



CONSERVATION COMMISSION
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WESTPORT™

**DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
JULY 19, 2023**

The July 19, 2023 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

Paul Davis, Vice-Chair, Acting Chair
Don Bancroft, Secretary
Patrick Ryll
Robert Corroon, Alternate

Staff Members:

Colin Kelly, Conservation Director
Susan Voris, Admin. Asst. III

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the July 19, 2023 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Colin Kelly
Conservation Director

4. Wetlands Description:

- a. **“Soil Scientist Report, Inland Wetland and Watercourse Delineation**, 52 Marion Road, Westport Connecticut”, prepared by Landtech, dated June 15, 2023.
- b. **“Inland Wetland and Watercourse Delineation**, 52 Marion Road, Westport Connecticut”, prepared by Landtech, dated November 2, 2021.

Intermittent Stream and Associated Wetlands (Flags #LT-B1 through #LT-B10 Open, as indicated on the Soil Scientist Sketch Map dated June 15, 2023)

The National Wetlands Inventory classification for the intermittent stream is **R4SB5**.

“System Riverine (R): is used to describe “all wetlands and deep-water habitats contained within a channel, with two exceptions: (1) wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens, and (2) habitats with water containing ocean-derived salts of 0.5 ppt or greater. A channel is an open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water”. The Riverine system is applicable to the stream that transects the property.

Subsystem Intermittent (4): This Subsystem includes channels that contain flowing water only part of the year. When the water is not flowing, it may remain in isolated pools or surface water may be absent.

Class Streambed (SB): Includes all wetlands contained within the Intermittent Subsystem of the Riverine System and all channels of the Estuarine System or of the Tidal Subsystem of the Riverine System that are completely dewatered at low tide. For the 52 Marion Road site, the latter part of the definition that pertains to estuarine system and the tidal subsystem does not apply.

Subclass Mud (5): is used to denote streambeds in which “the unconsolidated particles smaller than stones are predominantly silt and clay, although coarser sediments or organic material may be intermixed”.

Wetland soils characterized in the area:

Leicester fine sandy loam (4): This soil occurs on upland drainageways and depression landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is poorly drained. This Leicester soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. Most areas of this soil are wooded. The seasonal high water table limits this soil for community development; sites for on-site septic systems commonly need extensive filling and require special design and installation. Where suitable outlets are available, footing drains help prevent wet basements. Even when drained, the soil remains wet for several days after heavy rains. Wetness makes this soil poorly suited for trees. The shallow rooting depth to the seasonal high water table causes the uprooting of many trees during windy periods.

Non-wetland characterized in the area:

Canton and Charlton fine sandy loams, 3 to 8 percent slopes, very rocky (60B):

This component occurs on upland hill landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is well drained.

Pond Area (Flags WF#1 through WF#17, as depicted on the Zoning Location & Topographic Survey, dated November 10, 2021, revised May 16, 2023)

The National Wetlands Inventory classification for the manmade pond is **PUBHx**.

“System Palustrine (P): The Palustrine System includes all nontidal wetlands dominated by trees, shrubs, persistent emergents, emergent mosses or lichens. It also includes wetlands lacking such vegetation, but with all of the following four characteristics: (1) area less than 8 ha (20 acres); (2) active wave-formed or bedrock shoreline features lacking; (3) water depth in the deepest part of basin less than 2.5 m (8.2 ft) at low water; and (4) salinity due to ocean-derived salts less than 0.5 ppt.

Class Unconsolidated Bottom (UB): Includes all wetlands and deepwater habitats with at least 25% cover of particles smaller than stones (less than 6-7 cm), and a vegetative cover less than 30%.

Water Regime: Permanently Flooded (H): Water covers the substrate throughout the year in all years.

Special Modifier Excavated (x): This Modifier is used to identify wetland basins or channels that were excavated by humans.”

Wetland soils characterized in the area:

Aquents (3):

This soil type generally has less than two (2) feet of fill over naturally occurring poorly or very poorly drained soils or are located where the naturally occurring wetland soils are no longer identifiable, or the original soil materials have been excavated to the ground water table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

Non-wetland characterized in the area:

Canton and Charlton fine sandy loams, 3 to 8 percent slopes, very rocky (60B): This component occurs on upland hill landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is well drained.

5. Past Permits: None

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

- a. The existing house was built in 1963. It is served by public sanitary sewer.
- b. The property is 1.004 acres (43,738 sq. ft.) in size; located in Residential Zone AA.
- c. The parcel is located within the Stony Brook Watershed. The Stony Brook watercourse is located offsite, ~1700' to the northeast.
- d. This property **is not** within a flood zone.
- e. The property **is not** within the Aquifer Protection Overlay Zone.
- f. Property **does not** exist within the Coastal Areas Management Zone.
- g. The Waterway Protection Line (WPL) is established 15' from the wetland boundary. The WPL is not shown on the survey.
- h. The historical wetland boundary shown on the Town's GIS is related to the extent of the freshwater pond, only. The inventoried wetland area is ~6,340 sq. ft. as determined by the Town's GIS.
- i. The surveyed wetland areas total **5,508 sq. ft.** as determined by the Zoning Location & Topographic Survey by Landtech, dated November 10, 2021, revised May 16, 2023.

7. Discussion:

The applicant submitted a soils report by Anthony Zemba, Certified Ecologist/Soil Scientist, Landtech, dated June 15, 2023. This documents Mr. Zemba's investigation of the soils on the site from April 20, 2023. This report characterizes the intermittent watercourse and associated wetlands along the northern corner of the property.

The applicant submitted a soils report by Christopher P. Allan, Professional Registered Soil Scientist and Professional Wetland Scientist, dated November 2, 2021. This documents Mr. Allans's investigation of the soils on the site from October 22, 2021. This report characterizes the pond area in the center of the property.

The sketch maps provided with the reports from November 2, 2021 and January 21, 2021, identify the location of the wetland boundaries on "Zoning Location & Topographic Survey", prepared for Douglas & Samantha DeBono 52 Marion Road, Westport, CT, dated November 10, 2023 last revised May 16, 2023, Scale: 1" = 20'. The new wetland boundary represents a reduction of wetland area of **~832 sq. ft.**

The Town of Westport retained the services of Mary Jaehnic, Pfizer-Jaehnic Soils, LLC to review the proposed wetland boundary findings. Ms. Jaehnic conducted an on-site investigation on June 07,

2023. Ms. Jaehnig submitted a letter, dated July 10, 2023, stating the general agreement with Mr. Zemba's report and Mr. Allans report.

The Commission finds that the Town's wetland boundary map be amended to reflect the boundaries as flagged and concurred to by the soil scientists as shown on the "Zoning Location & Topographic Survey, prepared for Douglas & Samantha DeBono 52 Marion Road, Westport, CT", dated November 10, 2023 last revised May 16, 2023, Prepared by Landtech, Scale: 1" = 20'.

Resolution
Application #IWW/M-11762-23
52 Marion Road
Assessor's Map: B08 Tax Lot: 051
Public Hearing: July 19, 2023

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-11762-23 by Andy Soumelidis of Landtech, on behalf of Douglas & Samantha DeBono to amend the wetland boundary on Map: #B08 Lot: #051 on the property located at 52 Marion Road with the following conditions:

- 1.) **Conformance to the plans titled:**
 - a. **Zoning Location & Topographic Survey**, prepared for Douglas & Samantha DeBono 52 Marion Road, Westport, CT, dated November 10, 2021 last revised May 16, 2023, Prepared by Landtech, Scale: 1" = 20'.

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: Bancroft Second: Corroon
Ayes: Bancroft, Corroon, Davis, Ryll
Nays: 0 Abstentions: 0 Votes: 4:0:0

2. **WITHDRAWN APPLICATION – Parker Harding Plaza:** Application #WPL-11724-23 by Keith Wilberg, PE, Town Engineer on behalf of the Town of Westport to revise the existing roadway and parking lot, build sidewalks, a river-front boardwalk and park areas. The area will include trash and recycling dumpsters. The dry stone retaining wall at the Saugatuck River is to remain in place. Work is within the WPLO area of the Saugatuck River.-

This application was withdrawn at the applicant's request.

3. **9 Green Acre Lane:** Application #IWW,WPL-11754-23 by Bryan Nesteriak on behalf of Jessica & Jonathan Manela to construct an addition, driveway and retaining wall. Portions of the work are within the upland review area and the WPLO area of an unnamed tributary of Pussy Willow Brook.

Bryan Nesteriak, PE presented the application on behalf of the property owners. He oriented the Commission to the property. The proposal is for an addition of an attached garage with office above the existing driveway. He noted this will result in no additional coverage. He stated they have added more plantings and additional drainage as part of this project.

The Commission and Mr. Nesteriak discussed the drainage.

Mr. Kelly asked Mr. Nesteriak if he would certify that drainage is installed correctly as a condition of approval.

Mr. Nesteriak agreed.

Mr. Kelly stated the Commission received a performance bond as a requirement of Permit #IWW-WPL/E -11649-22 issued in December 2022. Therefore, staff is not recommending a performance bond with this application.

Mr. Davis asked for public comment. There were no public comments on the application.

Motion to close.

Motion:	Davis	Second:	Bancroft
Ayes:	Davis, Bancroft, Corroon, Ryll		
Nayes:	None	Abstentions:	None
		Vote:	4:0:0

Findings
Application # IWW, WPL-11754-23
9 Green Acre Lane
Assessor's Map: D07 Tax Lot: 059
Public Hearing: July 19, 2023

1. **Receipt Date:** June 21, 2023
2. **Application Classification:** Plenary
3. **Application Request:** The applicant is requesting to construct an addition, driveway, and retaining wall with associated site improvements. A portion of the work will occur within upland review area setbacks of onsite wetlands and the WPLO boundary.
4. **Plans Reviewed:**
 - a. **Plot Plan** prepared for Jessica & Jonathon Manela, #9 Green Acre Lane, Westport, Connecticut, prepared by Leonard Surveyors, LLC, dated March 3, 2021, last revised August 1, 2022, Scale: 1" = 40'.
 - b. **Site Development Plan Phase 2** of 9 Green Acre Lane, Westport, Connecticut, prepared for Jessica & Jonathan Manela, prepared by B&B Engineering, dated April 10, 2022, last revised May 3, 2023, Scale: 1' = 20', Sheet 1 of 2.
 - c. **Construction Notes and Details Phase 2** of 9 Green Acre Lane, Westport, Connecticut, prepared for Jessica & Jonathan Manela, prepared by B&B Engineering, dated April 10, 2022, last revised May 3, 2023, Scale: 1' = 20', Sheet 2 of 2.
 - d. **Wetland Delineation** for property located at 9 Green Acre Lane, Westport, Connecticut, prepared by Aleksandra Moch, dated May 20, 2019
 - e. **Landscape Site Plan**, Manela Residence 9 Green Acre Lane, Westport, Connecticut, prepared by Tate & Associates, LLC, dated November 1, 2022, Scale 1"=10', Sheet L-1
5. **IWW and WPLO Regulated Areas:**

The Waterway Protection Line Boundary is established 15' from the wetland boundary. Activity related to the installation of the of the stormwater management system is expected to encroach on the WPLO boundary on the property.

The Inland Wetland and Watercourse Regulations (IWW) setbacks determined for this property include:

- 50' upland review area for an addition,
- 30' upland review area for a driveway and retaining wall,
- 20' upland review area for grading and alterations within the non-disturbance buffer.

The proposed addition is partially within the 50 ft. upland review area. The proposed driveway is not within the 30 ft. upland review area. The proposed retaining wall is not within the 30 ft. upland review area. Installation of the stormwater management system and associated grading and excavation are partially within 20 ft. upland review area.

6. **Previous Permits issued:**
 - a. #AA-WPL/E-7559-06: Additions and alterations within the existing footprint
 - b. #AA-WPL/E-10980-20: Emergency Septic Repair

- c. #IWW/M-11632-22: Amend wetland boundary map #D07
- d. #IWW-WPL/E -11649-22: Addition and associated improvements

7. Wetlands Description: On November 16, 2022, the Conservation Commission approved the amended wetland map #D07 based on the findings in the wetland delineation report, prepared by Aleksandra Moch, dated May 20, 2019. The report describes the following soil types occurring on the property:

Wetland Soils:

- a. **Leicester fine sandy loam (4)** - This soil occurs on upland drainageways and depression landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is poorly drained. This Leicester soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. Most areas of this soil are wooded. The seasonal high water table limits this soil for community development; sites for on-site septic systems commonly need extensive filling and require special design and installation. Where suitable outlets are available, footing drains help prevent wet basements. Even when drained, the soil remains wet for several days after heavy rains. Wetness makes this soil poorly suited for trees. The shallow rooting depth to the seasonal high water table causes the uprooting of many trees during windy periods.

Non-Wetland Soils:

- b. **Hollis-Chatfield-Rock outcrop complex (75C)** - This component occurs on upland hill and ridge landforms. The parent material consists of melt-out till derived from schist, granite, and gneiss. The slope ranges from 3 to 15 percent and the runoff class is low. The depth to a restrictive feature is 10 to 20 inches to bedrock or 20 to 40 inches to bedrock. The drainage class is somewhat excessively drained to well drained. The USDA NRCS Web Soil Survey list this soil type as somewhat limited for houses due to the depth of bedrock.

8. Property Description and Facts Relative to the Application:

- a. The existing house was built in 1982 and remodeled in 2005. It is served by septic system. The septic was repaired in 2020.
- b. The property is 1.001 acres (43,605 sq. ft.) in size; located in Residential Zone AA.
- c. A perennial watercourse originates from an adjacent pond located off site to the north. The watercourse and associated wetlands run along the eastern and southern boundaries of the subject property.
- d. In 2020, a previous violation for unauthorized construction of the lower retaining wall within the regulated area and review area was legalized as part of the administrative approval permit #AA-WPL/E-10980-20 for an emergency septic repair.
- e. In its current configuration, the lower retaining wall extends slightly into the surveyed limit of wetland. The AA permit legalized the extent of the wall. The edge of lawn along the top of the wall is improved with a landscape bed planted with shrubs.
- f. The AA permit legalized the driveway drainage pipe to discharge at the downgradient side of the retaining wall.
- g. The existing septic tank will be removed due to offsets from the new residential addition. A new septic tank will be installed ~26' from the surveyed wetland boundary will connect to the existing septic leaching system, built in 2020.
- h. The parcel is located within the Pussy Willow Brook Watershed. Pussy Willow Brook watercourse is located offsite, ~1,000' to the east. The wetlands onsite are associated with an unnamed tributary to the brook.
- i. This property **is not** located within a FEMA-designated flood zone.
- j. The property **is not** within the Aquifer Protection Overlay Zone.
- k. Property does not exist within the Coastal Area Management Zone.
- l. The Waterway Protection Line is established 15' from the wetland boundary. It is shown on the survey.
- m. The Flood & Erosion Control Board approved this project at the July 5, 2023 meeting.
- n. The flagged wetland area is 11,303 sq. ft. as determined by the plan by Leonard Surveyors, March 3, 2021, last revised August 1, 2022.
- o. Base Lot Area: **34,332 sq. ft.**
- p. Existing Building Coverage (including permitted addition): **9.9%** (3,400 sq. ft.)
- q. Proposed Building Coverage: **11.6%** (3,998 sq. ft.)

- r. Existing Site Coverage: **23.47%** (8,075 sq. ft.)
- s. Proposed Total Coverage: **24.93%** (8,559 sq. ft.)
- t. Proposed Addition slab Elevation: **79.9'**
- u. Existing Average Site Grade: **73.6'**
- v. Proposed Average Site Grade: **74.2'**

9. Conformance to Section 6.1 General Standards of the Inland Wetlands and Watercourses Regulations

- a) disturbance and pollution are minimized;
- b) height, width, and 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 addition will be located ~**31'** from the nearest wetland boundary. The new driveway will be located ~**53'** from the nearest wetland boundary. The retaining wall will be located ~**45'** from the nearest wetland boundary. The stormwater management system will be located ~**15'** from the nearest wetland boundary. The construction of the addition represents the largest amount of development within upland review area of wetlands included in proposed plan. The installation of the eastern stormwater galleries represent the most intensive earthwork adjacent to wetlands on site. Moderate grading will occur to accommodate for the addition, driveway, retaining wall and stormwater management system. Average site grade will increase ~0.6' in elevation.

A previous commission application was approved in December of 2022 for a rear addition, reconfiguration of a retaining wall, and replacement of a septic system. An extensive wetland buffer planting was approved as a part of the application. In the current application, the driveway coverage is proposed to be reduced from the existing 4,573 sq. ft. to 3,962 sq. ft. Total coverage will be reduced from the approved 8,572 sq. ft. (24.97%) to the proposed 8,559 sq. ft. (24.93%). The Commission finds that the driveway will feature drainage features that capture runoff in the front portion of the property, which is an improvement from the previous configuration.

The applicant proposes no modifications to the wetland buffer planting plan that was previously approved as part of the application for the rear addition (IWW-WPL/E -11649-22). Though drainage from the driveway and addition will be treated by the proposed two stormwater management areas, the previously approved buffer planting will offer additional protection to the wooded wetland habitat from overall site runoff.

The Commission finds that the project does not propose any direct impacts to wetlands or watercourses. The sensitive areas on site include the forested wetland to the east and the watercourse to the northeast and the east of the existing residence. Though the watercourse could be considered candidate habitat for fish aquatic fauna species, the site disturbance does not pose an obvious threat of loss of fish, wildlife, or vegetation. The Commission finds that the proposed improvements and sediment and erosion controls have been designed to prevent a significant risk of pollution or disturbance to the wetlands. The proposed addition will be completely within the footprint of the existing driveway and will represent slightly reduced coverage adjacent to the wetland. The Commission finds that the overall runoff from the northeast of the property to be reduced with introduction of the driveway drainage features. The addition structure will account for additional stormwater volume capture and retention within the old driveway footprint. The Commission finds that the reduction of stormwater runoff towards the wetlands is an overall benefit to water quality and conservation of natural habitat.

10. Conformance to Section 6.2 Water Quality of the Inland Wetlands and Watercourses Regulations

- 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:

An unnamed watercourse flows through the eastern most portion of the towards its confluence with Pussy Willow Brook, ~100' to the southeast of the property. The surface water quality classification for Pussy Willow Brook is Class A water for Inland Surface Water Class. (Connecticut Environmental Conditions Online, <http://www.cteco.uconn.edu/>), The Class A designation indicates that the water is suitable habitat for fish other aquatic life, wildlife, and recreation.

The surface water quality classification for Pussy Willow Brook (State Waterbody ID: CT7000-18_01) (Connecticut Environmental Conditions Online, <http://www.cteco.uconn.edu/>), located offsite to the southeast, is Class A water for Inland Surface Water Class. The Class A designation indicates that the water is suitable habitat for fish other aquatic life and wildlife and recreation.

The Commission referenced UConn's CLEAR Local Watershed Assessment Tool. The local watershed basin for Pussy Willow Brook has a combined condition index (CCI) score of 0.18. A CCI score of less than 0.43 indicates the watershed basin may be significantly impaired. The Tool defines Pussy Willow Brook's Recovery Status as "Mitigation", identifying that watershed condition can be improved with mitigation efforts such as restoring naturalized riparian zones.

The Commission finds that the driveway has surface drainage features. A storm drain located in the southeast corner of the pavement collects water from the driveway. The current roof leaders discharge by downspouts to grade. The proposed addition requires new drainage to meet the Town's Drainage Standards to collect runoff to offset the new coverage. The drainage from the driveway will be directed to two rows totaling 56 linear feet (LF) of concrete galleys within a crushed stone reservoir beneath the driveway footprint. The drainage from the new addition will be directed to three rows totaling 64 LF of concrete galleys within a crushed stone reservoir immediately southeast of the proposed eastern limit of driveway. The applicant provides "Detention Calculations" on the "Site Development Plan." The applicant does not provide a separate stormwater management report but demonstrates stormwater system is sized appropriately to detain stormwater runoff from the new coverage for the 25-year storm.

The previous application proposed two areas of densely planted wetland buffer. The Commission finds that these plantings will help establish or enhance riparian areas that are currently maintained as lawn or landscaping. This would improve water quality within wetland and watercourse through the biofiltration of stormwater. As the water encounters the soil and the roots of the vegetation, suspended sediment and dissolved nutrients are trapped.

The Commission finds that the overall increase in stormwater capture across the west and north of the site is an improvement to existing conditions. It is an improvement to the proposed drainage conditions of the previously approved permit application, as well.

11. Conformance to Section 6.3 Erosion and Sediment of the Inland Wetlands and Watercourses Regulations

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

Discussion:

The proposed erosion and sedimentation controls consist of a single row of perimeter silt fencing within the maintained rear lawn along the limit of proposed disturbance, a single row to the northwest of the driveway footprint, and a single row to the southeast of the soil stockpile area and limit of retaining wall. The silt fence will be placed ~15' from the limit of wetlands at the location of the proposed eastern stormwater detention units. An anti-mud tracking pad will be installed at the construction entrance within the existing asphalt driveway in the front portion of the property. A detail for the construction entrance is provided in the site development plan. The entrance will consist of 2" crushed stone.

Much of the potential for adverse impacts from erosion and sedimentation will be due to the temporary conditions created during the excavation, filling and grading associated with constructing the addition and installing the eastern stormwater detention area.

The Commission finds that the Sediment & Erosion control measures should be adequate if maintained throughout construction.

12. Conformance to Section 6.4 Natural Habitat Standards of the Inland Wetland and Watercourses Regulations

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

Discussion:

The Commission finds that the data maintained by the Natural Diversity Database (NDDB) and housed in the DEEP ezFile portal, demonstrated that no populations of State Endangered, Threatened, or Special Concern species (RCA Sec. 26-306), and no Critical Habitats have been documented within or in close proximity to the project area.

As part of the previously approved application, the applicant is establishing wetland buffer plantings in two separate areas. The existing riparian zone of the wetland and watercourse across the property is a mix of landscaping, maintained lawn and sparse natural vegetation. The Commission finds that the plantings will be an effective measure at restoring dense riparian vegetation in targeted zones. The buffer plantings should enhance riparian value and function through biofiltration and treatment of sheet flow stormwater runoff from the yard and driveway. Additionally, the proposed winterberry, elderberry and sweet pepperbush will provide forage for resident and migrating bird species, while the flowering plants should provide food for pollinator species. The plantings will have limited potential in providing shading, shelter, or nesting habitat.

The Commission finds that the construction of the addition and the reconfiguration of the driveway will not have adverse impacts of altering habitat conditions or existing indigenous flora and fauna. The construction of the additions will occur within the footprint of the existing driveway and the overall driveway footprint will be reduced. The biggest risk to the resource is sedimentation from excavation and filling activities.

The Commission finds that there will be no adverse impacts to the local ecosystem and biological productivity of the wetland and watercourse. Since there are no proposed developments within the wetland or watercourse, and surface water inputs will be limited to stormwater system overflow, there will be no adverse impacts to aquatic wildlife, fish migration or life cycle.

13. Conformance to Section 6.5 Discharge and Runoff of the Inland Wetland and Watercourses Regulations

- 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: Existing roof leaders from the residence discharge at grade across the lawn and driveway. The only site drainage that currently exists on the property serves the driveway. The surface storm drain located in the southeastern corner of the driveway drains stormwater from the driveway to the wetland corridor through an underground pipe that daylights on the downgradient side of the lower retaining wall. The current drainage helps prevent ponding in the southern end of the driveway and washout of the existing landscape bed into the wetland.

The project proposes to install two rows totaling 56 linear feet (LF) of concrete galleys within a crushed stone reservoir beneath the driveway footprint to treat driveway runoff. The drainage from the new addition will be directed to three rows totaling 64 LF of concrete galleys within a crushed stone reservoir immediately southeast of the proposed eastern limit of driveway. The system is designed to capture stormwater from a portion of the existing residence, both of the new additions, and the driveway surface. The system is designed to manage the first inch of stormwater runoff for the 25-year storm. In total, the system is sized to store 597 cu. ft. of water, which exceeds the 502.9 cu. ft. that is required by Town stormwater standards. The application was reviewed by the Flood & Erosion Control Board on July 5, 2023. Edward Gill, of Town Engineering Department, stated at that meeting that the drainage calculations would need to be reviewed prior to the issuance of the Zoning Permit. Mr. Gill also stated he was in favor of the Boards's approval.

The Commission finds that the landscape bed along the top of the lower retaining wall is providing partial dissipation of stormwater energy coming off the existing roof leaders and maintained lawn. The plantings will aid in restoring the lawned and landscaped areas to naturalized riparian buffer. The riparian buffers will help slow down stormwater flow velocities coming off the front and side lawns, as well as dissipate energy from excess flow not captured by the driveway drain.

The Commission finds that the reconfigured driveway and additional stormwater retention volume will be an overall benefit.

14. Conformance to Section 6.6 Recreational and Public Uses of the Inland Wetland and Watercourses Regulations

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

Discussion: The proposed application will not have a significant impact on recreational and public uses.

15. Waterway Protection Line Ordinance (WPLO)

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 WPLO boundary is located 15' from the wetland boundary. Work within the WPLO is limited to excavation, filling, and grading related to the installation of the eastern storm water detention galleries. 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 temporary stormwater quality impacts due to potential sediment releases from disturbed soil adjacent to the wetland boundary.

A layer of perimeter silt fence is shown on the site plan within the WPL, ~5' downgradient from the proposed location of the eastern stormwater detention galleys. The Commission finds that the S&E control measures should be adequate in preventing sediment release into the resource. The Commission finds that the ecosystem of the wetland and watercourse should not be adversely impacted by the installation of the stormwater galleries. The stormwater galleries should be considered a benefit to enhancing water quality of runoff going into the wetland.

The Commission finds the implemented design of the proposed addition, driveway, and retaining wall does not pose long-term adverse impacts to the resources on site.

**Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #IWW, WPL-11754-23
9 Green Acre Lane
Assessor's Map: D07 Tax Lot: 059
Public Hearing: July 19, 2023**

Project Description: To construct an addition, driveway, and retaining wall with associated site improvements. A portion of the work will occur within upland review area setbacks of onsite wetlands and the WPLO boundary.

Owner of Record: Jessica & Jonathan Manela

Applicant: Bryan Nesteriak, B&B Engineering

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-11754-23** with the following conditions:

Completion of the regulated activity shall be within FOURTEEN (14) 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 NINETEEN (19) years.

STANDARD CONDITIONS OF APPROVAL

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

4. **1A Plunkett Place:** Application #IWW,WPL-11763-23 by L Morgan Properties, Inc. on behalf of ELR Morgan LLC to construct a new single family residence, driveway, pool, drainage and associated site improvements. Portions of the work are within the upland review area setbacks.

James Fraser, presented the application on behalf of the owners. The proposal is for a new single family residence, driveway, pool, drainage and site improvements. They intend to pave the driveway. The driveway has will be modified to accommodate the Town regulations. They will be using the existing foundation in the construction of the new residence with additions.

Wayne D'Avanzo, PE discussed the drainage for the site. There will be less than a foot of fill over the retention system. They have added a double row of silt fence along wetland.

Commission and the applicants discussed the driveway, grading and drainage. It was noted that the pool is not a part of this application.

Mr. Kelly clarified that the pool was a part of the application; however, it is located outside the upland review area for pools. The pool is calculated in the drainage. Currently, there are no pool plans or Health Department approval. The pool will be eligible for an administrative approval if it comes in outside the 35-foot upland review area in the future. Mr. Kelly reviewed the comments on the latest revisions to the plan from Edward Gill of the Engineering Department dated July 18, 2023, which indicated the plans conform with the Town's drainage and grading standards. Mr. Kelly recommended the planting plan be revised to establish a more naturalized habitat with a minimum 10-foot width. He also recommended a bond be submitted for the plantings and sediment and erosion controls prior to zoning permit. During the site walk, it was noted there was some erosion due to some silt fence failure. There was also some dumping of debris within the wetland that should be removed by hand.

Mr. Davis asked for public comment. There were no public comments.

Motion to close.

Motion:	Davis	Second:	Corroon
Ayes:	Davis, Corroon, Bancroft, Ryll		
Nays:	None	Abstentions:	None
			Vote: 4:0:0

Findings

**Application #IWW-WPL/E-11763-23
1A Plunkett Place
Assessor's Map: G11 Tax Lot: 004
Public Hearing: July 19, 2023**

- 1. Receipt Date:** **June 21, 2023**
- 2. Application Classification:** **Plenary**
- 3. Application Request:** The applicant has requested to construct a new single-family residence (NSFR), deck, retaining walls and driveway extension. A portion of the work is proposed within upland review area setbacks of on-site wetlands. The proposed pool and patio will be part of a future application and are not approved with this application.
- 4. Plans Reviewed:**
 - **Zoning/ Location Survey, Map of Property**, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Walter H. Skidd – Land Surveyor LLC, dated November 17, 2022, Scale: 1" = 20'.
 - **Drainage Plan**, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated May 5, 2023, and last revised to July 17, 2023, Scale: 1" = 20'.
 - **Detail Sheet**, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated May 5, 2023, and last revised to July 17, 2023, (drawings not to scale).

- **Drainage Report**, Prepared for Existing and Proposed Site Conditions, located at 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering, LLC, dated May 5, 2023, last revised to July 11, 2023.
- **Architectural Plans**, prepared by Peter Klein, Associates, Inc., dated February 13, 2023, Scale: As Noted

a) Title Page	Sheet	T-001.00
b) General Notes	Sheet	A-001.00
c) Site Plan & Zoning Compliance	Sheet	A-100.00
d) Existing Floor Plans	Sheet	A-110.00
e) Basement Floor Plan	Sheet	A-111.00
f) First Floor Plan	Sheet	A-112.00
g) Second Floor Plan	Sheet	A-113.00
h) Attic Plan	Sheet	A-114.00
i) Front & Rear Building Elevation	Sheet	A-200.00
j) Side Building Elevations	Sheet	A-201.00
k) Cross-Section	Sheet	A-300.00
l) Cross-Section	Sheet	A-301.00
m) Cross-Section Details	Sheet	A-302.00
n) Site Landscaping Plan	Sheet	C-100.00
o) Erosion Control Plan	Sheet	C-110.00
p) Site Details	Sheet	C-200.00
q) Foundation Plan	Sheet	FO-100.00
r) Foundation Details	Sheet	FO-200.00
s) Conc. & Masonry Details	Sheet	FO-210.00

5. Previous Permits on file:

- **IWW/M-11751-23** Map Amendment

6. IWW and WPLO Regulated Areas:

There is one wetland area on the subject property. The wetland is wooded, located along the western property boundary. The wetland area within the property boundaries is 14,743 sq. ft., though the extents of the wetlands continue on adjacent properties to the north and south.

The Inland Wetland and Watercourse Regulations (IWW) setbacks determined for regulated activities on this property include:

- 50' upland review area for a new single-family residence,
- 30' upland review area for a deck,
- 30' upland review area for a walkway,
- 30' upland review area for a driveway,
- 30' upland review area for retaining walls,
- 20' upland review area for the proposed installation of stormwater management system and overall site earth disturbance.

The proposed pool and patio depicted on the "Drainage Plan" will be part of a future application.

The proposed residence is within the 50 ft. upland review area. The proposed deck is located outside of the 30 ft. upland review area upland review area. The proposed walkway is located outside of the 30 ft. upland review area. The proposed expansion of the driveway is located outside the 30 ft. upland review area. The proposed retaining wall for the driveway is within the 30 ft. upland review area. The proposed drainage system is located partially within the 20 ft. upland review area, over-dig and earthwork related to its installation is expected to be within the 20 ft. non-disturbance buffer.

The wetland boundary was adopted by the Westport Conservation Commission in June of 2023. The adopted wetland boundary on the subject property was established in May, 2023, based on a delineation performed by Aleksandra Moch, Soil & Wetland Scientist in November, 2022. The delineation report identified one palustrine forested wetland area along the western boundary of the subject property. The wetland drains towards the southeast.

The onsite wetland was not identified in the USFWS National Wetland Inventory (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).

The Waterway Protection Line is established 15' landward from the surveyed wetland boundary established west of the proposed residence. No work is proposed within the WPLO boundary.

7. Wetlands Description:

- a) "Wetland Delineation for the property located at 1A Plunkett Place, Westport Connecticut", prepared by Aleksandra Moch, Soil & Wetland Scientist, dated November 11, 2022.

Wetland soils found on the property

Ridgebury, Leicester, and Whitman soils, extremely stony (3):

This soil unit consists of poorly drained and very poorly drained soils found in depressions and drainageways on uplands and in valleys. Stones and boulders cover 5% to 35% of the surface. This unit consists of three soil types mapped together because they have no major differences in use and management. The soils have a seasonal high water table at or near the surface from fall to spring. The permeability of Ridgebury and Whitman soils is moderate or moderately rapid in the surface layer and subsoil and slow or very slow in the substratum. The permeability of the Leicester soils is moderate or moderately rapid throughout. Available water capacity is moderate in all three soils. Runoff is slow on all three, and water is ponded on the surface of some areas of the Whitman soils. The high water table, ponding, and the stones and boulders on the surface limit these soils for community development. Excavations are commonly filled with water. Quickly establishing plant cover and using siltation basins help to control erosion and sedimentation during construction.

Non-wetland soils found on the property

Charlton-Chatfield complex, 3 to 15 percent slopes, very rocky (73C):

This component occurs on upland hill landforms. The parent material consists of melt-out till derived from schist, granite, and gneiss. The slope ranges from 3 to 15 percent and the runoff class is low. The depth to a restrictive feature is 20 to 40 inches or greater than 60 inches. The drainage class is well drained.

8. Property Description and Relative Facts:

- The existing house was built in 1963. It is served by public sanitary sewer.
- The property is 1.01 acres (44,098 sq. ft.) in size; located in Residential Zone AA.
- The parcel is shown as located within the Muddy Brook Watershed. Muddy Brook is located ~2000' to the southeast. The wetland is depressional and drains to the southeast.
- Property is situated in Flood Zone X as shown on F.I.R.M. Panel 09001C0414G Map revised to July 8, 2013.
- The property **is not** within the Aquifer Protection Overlay Zone.
- Property **is not** within the Coastal Area Management Zone.
- The Waterway Protection Line is established 15' from the surveyed wetland boundary. The WPLO boundary is shown on the "Drainage Plan".
- The surveyed wetland area is **~14,743 sq. ft.**, as specified on the "Drainage Plan".
- Lot Area: **1.01 acres** (44,098 sq. ft.)
- Base Lot Area: **31,495 sq. ft.**
- Proposed Building Coverage: **7.5%** (2,374 sq. ft.)
- Proposed Site Coverage: **23.4%** (7,362 sq. ft.)

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations:

9. 6.1 GENERAL STANDARDS

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

Discussion:

The “Drainage Plan”, prepared by Fairfield County Engineering, LLC, dated May 5, 2023, and revised July 17, 2023, depicts that the proposed residence will be developed ~30’ from the nearest wetland boundary, within of the Conservation Commission’s upland review area setback. The proposed stormwater galleries and stormwater system overflow level spreader are ~15’ from the wetland boundary at its closest point. These structures represent the most intensive development within upland review areas on site. The proposed deck will be ~30’ from the nearest wetland boundary, outside of the Conservation Commission’s upland review area setback. The proposed driveway expansion will be ~36’ from the nearest wetland boundary, outside of the Conservation Commission’s upland review area setback. The existing driveway portions will be retained by a ~2’ tall wall (western side of the driveway), located about 16’ from the wetland line. Proposed walkways are ~20’ and ~43’ from the nearest wetland boundary, within the Conservation Commission’s upland review area setback. The applicant proposes a planting of an arborvitae hedgerow about 3’ upgradient from the limit of the wetland shown on the “Site Landscaping Plan.” Though drainage from the new coverage will be treated by the proposed management system, the planting may offer additional protection to the wooded wetland habitat from overall site runoff.

The project does not propose any direct impacts to wetlands or watercourses. The sensitive area on site is the forested wetland to the west. The Commission finds that the wetland should not be considered candidate habitat for fish. The site disturbance does not pose an obvious threat of loss of fish, wildlife, or vegetation. The Commission finds that the proposed improvements and sediment and erosion controls have been designed to prevent a significant risk of pollution or disturbance to the wetland. The proposed development will have all of the runoff from the new coverage captured in the two stormwater detention areas. The two areas will improve stormwater quality across the site. The Commission finds that the introduction of a drainage system as an overall benefit. The Commission also noted yard waste and debris shall be removed by hand from the edges of the wetland area and discourages future deposition of debris in that area.

10. 6.2 WATER QUALITY

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

Discussion:

The nearest perennial water course is Muddy Brook. The main stem of Muddy Brook is located off site ~2000’ to the southeast. The on-site wetland drains to the southeast. The surface water quality classification for Muddy Brook (State Waterbody ID: CT7000-16_01) (Connecticut Environmental Conditions Online, <http://www.cteco.uconn.edu/>), located offsite to the southeast, is Class A water for Inland Surface Water Class. The Class A designation indicates that the water is suitable habitat for fish other aquatic life and wildlife and recreation.

The Commission finds that the referenced UConn’s CLEAR Local Watershed Assessment Tool. The local watershed basin (700-16) for Muddy Brook has a combined condition index (CCI) score of 0.19. A CCI score of less than 0.43 indicates the watershed basin may be significantly impaired. The Tool defines Muddy Brook’s Recovery Status as “Mitigation”, identifying that watershed condition can be improved with mitigation efforts such as restoring naturalized riparian zones.

Based on the factor of distance from the site, The Commission finds that the surface water quality of Muddy Brook will be impacted from the proposed development across the subject property.

The proposed limit of disturbance is located ~15' from the on-site wetland, which drains towards the south corner of the site. There is not apparent open-water pathway of flow from the onsite wetland to the main stem of Muddy Brook, located ~2000 ft. to the southeast. Based on the far distance from the site, The Commission finds that the surface water quality of Muddy Brook will not be impacted from the proposed development across the subject property.

Two proposed stormwater retention areas are shown consisting of a set of seventeen (17) Cultec units and another set of two (2) Cultec units. They are proposed ~15 - 20' eastward of the flagged wetland boundary and will serve the new development and driveway drain (including a particle separator). The two stormwater detention areas are connected, and overflow discharge is provided from the set of 17 Cultec units. A 4" PVC level spreader is located ~6' downgradient from the galleries. The stormwater management system will collect roof and driveway runoff. The roof runoff is discharged through roof leaders and conveyed towards the stormwater galleries. The drainage system overflow level spreader volume will discharge as sheet flow towards the wetlands. The drainage report demonstrates that the Water Quality Volume (WQV) of the combined stormwater detention area is 580 cubic feet (cu. ft.) which exceeds the 152 cu. ft. that is required by Town Drainage Standards to treat the first 1" of runoff for the proposed development.

11. 6.3 EROSION AND SEDIMENT

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

Discussion:

Some amount of site excavation and grading is proposed to accommodate the proposed new development and the stormwater retention areas. The development plan does not provide an estimate for the total cut and or fill of material for the overall site. Though, the plan depicts two areas for soil stockpiling.

The applicant has provided sediment and erosion controls on the "Erosion Control Plan" which incorporates the use of a row of silt fence along the perimeter of the project area, silt fencing around the proposed soil stockpile areas, and an anti-mud tracking pad at the construction entrance. The pad will be located at the existing driveway entrance along Plunkett Place. The "Erosion Control Plan" depicts details for the silt fencing, soil stockpiling, and the construction entrance. The latest revised "Drainage Plan" depicts a double row of silt fence along the perimeter of the project area. This will provide extra protection to the adjacent wetlands.

A memo from the Town's Engineering Department, dated July 11, 2023, stated "*The plan depicts silt fencing and an anti-tracking pad construction entrance. However, the silt fencing proposed is set near the edge of the flagged wetlands. As such, it is not clear whether the limits of disturbance proposed will be outside of the 20-foot non-disturbance setback or not.*" A subsequent memo from the Town's Engineering Department, dated July 17, 2023 stated "*The plan depicts silt fencing and an anti-tracking pad construction entrance. Thus, the project substantially complies with Sedimentation & Erosion Control requirements.*"

The Commission finds that the proper installation and continued maintenance of all of the listed E&S controls should be adequate to contain sediments onsite and prevent impacts due to sedimentation.

12. 6.4 NATURAL HABITAT STANDARDS

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;

- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.

The Commission finds that the preliminary review of the Natural Diversity Database (NDDDB) demonstrated that there were no potential sensitive habitats or state listed species in the database for the subject property. Based on these results and the limited scope of the project, The Commission does not recommend further consultation for biological information.

The Commission finds that the applicant provides a "Site Landscaping Plan" in the upland immediately upgradient from the boundary of the western wetland. On the site plan, the applicant proposes a hedgerow of 34 arborvitae immediately upgradient of the wetland boundary. The arborvitae are shown 10' on-center and approximately 3' upgradient from the wetland boundary.

The Commission acknowledges arborvitae is North America-native and it will provide some protection of the wetland from stormwater runoff. Though, The Commission finds that implementing one species of tree is limited in its overall benefit of enhancing biodiversity and wetland habitat. The Commission finds that a planted buffer of a variety native trees or shrubs and herbaceous vegetation shall be installed to a width of 10' landward along the wetland boundary. In addition, The Commission finds that a performance bond shall be submitted for the revised planting plan. The performance bond shall be held for one full growing season to help ensure vitality of the intended plants. The added native plants will help establish a dense buffer of vegetation to aid in sediment capture and biofiltration of pollutants. Additionally, the planting will enhance forage and habitat for resident and migrating fauna. The Commission finds that the inclusion of the buffer planting and seeding as a benefit for the natural habitat of the on-site wetlands.

13. 6.5 DISCHARGE AND RUNOFF

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

Discussion:

Runoff from the driveway will be collected at a drain located at the edge of the driveway and retaining wall and directed towards the retention area to the south composed of two (2) Cultec units. The two units will discharge overflow volume through underground pipes into the larger retention area consisting of seventeen (17) Cultec units. Runoff from the roof of the proposed residence will discharge through roof leaders and be conveyed through an underground pipe towards the 17 underground retention units to the north. The system will overflow through a level spreader and discharge as sheet flow towards the wetland. General stormwater runoff from the deck, the walkway and lawn will discharge as sheet flow towards the wetland.

A memo from the Town's Engineering Department, dated July 11, 2023, stated, "*The plans show that only a portion of the new house is proposed to be collected and routed to the subsurface drainage system, with the majority of the rest of the house and driveway draining overland to the wetlands. As such, the proposed drainage system does not comply with the water quality volume requirements of the Town standards because it does not treat the runoff from the proposed impervious areas. Additionally, neither the site plan nor the drainage report show the location of the proposed footing drains for foundation of the structure. These must be shown, and if pumped, they must be routed to a subsurface system that only utilizes exfiltration.*"

A subsequent memo from the Town's Engineering Department, dated July 17, 2023 stated, "*The storm water drainage system as depicted on the plans substantially complies with the Town of Westport Engineering Department Drainage Standards*". The Commission finds that the revised

drainage plan and report submitted to the Engineering Department addressed their previous comments.

Overall, the site plan demonstrates that grades will remain the same. The Commission finds that the final site design does not pose a change to how the site transmits or absorbs flood waters. The overflow discharges located ~15' from the limit of wetland will present two concentrated sources of discharge towards the western wetland during the season's heaviest storm events, but The Commission finds that the feels the proposed planted buffer in place of the proposed arborvitae hedgerow should help dissipate discharge energy before reaching the wetland.

A memo from the Town's Engineering Department, dated July 11, 2023, stated, "*The proposed site plan does not show any changes to existing contours, but does use proposed spot elevations over the proposed drainage systems to show proposed grading. The drainage system west of the house and pool has a spot elevation of 136.1 over it, to show that there will be adequate cover over the Cultec units. However, the plan does not depict the 136 contour going around this system. The plan implies that grading will be done in this area, yet it is not actually depicted. Similarly, if the spot elevation depicted over the southern drainage system is carried across that system to maintain cover over the Cultecs, the slope to the 134 contour to the west will be steeper than the maximum allowable 5:1 (H:V) and will require a variance.*"

A subsequent memo from the Town's Engineering Department, dated July 17, 2023 stated, "*The proposed grading as depicted on the plans substantially complies with the Town of Westport Zoning Regulations, Sec. 32-8: Excavation and Filling of Land.*" The Commission finds that the revised drainage plan and report submitted to the Engineering Department addressed their previous comments.

14. 6.6 RECREATIONAL AND PUBLIC USES

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

Discussion:

Current application will not have a significant impact on recreational and public uses.

15. Information Gaps / Errors

The coverage numbers provided on the drainage plan are wrong or inconsistent with the numbers provided on the "Site Plan and Zoning Compliance", Sheet A-100.00.

The "Drainage Plan" and the "Erosion Control Plan" are inconsistent in identifying the types and locations of E&S controls. Neither plan estimates the amount of cut and fill for the site activity. The "Erosion Control Plan" included with the Architectural Drawings demonstrates that the silt fence will be placed within the wetland. The "Drainage Plan" does not depict the two areas of soil stockpiling that are shown on the "Erosion Control Plan".

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #IWW-WPL/E-11763-23
1A Plunkett Place
Assessor's Map: G11 Tax Lot: 004
Public Hearing: July 19, 2023

Project Description: The applicant has requested to construct a new single-family residence (NSFR), deck, retaining walls and driveway extension. A portion of the work is proposed within upland review area setbacks of on-site wetlands. The proposed pool and patio are not approved with this application.

Owner of Record: ELR Morgan LLC
Applicant: L Morgan Properties Inc.

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-11763-23** with the following conditions:

Completion of the regulated activity shall be within FOURTEEN (14) 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 NINETEEN (19) years.

STANDARD CONDITIONS OF APPROVAL

1. Permits are not transferable without the prior written consent of the Conservation Commission.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
11. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
12. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
13. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. All on-site dumpsters shall be covered at the end of each workday and or when not in use.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a) **Zoning/ Location Survey**, Map of Property, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Walter H. Skidd – Land Surveyor LLC, dated November 17, 2022, Scale: 1" = 20'.

- b) **Drainage Plan**, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated May 5, 2023, and last revised to July 17, 2023, Scale: 1" = 20'.
- c) **Detail Sheet**, prepared for ELR Morgan LLC, 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated May 5, 2023, and last revised to July 17, 2023, (drawings not to scale).
- d) **Drainage Report**, Prepared for Existing and Proposed Site Conditions, located at 1A Plunkett Place, Westport, Connecticut, prepared by Fairfield County Engineering, LLC, dated May 5, 2023, last revised to July 11, 2023.
- e) **Architectural Plans**, prepared by Peter Klein, Associates, Inc., dated February 13, 2023, Scale: As Noted

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c. Site Plan & Zoning Compliance	Sheet	A-100.00
d. Existing Floor Plans	Sheet	A-110.00
e. Basement Floor Plan	Sheet	A-111.00
f. First Floor Plan	Sheet	A-112.00
g. Second Floor Plan	Sheet	A-113.00
h. Attic Plan	Sheet	A-114.00
i. Front & Rear Building Elevation	Sheet	A-200.00
j. Side Building Elevations	Sheet	A-201.00
k. Cross-Section	Sheet	A-300.00
l. Cross-Section	Sheet	A-301.00
m. Cross-Section Details	Sheet	A-302.00
n. Site Landscaping Plan	Sheet	C-100.00
o. Erosion Control Plan	Sheet	C-110.00
p. Site Details	Sheet	C-200.00
q. Foundation Plan	Sheet	FO-100.00
r. Foundation Details	Sheet	FO-200.00
s. Conc. & Masonry Details	Sheet	FO-210.00

- 17. The "Erosion Control Plan" included with the Architectural Drawings shall be updated to match the latest design provided in the "Drainage Plan" last revised to July 17, 2023. The "Drainage Plan" shall be revised to depict the two areas of proposed soil stockpiling. This shall be submitted to Conservation Staff for review and approval prior to the issuance of a Zoning Permit.
- 18. The planting plan shall be revised to include additional trees, shrubs, and herbaceous cover to create a 10' wide vegetated buffer. Plants shall be native, non-invasive species. This shall be submitted to Conservation Staff for review and approval prior to the issuance of a Zoning Permit.
- 19. A bond to cover the cost of erosion controls and plantings shall be submitted prior to the issuance of a Zoning Permit. The portion of the bond covering the plantings shall be held for one full growing season to ensure plant vitality.
- 20. Yard waste and debris shall be removed from the edges of the wetland area by hand, under direction from Conservation Staff. This shall be completed 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: Ryll Second: Davis
Ayes: Ryll, Davis, Bancroft, Corroon
Nays: 0 Abstentions: 0 Vote: 4:0:0

5. **25 Ford Road:** Application #IWW,WPL-11764-23 by David Fiereck, PE of Loureiro Engineering Associates, Inc. on behalf of 25 Ford Road LLC to conduct environmental remediation consisting of shallow excavation, installation of a flexible membrane liner, backfill and restoration of existing grades. The work is partially within the WPLO area of the Saugatuck River and the West Branch of the Saugatuck River.

Tristan Wallace, PE presented the application on behalf of the property owners. He stated the work was approved in 2011 and started in 2012. That permit has since expired. The DEEP permit is still active. The work stopped on the site due to other work projects occurring on the property. He described the activity for shallow excavation, installation of a flexible membrane liner, backfilling and restoration of the existing grades. There will be some areas within the wetland that will be restored with wetland mix.

David Fiereck, LEP, stated that prior to DEEP approval they had assessed the groundwater quality and the soils in the river. There will be continued groundwater monitoring after the flexible membrane liner is installed.

The Commission and the applicants discussed drainage and overland flow, the invasive species within the wetlands, and the timing of the project.

Mr. Kelly noted the majority of the work is within the floodway. The project design is due to the floodway and not wanting to change the grades. He asked about the next steps after receiving the permit.

Mr. Fiereck reviewed the next steps after receiving a permit. The project is broken into three phases. The roadwork will occur first. Then half of the parking area with half remaining open for the employees. Then the other half will be done. There is continued groundwater monitoring to ensure that nothing breaches the barrier. The property owner must place a bond with the DEEP ensuring that testing takes place and to cover future remediation costs.

Mr. Kelly confirmed that Mr. Fiereck was acting as the site monitor during remediation and that work would stop if a storm or flood event is expected.

Mr. Fiereck agreed.

Mr. Kelly noted that as addendums to the staff report, staff included the resolution from 2011, email from DEEP indicating their permit was still valid and a memo from the Flood and Erosion Control Board.

Mr. Fiereck noted that there has been extensive testing done on this site. Some remediation work has been done. Any further remediation work is going to improve the water quality.

Mr. Davis asked for public comment. There was no public comment.

Motion to close.

Motion:	Davis	Second:	Ryll
Ayes:	Davis, Ryll, Bancroft, Corroon		
Nayes:	None	Abstentions:	None
		Vote:	4:0:0

Findings
Application # IWW,WPL-11764-23
25 Ford Road
Assessor's Map: C15 Tax Lot: 023
Public Hearing: July 19, 2023

- 1. Receipt Date:** June 21, 2023
- 2. Application Classification:** Plenary
- 3. Application Request:** To conduct environmental remediation consisting of shallow excavation, installation of a flexible membrane liner, backfill and restoration of existing grades. The work is partially within the WPLO area of the Saugatuck River and the West Branch of the Saugatuck River.
- 4. Plans Reviewed:**
 - a) **25 Ford Road Environmental Remediation**, 25 Ford Road, Westport, CT, prepared by Loureiro Engineering Associates Inc., Dated June 15, 2023
 - i. **Cover**
 - ii. **Survey -Existing Conditions Survey**, prepared by L. Edwards, Dated 6/14/11 rev to 7/13/11
 - iii. **Notes and Legends, Drawing C1**
 - iv. **Wetland Delineation Plan, Drawing C2**
 - v. **Site Excavation Plan, Drawing C3**
 - vi. **Restoration Plan, Drawing C4**
 - vii. **Project Phasing Plan, Drawing C5**
 - viii. **Soil Erosion and Sediment Control Plan, Drawing C6**
 - ix. **Site Details, Drawing C7**
 - b) **Soil Scientist Report**, Inland Wetland and Watercourse Delineation, 25 Ford Road, Westport, CT, prepared by Landtech, Dated July 7, 2023.
 - c) **Biological Evaluation**, 1 Glendinning Place & 25 Ford Road, Westport, CT, prepared by Landtech, Dated June 20, 2011.
 - d) **Email Correspondence**: Dated June 16, 2023, From Kevin Neary, Supervising Environmental Analyst, Southwest District, **Remediation Division, CT DEEP**
- 5. Previous Permits issued:**
 - a. IWW 1222-84 Adaptive reuse of existing building converting it from manufacturing of embalming fluid for office use.
 - b. WPL 1226-84 Renovation & conversion of existing building from manufacturing to office use.
 - c. IWW 1673-86 Conversion of basement level from occupied manufacturing space to conceal parking
 - d. AA 2308-87 Maintenance of riverbed and existing property structures
 - e. AA, WPL/E- AQ/E 5831-98 Retaining wall
 - f. AA, WPL/E, AQ/E 7509-05 Installation of emergency backup generator and fuel tank
 - g. AA, WPL/E, AQ/E 8262-08 Upgrades to building to raise mechanicals & electrical components above floodplain
 - h. AA, WPL/E, AQ/E 8273-08 Dormer to 3rd floor and interior renovation
 - i. IWW/M 8862-11 Amendment to wetland boundary map C-15
 - j. AA,WPL/E 8877-11 Minor site improvement, slope protection, utility burial
 - k. IWW, WPL 8880-11 Environmental Remediation, excavation and install membrane liner
 - l. AA,WPL/E 9196-12 Paint foot bridge
 - m. AA,WPL/E 9202-12 Repair using existing stones-restack by hand
 - n. AA,WPL/E 9950-15 Elevated walkway, septic alterations
 - o. AA,WPL/E 10684-18 Paint foot bridge
 - p. AA,WPL/E 11637-22 Foot bridge repair, replace wood
- 6. IWW and WPLO Regulated Areas:**

Setbacks determined for this property include a 20' non-disturbance buffer for the proposed grading or other alteration from wetland boundaries and the 30' upland review area setback for the repaving activity of the existing parking areas. The Waterway Protection Line Boundary is established 15' from the 25 Year Flood Line.
- 7. Wetlands Description:**

Previous soil mapping onsite was conducted by soil scientist, Chris Allen dated June 17, 2011 indicating the wetland soils associated with the dammed impoundment northeast of the buildings are identified as Saco silt loam. The wetlands along the West Branch of the Saugatuck River are

developed in moderately well drained and poorly drained alluvial deposits. These alluvial soils were identified as **Pootatuck fine sandy loam** and Rippowam fine sandy loam. The upland soils were classified as Agawam fine sandy loam(AfB), Hinckley gravelly sandy loam (HkD) and Udorthents. New soil mapping was provided with this current application from Landtech, dated July 7, 2023. This summarizes the findings of the June 1, 2023 inspection where the most recent soil investigation also identifies **Pootatuck fine sandy loam (102)**.

The wetlands onsite are associated with the confluence of the West Branch of the Saugatuck River and the Saugatuck River proper. These resources are classified as Riverine Lower Perennial Unconsolidated Permanently Flooded Watercourses. The National Wetlands Inventory (U.S. Fish & Wildlife Service) list the river as **R5UBH**.

System Riverine (R) : The Riverine System includes all wetlands and deepwater habitats contained within a channel, with two exceptions: (1) wetlands dominated by trees, shrubs, persistent emergents, emergent mosses, or lichens, and (2) habitats with water containing ocean-derived salts of 0.5 ppt or greater. A channel is an open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water.

Subsystem Unknown Perennial (5) : This Subsystem designation was created specifically for use when the distinction between lower perennial, upper perennial, and tidal cannot be made from aerial photography and no data is available.

Class Unconsolidated Bottom (UB) : Includes all wetlands and deepwater habitats with at least 25% cover of particles smaller than stones (less than 6-7 cm), and a vegetative cover less than 30%.

Water Regime Permanently Flooded (H) : Water covers the substrate throughout the year in all years.

Downstream is classified as Riverine Lower Perennial Unconsolidated Permanently Flooded Watercourses (R2UBH)

Non-wetland soils found on the property:

Udorthents-Urban land complex (306): This complex consists of moderately well drained to excessively drained soils that have been disturbed by cutting or filling, and areas that are covered by buildings and pavement.

8. Background Information:

- a. Property is outside Coastal Area Management zones.
- b. This property lies within Flood Zone X as shown on F.I.R.M. Panel 09001C0411F, effective June 18, 2010 for Saugatuck River.
- c. The CT DEEP Inland Surface Water Classifications (<https://portal.ct.gov/DEEP/Water/Water-Quality/Water-Quality-Standards-and-Classification>) lists this portion of the Saugatuck River as Class A quality, which indicates the surface water body is suitable for potential drinking water supply; fish, aquatic life and wildlife habitat; recreational use; agricultural and industrial supply and other legitimate uses.
- d. The property is serviced by a septic system. The sanitary system for the building currently consists of an engineered system that pumps the sewage up to off-site leaching fields on the corner of Sipperly's Hill and Weston Road.
- e. Parcel is 5.891 acres accessed and located on the northern side of Ford Road generally located at the confluence of the Saugatuck River, the West Branch of the Saugatuck River and the Aspetuck River. The parcel contains 2.5 acres located to the south of the river supporting an office building and paved parking. Approximately 3.3 acres is located to the northwest which supports additional paved parking and woodlands.
- f. Flood & Erosion Control Board reviewed and approved this application pursuant to the WPLO on July 5, 2023

9. Relative Facts:

- a. The project consists of the remediation of soils impacted by historical industrial activities located throughout the site. The proposed remediation involves the excavation and off-site disposal of certain soils and the excavation of the upper soils to facilitate the installation of a flexible membrane liner or engineered control topped with soil and various surficial finishes in other locations throughout the site. The project is necessary to mitigate human exposure to the

- impacted soils and to mitigate the degradation of groundwater caused by infiltration contacting soil contamination through the natural groundwater recharge process.
- b. Permit #IWW,WPL 8880-11 Date of Approval: September 21, 2011, Findings and Resolution are incorporated into this report as an addendum. The current work associated with the current application is effectively a request to continue the previously approved remediation.
 - c. The proposed engineered control for the site is comprised of a high-density polyethylene (HDPE) liner that caps contaminated materials in place, with a final surface finish that has been designed to incorporate appropriate sedimentation and erosion controls measures.
 - d. Portions of the work are within the wetlands, the upland review areas and the WPLO and the 25 year floodplain of the Saugatuck River.
 - e. The Connecticut Department of Energy and Environmental Protection issued a conditional approval for an Engineered Control Variance Request in accordance with Section 22a-133k-2(f)(2) on September 6, 2011 which was further identified as Remediation ID No. 8978. The applicant is continuing the work under these guidelines and directives for remediation. The email Correspondence from Kevin Neary, Supervising Environmental Analyst, Southwest District, Remediation Division, CT DEEP, dated June 16, 2023, confirms this approval is still valid for the proposed work onsite.
 - f. An area of approximately 27,500 sq. ft. is proposed to be remediated. Of that, approximately 1,567 sq. ft. is designated within wetlands.
 - g. The areas of excavation will be restored to "in-kind" conditions.
 - h. Two alternatives to the proposed application were considered:
 - i. Laying a liner over the existing soils and adding a minimum of 2 feet of soil above the existing contour lines.
 - ii. A deeper excavation to the groundwater table.
 - i. Both of these alternatives were abandoned and deemed more disruptive to the wetlands and watercourses.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations:

10. 6.1 GENERAL STANDARDS

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

Discussion:

The Commission finds that the project continues remediation of soils onsite impacted by historical industrial activities located throughout the site. The previous work onsite was done in the fall of 2012 and early 2013. The proposed remediation involves the excavation and off-site disposal of certain soils and excavation of the upper soils to facilitate the installation of a flexible membrane liner or engineered control topped with soil and various surficial finishes. The project is necessary to mitigate human exposure to the impacted soils and to mitigate the degradation of groundwater caused by infiltration contacting soil contamination through the natural groundwater recharge process.

The previous site work was done in a manner to minimize impacts to surrounding wetlands to achieve remediation goal. The Commission finds that the site conditions have remained the same and does not anticipate impacts to adjacent wetlands or resources with these activities.

11. 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 current proposal for remediation remains similar to the approved Permit from 2011. The previous application determined that any potential releases to groundwater resulting from a failure of the engineered control would not be expected to affect nearby drinking water wells. (Refer to Permit #IWW,WPL 8880-11 Findings and Resolution) A maintenance program that includes quarterly inspections of all areas of the engineered control is required by the CTDEEP. Additional inspections will also be performed after any flooding event that inundates a portion of the capped area and at the end of snowplowing season. Copies of inspection forms and documentation of the corrective actions will be provided to the CTDEEP on an annual basis. The post-remediation maintenance and monitoring plan will continue for the life of the engineered control.

The Commission does not anticipate adverse impacts to groundwater level or water quality due to this proposal.

12. 6.3 EROSION AND SEDIMENT

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

Discussion:

The project is to be strategically phased to minimize open or otherwise unstable areas during construction as noted on Drawing C7. Erosion control measures will be installed as shown on Drawing C6 prior to any site construction and maintained throughout the project. The applicant has stated that work will be postponed if there is a threat of forecasted inclement weather. This should limit impacts from flooding.

The proposed design will physically isolate the polluted soil and function with minimum maintenance. The cap has been designed in a manner that will minimize erosion.

13. 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:

A Biological Evaluation was conducted by Land-Tech Consultants, Inc on June 20, 2011. The proposed excavation will be located within the floodplain and portions of the floodway of the Saugatuck River. Existing habitat is provided for various mammals, reptiles, amphibians, fish and birds as water as has been identified by the biological evaluation, and vegetation is dominant on this property which provides food and shelter for wildlife. The applicant has indicated all vegetated areas will be restored as a mitigation measure for disturbance associated with this project.

The Commission does not anticipate any adverse impacts to the existing natural habitat as consequence of the proposed site work.

14. 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 Flood & Erosion Control Board approved this application on July 5, 2023. Existing grades will be re-established following the proposed excavation activity. Excess material is not to be stockpiled within the floodway. Exposure time of excavated material should be limited.

15. 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:

Current application will not have a significant impact on recreational and public uses.

16. Waterway Protection Line Ordinance (WPLO)

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 & Erosion Control Board approved the application on July 5, 2023. The Flood & Erosion Control Board chair, Paul Lobdell, provided a memorandum, dated July 7, 2023. Therein, the Flood & Erosion Control Board notifies the Commission about soil contamination onsite and states in part:

- a. *The soil at this site, and other nearby sites, was contaminated with formaldehyde. The CT DEEP approved the project in 2011 on the basis of surface runoff. At that time, the Flood & Erosion Control Board expressed their concern over the possibility of sub-surface migration of the formaldehyde into the Saugatuck River and surrounding properties.*

The full memorandum is added to this report as an addendum.

The Commission finds that the work to continue to remediate the soils onsite, under the conditions of the CT DEEP permit, shall be done under observation of a Licensed Environmental Professional. The plans shall be followed and the site shall be restored to pre-excavation elevations, including revegetation, The Commission finds that the activity for the reasons enumerated above will not have an adverse impact on the preservation of the natural resources and ecosystem of the waterway.

17. Addendum:

Permit #IWW,WPL 8880-11 Date of Approval: September 21, 2011, Findings and Resolution
Email Correspondence: Dated June 16, 2023, From Kevin Neary, Supervising Environmental Analyst,
Southwest District, Remediation Division, CT DEEP
Flood & Erosion Control Board, Memorandum, dated July 7, 2023, by chair, Paul Lobdell

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL-11764-23
25 Ford Road
Assessor's Map: C15 Tax Lot: 023
Public Hearing: July 19, 2023

Project Description: To conduct environmental remediation consisting of shallow excavation, installation of a flexible membrane liner, backfill and restoration of existing grades. The work is partially within the WPLO area of the Saugatuck River and the West Branch of the Saugatuck River.

Owner of Record: 25 Ford Road LLC, Thomas M. Sinchak, Esq.
Applicant: David Fiereck, PE of Loureiro Engineering Associates, Inc.

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-11764-23** with the following conditions:

Completion of the regulated activity shall be within FOURTEEN (14) 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 NINETEEN (19) years.

STANDARD CONDITIONS OF APPROVAL

1. Permits are not transferable without the prior written consent of the Conservation Commission.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
11. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
12. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.

