposed Site Plan", Scale: 1"= 10', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - f. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Proposed Section A-A", Scale: 1"= 100', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
- 3. Background Information:**
- a. State of Connecticut DEEP has approved this application on April 10, 2014, #201303556-TS.
 - b. Previous dredging activities approved under applications DEP COP #93-118-GW and DEP COP 98-001-GW
- 4. Facts Relative to this application:**
- a. Property is not located within an aquifer protection zones or a groundwater recharge area.
 - b. At the project location, the applicant seeks to improve navigation in the Compo Marina Boat Basin located at Compo Beach by dredging the southern section of the basin and stabilizing the southern slope with an armored revetment. The basin has been accreting due to the unstable southern slope allowing sediment movement into the basin.
 - c. The area is designated a "Prohibited" shellfish area by the Westport Shellfish Commission.
 - d. Flood Zone AE (Elevation 12) and Flood Zone VE (Elevation 14) as determined by the Federal Emergency Management Agency (FEMA) occur on this property.
 - e. The site lies within a "Coastal Flood Hazard Area" and an area of "Near Shore Waters" per the Coastal Resources Map of the Connecticut Department of Environmental Protection.
 - f. Freshwater wetlands do not occur on the property. A coastal jurisdiction line (El. 6.4') a mean high water line (El. 4.4') and the mean low water line (El. -2.8') are depicted on the site plan. These elevations are based on 1929 NGVD datum.
 - g. Material will be excavated using a land based excavator to make the existing 12' fairway between the existing finger docks and southern bank a 25'± fairway.
- 5. 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 Flood and Erosion Control Board approved this application at its July 2, 2014 hearing.

Under review is the existing condition that there is currently a 12'± fairway between the existing finger docks and the southern limit of the basin at mean low water. The proposed dredging will allow an increase in this distance to a 25'± fairway.

The construction activities involved for this project include excavation, placement of a geotextile fabric wrapped gravel filter stone layer and placement of armor stone.

Prior to the start of all work, all wetlands will be identified. Erosion and sediment controls such as a silt boom around the area being excavated and area where revetment will be constructed and hay bales and silt fences around the material being dewatered will be put in place as necessary to prevent sedimentation and turbidity.

Approximately 70 cubic yards of existing riprap located along the southern bank of the marina shall be retained.

Maintenance dredge will occur with approximately 5, 200 cubic yards of sediment over approximately 30,000 square foot area to a depth of -8.8' plus 1' allowable over dredge for upland disposal. The dredge material will be used as common fill for several ongoing upland road and parking lot re-construction projects throughout the town.

Construction of a riprap revetment over a 15,000 square foot area along the southern bank of the marina where the revetment has a 3' crest and a 1V:5H slope will occur. Erosion and sediment controls such as a boom will be placed around the area being excavated. A turbidity curtain will be utilized. Haybales and silt fence will be utilized around the material being dewatered and used as necessary to prevent sedimentation and turbidity.

Stabilization of the top of the newly created slope of the revetment will be achieved by replanting the previously removed high tide bush and where needed additional planting with 1 to 2 year old containerized plants spaced 48" on center and monitored for a minimum of 2 years after construction to insure they recolonize. Any wetlands damages or removed will be replanted.

The stone revetment will stabilize the southern bank of the basin to prevent the fairway from filling in, thereby preventing erosion.

DEEP Special Conditions of Approval specifies that all excavated sediment must be stored above the coastal jurisdiction line and out of tidal wetlands.

Due to the fact that the proposal requests a temporary disturbance to improve navigation and provided that all erosion and sediment controls are installed and utilized properly during the construction activity and provided the wetland restoration is completed and monitored as specified, the Commission finds 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 9804-14
Street Address: 60 Compo Beach Road
Assessor's: Map D03 Lot 164
Date of Resolution: July 16, 2014

Project Description: Dredging of the southern bank in the marina and stabilizing the bank with rip-rap to improve navigation. Work is within the 100 year floodplain and WPLO of the Saugatuck River.

Owner of Record: Town of Westport

Applicant: Roberge Associates Coastal Engineers, LLC

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 9804-14** 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 Flood and Erosion Control Board Conditions of Approval of July 2, 2014.

SPECIAL CONDITIONS OF APPROVAL

15. Conformance to the plans entitled:
 - a. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Title Sheet & General Notes", dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - b. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Vicinity Map", Scale: 1"= 3000', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - c. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Detailed Vicinity Map", Scale: 1"= 150', dated March 1, 2013, prepared by Roberge Associates Coastal Engineers, LLC
 - d. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Existing Site Plan", Scale: 1"= 100', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - e. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Proposed Site Plan", Scale: 1"= 10', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
 - f. "Compo Marina Boat Basin Slope Stabilization & Marina Improvement Project, Town of Westport, Proposed Section A-A", Scale: 1"= 100', dated June 6, 2014, prepared by Roberge Associates Coastal Engineers, LLC
16. Conformance to the State of Connecticut DEEP Approval Permit No. 201303556-TS.

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

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

Motion: Rycenga

Second: Shea

Ayes: Rycenga, Shea, Corroon, Washburn, Davis

Nays: 0

Abstentions: 0

Votes: 5:0:0

2. **14 Beechwood Lane, 8 Brightfield Lane, 15 Sycamore Drive, 67 Sylvan Road North, 7 Tupelo Road, 18 Westway Road, 4 Berkeley Place, 4 Charcoal Lane, 26 Silent Grove North, 55 Valley Road, 10 Pond Edge Road, 24 Pequot Trail, 38 Silent Grove North, 5 Wynfromere Lane and 18 Webb Road:** Application #IWW/M-9816-14 by the Town of Westport on behalf of Paul & Caroline Stubbs; Stewart Reifler; Harold Teran; Oliver J & Brooke E Wilson; 7 Tupelo Road LLC; Alejandro Olea; Jason Sunshine & Heather Lipkind; Carolyn & Robert Jumper; Christopher Galakoutis; Alicia Ogilvy; RB Benson & Co Inc.; Seth & Marjorie Almonsi; Frank & April Fraulo; Eric Oppenheimer & Colleen Stanton; and, SIR Development to amend wetland boundary maps E08, F07, H12, A09, F16, I08, E16, E15, F14, D07, D05, B09, F14, F08, and E10 respectively.

Ms. Krynicky presented the application on behalf of the Town. She noted these amendments were in response to the change in policy adopted by the Commission 2 years ago. She explained that all the properties were flagged by a soil scientist with said flagging confirmed by the staff. All owners have submitted an electronic copy of the flagged line so the Town's GIS mapping could be updated.

Ms. Shea asked if the majority of the sites were teardowns.

Ms. Krynicky stated they were. She added that some of the sites have appeared before the Commission.

Ms. Mozian added that many of the soils reports indicate that wetlands were filled in the past and no longer qualify as wetland soils. The majority of this was done prior to the adoption of wetland regulations.

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

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

FINDINGS AND RESOLUTION
Application #IWW/M 9816-14
July 16, 2014

14 Beechwood Lane, 8 Brightfield Lane, 15 Sycamore Drive, 67 Sylvan Road North, 7 Tupelo Road, 18 Westway Road, 4 Berkeley Place, 4 Charcoal Lane, 26 Silent Grove North, 55 Valley Road, 10 Pond Edge Road, 18 Webb Road, 36 Silent Grove North, 5 Wynfromere Lane and 24 Pequot Trail

WHEREAS, the applicants have retained a certified soil scientist to flag the wetland boundary, have submitted the soils report and sketch to the Conservation Department along with a survey plan depicting the flagged wetland line to which staff has confirmed the boundary as flagged in the field, the Commission finds the following:

1. The plan and application material submissions meet that which is required by Section 8.0 of the "Regulations for the Protection and Preservation of Wetlands and Watercourses for the Town of Westport, Connecticut" revised to August 2004 and the Change in Policy requirements for wetland boundary amendments as adopted by the Conservation Commission effective July 1, 2012.

THEREFORE BE IT RESOLVED, The Conservation Commission resolves to APPROVE Application #IWW/M-9816-14 for the amendment of the following wetland boundary maps on the basis that any petition to revise a wetland boundary requires supporting documentation from a soil scientist that the land in question does have a poorly or very poorly drained, alluvial or floodplain soil and that all proposed boundaries as submitted and or soil type changes depicted in the field are supported by certified soil scientist on the basis of soil investigations.

1. **14 Beechwood Lane:** Amendment of wetland boundary map E 8 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science, LLC on December 5, 2013
2. **8 Brightfield Lane:** Amendment of wetland boundary map F 7 pursuant to the boundary determination of Scott Stevens of Soil and Environmental Services, Inc. on December 13, 2013.
3. **15 Sycamore Drive:** Amendment of wetland boundary map H 12 pursuant to the boundary determination of William Kenny of William Kenny Associates LLC on January 16, 2014.
4. **67 Sylvan Road North:** Amendment of wetland boundary A 9 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science LLC on February 7, 2013.
5. **7 Tupelo Road:** Amendment of wetland boundary map F 16 pursuant to the boundary determination of Christopher Allan of LandTech on February 3, 2014.
6. **18 Westway Road:** Amendment of wetland boundary map I 8 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science LLC on December 5, 2013.
7. **4 Berkeley Place:** Amendment of wetland boundary map E 16 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science LLC on October 17, 2012.
8. **4 Charcoal Lane:** Amendment of wetland boundary map E 15 pursuant to the boundary determination of Christopher Allan of LandTech on April 10, 2014.
9. **26 Silent Grove North:** Amendment of wetland boundary map F 14 pursuant to the boundary determination of Steven Danzer of Steven Danzer, PhD & Associates, LLC dated October 3, 2013.
10. **55 Valley Road:** Amendment of wetland map D 7 pursuant to the boundary determination of Aleksandra Moch, Soil & Wetland Scientist dated March 13, 2013.
11. **10 Pond Edge Road:** Amendment of wetland map D 5 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science, LLC dated June 26, 2013.
12. **18 Webb Road:** Amendment of wetland map E 10 pursuant to the boundary determination of Aleksandra Moch, Soil & Wetland Scientist dated November 14, 2013.
13. **36 Silent Grove North:** Amendment of wetland map F 14 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science dated April 10, 2014.
14. **5 Wynfromere Lane:** Amendment of wetland map F 8 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science LLC dated August 30, 2013.
15. **24 Pequot Trail:** Amendment of wetland boundary map B 9 pursuant to the boundary determination of Otto Theall of Soil & Wetland Science LLC dated May 2, 2013.

Said amendments are made with the following conditions:

1. An electronic file of the above referenced plans in a format acceptable to the Town Engineer shall be submitted to the Conservation Department before permits for any further activity will be authorized.
2. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.

Motion: Davis

Second: Shea

Ayes: Davis, Corroon, Shea, Washburn, Rycenga

Nays: 0

Abstentions: 0

Vote: 5:0:0

Work Session II:

1. **1135 Post Road East:** Decision for Application #IWW,WPL-9761-14 by David Ginter of Redniss & Mead on behalf of Coastal Construction Group for the razing of one existing structure and partial razing of another and the construction of a two-story commercial building, surface parking, drive and walkways, in southern portion of the property. The existing landscaping uses in the northern portion of the site are to remain. Portions of the site are within the upland review area setback and the WPLO area of Muddy Brook.

Ms. Mozian stated that staff had prepared both an approval and a denial for the Commission to review.

Ms. Shea started the deliberation by asking her fellow Commissioners their opinion.

Ms. Rycenga stated she felt the applicant did not submit enough information to make a decision as to whether there was a significant impact to the wetland. Specifically, whether there is a septic system and where it is located. Also, there is a question of whether any contaminated soil is present around the oil tank.

The Commission reviewed the letter from Frank Geiger attesting that the garden center was used as a holding area and that plants were not grown there.

Mr. Washburn and Mr. Davis indicated they were most concerned with pesticide storage in and around the barn.

Ms. Shea expressed her concern about making a decision without the results of further soil testing because of the lessons learned from the Finley case.

Mr. Corroon stated he would assume that contamination is present. The Commission would get a clean site whether testing is done now or later. He recommended requiring testing prior to demolition and during construction.

Ms. Krynicki stated staff is not concerned with septic contamination. Pulling the oil tank will immediately reveal if there is a problem with leaking. She noted the presence of pesticides is more of an unknown. If contaminants area not removed there is a potential for them to be transported through the drainage system.

Mr. Davis and Mr. Washburn each indicated they had witnessed the storage of herbicides in the barn. It is not as clear if pesticides were used on the plants that were stored for sale on the site.

Mr. Corroon stated there would be more comprehensive testing done if it was done once the current use is abandoned. Then a backhoe could get in there to do deeper testing. He added that if the Commission assumes that the site is contaminated, then the removal of the oil tank, septic system and any contaminated soil will be an improvement to the water quality.

With no further discussion, the Commission voted to approve the application with conditions.

Findings
Application # IWW, WPL 9761-14
1135 Post Road East

1. **Receipt Date:** May 21, 2014
2. **Application Classification: Summary**
3. **Application Request:** For the demolition of one structure and the partial demolition of another and the construction of a two story commercial building, surface parking and associated site improvements. The proposed building will be located within the 100 year floodplain and extends into the WPLO by 3 feet. Site work for drainage and grading is within the WPLO setback and 25 year floodplain of Muddy Brook. Site drainage will be directed into Muddy Brook.
4. **Previous applications for this property:** No previous permits are on file
5. **Plans Reviewed:**
 - a) "Site Development Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-1, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead
 - b) "Grading & Utility Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-2, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead
 - c) "Sediment & Erosion Control Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-3, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead

- d) "Details Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheets SE-4, SE-5, and SE-6, dated April 14, 2014, prepared by Redniss & Mead
- e) "Paving Notes & Details Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-7, dated April 14, 2014, prepared by Redniss & Mead
- f) Property and Topographic Survey Depicting 1135 Post Road East, Geiger's Garden Center, Westport, Connecticut Prepared for 1135 Post Road East LLC", Scale: 1" = 30', dated April 11, 2014, prepared by Redniss & Mead
- g) "Planting Plan Prepared for Coastal Construction Group, 1135 Post Road East, Westport, Connecticut", dated April 15, 2014, prepared by William Kenny Associates, LLC
- h) "Phase I Environmental Site Assessment," 1135 Post Road East, Westport, CT dated June 13, 2014 by Mountain Laurel Environmental.

6. Property description and facts relative to this application:

Wetlands and Watercourses do not occur on the subject property. The Town of Westport wetland maps indicate a wetland associated with Muddy Brook is present on the south side of Post Road East approximately 85' from the subject site southerly property boundary. The overflow drainage from the site will enter the Town drainage system in Post Road East and subsequently the adjacent brook and wetland system and therefore the reason for this review.

- a. Wetlands Inventory Study Description prepared by Flaherty Giavara Associates, P.C. June 1983, indicate the wetlands occurring off site as a "streamside floodplain, marsh and wooded swamp surrounded by 100% residential."
- b. Property is outside Coastal Area Management zones.
- c. A portion of the property falls within the 100 year floodplain of Muddy Brook at elevation 31ft. msl.
- d. The WPLO boundary is established 15 ft off of the 25 year floodplain boundary.
- e. The property is currently being used as a Garden Center and Landscaper's yard. Existing improvements include two wooden buildings, a green house, paved parking and drives and various storage areas for landscape stock and vehicles. The total impervious coverage on the property is currently 1.11± acres or 55%. However, given the existing subgrade soil conditions (primarily ledge) as indicated by test pit data shown on Sheet SE-5 and other site disturbances, it can be assumed that the property acts as though it is fully impervious.
- f. Review of aerial photos show usage of lot changing to its present use sometime between 1951 and 1965.
- g. Proposed coverage is estimated to be reduced to .87 acres or 42%.
- h. The wetland areas as observed by staff appear to be high functioning areas for groundwater discharge and floodplain. It can be assumed that the wetlands support a diversity and abundance of wetland flora and fauna.
- i. Groundwater flow direction will be generally in an southerly direction toward Muddy Brook.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

7. 6.1 GENERAL STANDARDS

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

All proposed site work and proposed building work will be located outside the 75' IWW upland review area for commercial activity. However, the overflow from the site drainage will enter the wetland-watercourse system of Muddy Brook through a culvert under Post Road East. The drainage calculations submitted for the review anticipates a full build out with the bank plus residential and commercial construction including sub-surface parking garage and additional on-grade parking in the north end of the property. The Commission finds the drainage system as proposed is currently sized to be significantly larger than what is needed for the bank and the parking lot as proposed.

The Commission finds the proposed site improvements and drainage attempt to improve the quality of the runoff leaving the property and reduce the volume and rate of runoff as it exits the parcel. The majority of the impervious coverage from the property will be treated in the infiltration system. All runoff will be collected in the catch basins with two foot sumps and bell traps to ensure sediment, oil and other floatables do not enter into the infiltration systems.

The proposed building will be designed to be FEMA compliant with the first floor elevation to be at elevation 32.5'. Zone AE has a 100 year flood elevation calculated at 31.0'.

Three landscaped areas are proposed which mainly serve for aesthetics and to satisfy the P&Z's commercially zoned landscape regulations. However, the storm water that infiltrates these areas will benefit from the nutrient removal the plants and soil will afford.

8. 6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- d) all applicable state and local health codes shall be met;
- e) 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;
- f) prevents pollution of surface water

Water quality of storm water runoff is being achieved through subsurface infiltration. A planting plan has been submitted which will help contribute to infiltration and renovation of storm water runoff reaching these areas and increasing the amount of pervious surface on this parcel.

All catch basins are proposed to have a minimum of 24" sumps and bell traps.

Property has access to the sewer system but is NOT connected. The new development will be. The Commission finds the drainage calculations show that the proposed site improvements will create a reduction in both peak flow and volume of runoff from the site.

The historic use of the property as landscape business indicates this was a retail and storage facility and not a direct agricultural farming use. Based on aerial photo records, the property was used for residential purposes into the early 1960's before changing over to its present use as a garden center. The Commission finds this is important information as far as the possibility for potential soil contamination to have taken place given the applicant proposes excavation and subsurface drainage with overflow discharge to Muddy Brook that will be directly impacting surface and groundwater. Because of ledge, the drainage on the site cannot be stored and is being directly discharged to Muddy Brook.

A Phase I Environmental Site Assessment was conducted by Mountain Laurel Environmental and submitted by the applicant. The report found two areas of concern, a heating oil tank and a potential septic system. Mountain Laurel describes the heating oil tank of undetermined size and construction situated immediately to the north of Greenhouse 1. Contamination can migrate vertically downward until it reaches groundwater and then can spread laterally. Contamination can also be present of the ground surface around the tank as a result of spills or overfills. The report defines the "Constituents of Concern" to include Volatile Organic Compounds and Extractable Total Petroleum Hydrocarbons. Mountain Laurel recommends that since current plans call for the demolition of the buildings, the tank should be removed at that time and the subsurface soil tested. The Commission finds that soil testing overseen by a Licensed Environmental Professional be conducted in the vicinity of the fuel tank with the results submitted to the Conservation Department prior to the issuance of a Zoning permit.

A second area of concern identified by Mountain Laurel was the potential for an on-site septic system. The report states that chemicals such as pesticides, herbicides, oils etc. may have been disposed into the septic system. Contamination is most likely to be found in and under the septic tank. Contamination can migrate vertically downward until it reaches groundwater and then can spread laterally. Constituents of Concern include pesticides and herbicides. Mountain Laurel recommends that should a septic system be discovered during redevelopment it should be removed and the subsurface soils tested.

Mountain Laurel Environmental concludes that “ based on the findings of the Phase I ESA, Mountain Laurel is of the opinion that no additional investigations are warranted at the Site, except for confirmation soil sampling to confirm that no contamination remains.”

A letter from former owner Frank Geiger dated May 21, 2014 was submitted into the record. It states that the Geiger’s Garden Center has been used for over 61 years as a holding yard as a retail outlet and that no plants were ever grown on the property. The letter also states that none of their trucks were fueled on-site and they were always fueled at a service center. An existing underground oil tank exists but testing in the last few years has confirmed there is no contamination.

The Commission finds that soil testing overseen by a Licensed Environmental Professional conducted in the vicinity of the septic system, around and under the barn, in the vicinity of the underground oil tank and in the areas of the proposed drainage system as recommended by Mountain Laurel Environmental, with the results submitted to the Conservation Department prior to **Demolition** and during construction will identify any possible contamination prior to any significant site disturbance.

9. 6.3 EROSION AND SEDIMENT

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

A comprehensive Erosion and Sediment Control Plan has been prepared for the project construction as well as a Construction Sequence narrative. Silt fencing, sediment filter for stock piles, construction entrance, sediment filter for the catch basins and tree protection are provided.

Furthermore, the Flood and Erosion Control Board approved the application on May 7, 2014 with the condition that filters be added to the catchbasins on the Post Road contingent upon state approval. The Commission finds the plan as submitted appears to be adequate if controls are maintained and anti-tracking pad replenished as necessary. However, an extra row of haybales placed along the Post Road and filter fabric inserts in the Post Rd catchbasins as requested by the Flood Bd will act as further safeguards.

10. 6.4 NATURAL HABITAT STANDARDS

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

This project is not anticipated to impact natural habitats of the down-gradient watercourse or wetlands.

11. 6.5 DISCHARGE AND RUNOFF

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

The proposed project will not impact the floodway boundary and the proposed building will be FEMA compliant.

The existing site conditions provide no formal drainage structures. The Town Engineer indicates there will be no effect on the waterway nor the floodway of Muddy Brook from the proposed conditions. There will be a reduction in the runoff generated from this site and therefore the velocity and volume of flood waters both into and out of the wetlands and watercourses will not be adversely impacted. The submitted drainage calculations show that proposed grading will not have any adverse impacts to the neighboring properties. The submitted drainage design anticipates residential construction on the North end of the property including a sub-surface parking garage.

The Flood and Erosion Control Board approved this project with conditions on May 7, 2014. One of the conditions requires that filters be incorporated into the catch basins within the State right-of-way contingent upon State approval. These would add an extra layer of protection.

12. 6.6 RECREATIONAL AND PUBLIC USES

The Commission finds there will be no impact to recreational and public use with this proposal.

13 Waterway Protection Line Ordinance

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

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

The WPLO boundary is established 15 ft from the 25 year floodplain boundary on this property. The proposed commercial building falls within 3 ft of the boundary. However, runoff from the site development is proposed to discharge to Muddy Brook.

The proposed commercial building will be FEMA compliant. It will not have a basement and will not impact the floodway and/or flood heights of Muddy Brook. Insofar as whether it will have an impact on the ecosystem of the waterway is not as clear. The site's history as a garden center which, according to aerial photos and the former owner, has been in existence at least 50 years, poses the possibility that pesticides were used as well as petroleum products. A letter from the former owner indicates the presence of an existing underground oil tank. A Phase I Environmental Site Assessment conducted by Mountain Laurel Environmental confirms this along with the presence of a potential septic system.

Because of the extensive excavation required to develop the site due to the presence of shallow ledge and the proposed underground storm water drainage system, the Commission finds that possible pollution could discharge into the drainage system which then directly discharges to Muddy

Brook. However, the Commission finds that the findings and recommendations in the Phase I Environmental Site Assessment conducted by Mountain Laurel Environmental limits any possible contamination to an underground heating oil tank and a possible septic tank both of which can be remediated expeditiously so that the project as proposed will not cause water pollution, erosion and/or environmentally related hazards to life and property or have an adverse impact of the natural resources and ecosystems of the waterway as outlined in Section 30-93 of the WPL Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW,WPL 9761-14
Street Address: 1135 Post Road East
Assessor's: Map G 09 Lot 027
Date of Resolution: July 16, 2014

Project Description: For the razing of one existing structure and partial razing of another and the construction of a two-story commercial building, surface parking, drive and walks in southern portion of the property. The existing commercial landscaping uses in the northern portion of the site are to remain. Portions of the site are within the upland review area and the WPLO area of Muddy Brook.

Owner of Record: Coastal Construction Group
Applicant: Redniss & Mead

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 9761-14** 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. Conformance to the Flood and Erosion Control Board Conditions of Approval of May 7, 2014.
7. 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.
8. 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.
9. 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.
10. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.

11. All plants proposed in regulated areas must be non-invasive and native to North America.
12. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
13. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
14. 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.
15. 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.
16. A final inspection is required prior to the issuance of a Certificate of Compliance.

SPECIAL CONDITIONS OF APPROVAL

17. Conformance to the plans entitled:
 - a. "Site Development Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-1, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead
 - b. "Grading & Utility Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-2, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead
 - c. "Sediment & Erosion Control Plan Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-3, Scale: 1"= 30', dated April 14, 2014, prepared by Redniss & Mead
 - d. "Details Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheets SE-4, SE-5, and SE-6, dated April 14, 2014, prepared by Redniss & Mead
 - e. "Paving Notes & Details Depicting 1135 Post Road East, Westport, CT Prepared for Coastal Construction Group", Sheet SE-7, dated April 14, 2014, prepared by Redniss & Mead
 - f. Property and Topographic Survey Depicting 1135 Post Road East, Geiger's Garden Center, Westport, Connecticut Prepared for 1135 Post Road East LLC", Scale: 1" = 30', dated April 11, 2014, prepared by Redniss & Mead.
 - g. "Planting Plan Prepared for Coastal Construction Group, 1135 Post Road East, Westport, Connecticut", dated April 15, 2014, prepared by William Kenny Associates, LLC
18. Locations of all on-site soil testing areas for potential contamination, including around and under the barn, shall be identified on a site plan. Said plan shall be submitted to the Conservation Department for review and approval prior to the issuance of a demolition permit.
19. Prior to any activity on the parcel, a detailed testing protocol and mitigation practice schedule prepared by a Licensed Environmental Professional shall be submitted to the Conservation Department and the Fire Department for review and approval to address possible on- site soil contamination.
20. All soil testing prior to and during construction shall be done under the supervision of a Licensed Environmental Professional and the results submitted to the Conservation Department. The Conservation Department shall be notified 48 hours prior to testing.
21. The existing septic system shall be located during redevelopment of the site, it shall be removed and subsurface soils tested. Necessary remediation, if any, shall be performed in compliance with applicable Town and State regulations.
22. The underground oil tank shall be removed at time of demolition of existing building(s.) Subsurface soil shall be tested at that time and necessary remediation, if any, shall be performed in compliance with applicable Town, State and Federal regulations.
23. The Site plan shall be revised to include an additional catch basin fitted with a bell trap and sump to be installed down gradient of the proposed bank drive-thru location. Said plan to be submitted to the Conservation Department prior to the issuance of a Zoning permit.
24. A long-term maintenance plan for the storm water structures shall be submitted to the Conservation Department for review and approval in conjunction with the Engineering Department prior to the issuance of a Conservation Certificate of Compliance.

25. The Sediment and Erosion Control Plan shall be revised to show additional erosion and sediment controls including haybales at the property line adjacent to Post Road East. Said plan shall also be revised to show the construction entrances with appropriate tracking pad installation along Morningside Drive North.
26. Conformance to the Flood and Erosion Control Board Conditions of Approval of May 7, 2014.
27. All catch basins shall be cleaned prior to the issuance of a Conservation Certificate of Compliance.

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

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

Motion: Corroon **Second:** Shea
Ayes: Corroon, Shea, Washburn, Davis
Nayes: Rycenga **Abstentions:** 0 **Votes:** 4:1:0

2. Other business.
 - a. Ms. Mozian noted there is a new DEEP training session I. She asked who would be interested in participating. The members would have until December 15, 2014 to complete the course.
 - b. Ms. Mozian stated there has been no appeal filed for 333/335 Post Road West pursuant to the IWW regulations.
 - c. Ms. Mozian reported there is no news about the court proceeding for 41 Crescent Road. She noted that there has been an inquiry from an abutting property owner about purchasing one of the adjacent lots.
 - d. Mr. Corroon inquired about lead paint control during demolition. He asked who polices it.

Ms. Mozian said she would ask the Building Department.

The July 16, 2014 Public Hearing of the Westport Conservation Commission adjourned at 9:30 p.m.

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