CONSERVATION COMMISSION
TOWN HALL – 110 MYRTLE AVENUE
WESTPORT, CT 06880
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DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
OCTOBER 18, 2023

The October 18, 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:

Tom Carey, Chair
Paul Davis, Vice-Chair
Don Bancroft, Secretary
Josh Lewi
Patrick Ryll

Staff Members:

Colin Kelly, Conservation Director
Andrew Hally, Conservation Analyst
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 October 18, 2023 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

_____

Colin Kelly
Conservation Director

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

Mr. Kelly asked the Commission to add **Other Business** to the Work Session.

Motion to add Other Business to the Work Session.

Motion:	**Carey**		**Second:**	**Ryll**	
Ayes:	**Carey, Ryll, Bancroft, Davis, Lewi**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**5:0:0**

Public Hearing: 7:00 p.m.

All members visited the sites in preparation for the hearing.

1. **Parker Harding Plaza:** Application #WPL-11805-23 by Keith S 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 and to relocate the trash and recycling dumpsters. Work is within the WPLO area of the Saugatuck River.

   Peter Ratkiewich, PE, Director of Public Works presented the application on behalf of the Town of Westport. The project is sponsored by the Public Works Dept. and Downtown Implementation Committee. He reviewed reasons for the upgrades to Parker Harding Plaza including:

   - the lot is not ADA compliant with zero spaces;
   - the lot does not meet Fire Code standards;
   - there is a lack of flood compliance;
   - there is limited greenspace, and
   - the circulation pattern is not compliant.

   Mr. Ratkiewich reviewed the existing conditions. The entire lot is within the WPLO. Under the proposed conditions, the lot will remain within the same area. The existing seawall will remain as is. There will be no grade changes. They will be adding green space with a vegetated buffer and a raingarden. The parking islands will be repopulated with native plantings. The plantings and construction materials are proposed to be flood resistant. The parking lot will be ADA compliant with the new walkways and parking spaces and will meet the fire code standards. He reviewed the sediment and erosion control plan, which includes mud tracking pads and silt fencing around the stock pile areas. The planting plan will result in an increase in the number of plantings. He reviewed the drainage plan. The impervious surface will be reduced by 13.7%.

   Commission and Mr. Ratkiewich discussed the trash collection location. The plantings will be salt tolerant. They discussed the parking spaces.

   Mr. Hally stated the NDDB showed there were no threatened or endangered species. The plan will be a benefit with the surface drainage features. Native plantings will provide for habitat and pollinators.

   Mr. Kelly asked about the expected oversight of the project during construction and long term maintenance.

   Mr. Ratkiewich stated his office has a full time road construction manager and there will be a site construction manager. There will be someone onsite every day overseeing the project. He stated that with the construction of the Baldwin parking lot and the Elm Street parking lot, there were a lot of site improvements done. Parks and Rec oversees the maintenance of Town properties and Public Works oversees the maintenance of Town facilities but the parking lots have fallen through the cracks. Public Works has taken over the maintenance with the upgrades of Elm Street and Baldwin Parking with contracts going out for maintenance. Parker Harding will be added after the maintenance has been completed within the contract. The plan is to add all the downtown parking areas.

Mr. Carey asked for public comments.

There were no public comments.

Motion to close the public hearing.

Motion:	**Carey**		**Second:**	**Davis**	
Ayes:	**Carey, Davis, Bancroft, Lewi, Ryll**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**5:0:0**

FINDINGS
Application #WPL-11805-23
Parker Harding Plaza
Assessor's Map:
Parker Harding Parce Assessor's Map: C10 Tax Lot: 086
Gorham Island Parcel Assessor's Map:C10 Tax Lot 087
Public Hearing: October 18, 2023

1. **Application Request:** Applicant is proposing to redevelop an existing asphalt parking lot by reducing parking area, constructing walkways, constructing a boardwalk along riverfront seawall, and introducing green spaces and drainage retention areas (rain gardens) within the WPLO of the Saugatuck River.
2. **Plans reviewed:**
   a. **Limited Property & Topographic Survey** depicting Parker Harding Plaza, Westport, CT, prepared for Town of Westport, prepared by DiMarzo & Bereczky, dated December 6, 2022, Scale: 1" = 20', ROW 1 of 2.
   b. **Limited Property & Topographic Survey** depicting Parker Harding Plaza, Westport, CT, prepared for Town of Westport, prepared by DiMarzo & Bereczky, dated December 6, 2022, Scale: 1" = 20', ROW 2 of 2.
   c. **Overall Site Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 40', Sheet CS100.
   d. **Site Plan I,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 20', Sheet CS101.
   e. **Site Plan II,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 20', Sheet CS102.
   f. **Site Details I,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14 2023, Scale: NTS, Sheet CS501.
   g. **Site Details II,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: NTS, Sheet CS502.
   h. **Overall Planting Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 40', Sheet LP100.
   i. **Planting Plan I,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 20', Sheet LP101.
   j. **Planting Plan II,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 20', Sheet LP102.
   k. **Planting Notes & Details,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: NTS, Sheet LP501.
   l. **Overall Site Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1" = 40', Sheet CS100.

m. **Parker Harding Plaza Soils Report and Geotechnical Investigation Findings,** prepared by Langan, dated September 14, 2023.
n. **Conceptual Phasing Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT, prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Sheet FG01.
o. **Stormwater Management Memo,** Parker Harding Plaza, Westport, CT, prepared by Langan, dated September 14, 2023

3. **Past Permits: None**
4. **Property Description:**
   a. **Location of 25-year flood boundary:** 9 ft. contour interval. The WPL is established 15 linear feet (LF) from the 9 ft. contour interval.
   b. **Property is situated in Flood Zones AE (el. 10')** as shown on F.I.R.M. Panel 09001C0413G Map revised to July 8, 2013.
   c. **Proposed Boardwalk Elevation:** ~8.5 ft.
   d. **Proposed Parking Elevation**: ~7.75 ft.
   e. **Proposed Walkway Elevation:** ~7.5 to 9.5 ft.
   f. **Lot Area:** 120,605 sq. ft. (2.77 acres)
   g. **Existing Connected Impervious Coverage**:108, 356 sq. ft. (89%)
   h. **Proposed Connected Impervious Coverage**: 93,356 sq. ft. (77.4%)
   i. **Zoning:** Property is located in Zone BCD
5. **Aquifer**:
   The property is outside of the Aquifer Protection Overlay Zone. The property is underlain by Saugatuck River Aquifer which is a coarse-grained stratified drift aquifer.
6. **Coastal Area Management**:
   The subject property is located within the Coastal Area Management (CAM) zone. The coastal resources are identified as: **Estuarine Embayments**, **Nearshore Waters**, **Shellfish Area** and **Coastal Flood Hazard Area**. Estuarine Embayments are protected coastal bodies of water with an open connection to the sea in which saline sea water is measurably diluted by fresh water including tidal rivers, bays, lagoons and coves. Estuarine embayments facilitate high biological productivity, provide significant habitat for shellfish, finfish and waterfowl, serve as spawning and feeding grounds for a wide variety of fish species and various aquatic fauna. Nearshore Waters are those waters and their substrates lying between mean high water and a depth approximately by the ten-meter contour. Shellfish Area areas support an important source of food, provide recreational shellfishing opportunities, provide economic opportunities for the shellfish industry, and provide employment through the shellfish industry. Coastal Flood Hazard Areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during "100-year" flood events. Coastal Hazard Areas serves as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential type uses.
7. **Proposed Storm Water Treatment**: The applicant proposes to treat stormwater runoff with new surface drains, catch basins and rain gardens that will convey stormwater into the existing subsurface drainage infrastructure of the current parking lot. Collected stormwater will be conveyed to the four (4) drainage outfalls which discharge at the seawall into the Saugatuck River.
8. **Discussion:**
   The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:
   " ***An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited to: impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation."***

   The Commission finds the entire project area is within the WPLO boundary (elevation 9') of the Saugatuck River. The property abuts the Saugatuck River along the western property boundary. There are tidal wetlands adjacent to the project area. The site features a seawall, the top (elev.~8.75) is elevated several feet from the intertidal zone. The mean high water line of the Saugatuck River is located at elevation 3.3' (NAVD88) to the east of the property. The Coastal Jurisdiction Line is

established at elevation 5.3'. The site plan demonstrates the coastal jurisdiction line (CJL) is located along the base of the seawall. The seawall will remain in its existing condition.

Based on the existing spot elevations shown on the site plan, the topography of the site slopes from the south and north gradually towards the center of the property. The center of the property features surface drainage infrastructure. The existing walkway along the river is asphalt. The application proposes to reconfigure the parking spaces and travel ways throughout the parking lot, while updating the walkway and landscaped areas along the riverfront. The walkway will feature a boardwalk overlayment. The Commission finds parking lot sidewalks will be removed and reconstructed. Landscaped areas along the boardwalk will extend into the areas where the existing western travel way will have been removed. The project will maintain a similar average grade. In the Flood and Erosion Control Board memo, dated October 10, 2023, it found that the proposed grading substantially complies with the Town of Westport Zoning Regulation. The Commission finds minor grade changes will occur to improve drainage to surface drains and catch basins. The surface drainage will be updated with including the addition of four (4) rain garden areas. Existing subsurface drainage infrastructure will remain. The coverage will remain substantively the same with green space and drainage improving moderately. The project area is located within WPLO area. All work will be outside of the watercourse, tidal wetlands, intertidal mudflats, and coastal jurisdiction line.

According to the Flood and Erosion Control Board memo, dated October 10, 2023, the relocated garbage compactors may have components that will need to be established greater than the base flood elevation (BFE) of 10' in order to be FEMA-compliant.

Water Quality Considerations:
The potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. Proposed coverage is **77.4%**, which exceeds the 10-25% cover that is expected to impact water quality. The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck River Watershed is densely developed, the coverage exceeds the percentage in which water quality can be assumed to be impacted. Coverage will be reduced by 15,000 sq. ft. Green space and rain gardens will be incorporated into the overall 0.35 acres of proposed pervious coverage, helping to reduce overall stormwater runoff rates and volume.

Overall site runoff from the paved parking areas will be conveyed away from the river towards the sumped catch basins onsite. Stormwater runoff from the walkway and landscaped areas will sheetflow towards the stone-line raingardens towards the center of the lot.

In the Flood and Erosion Control Board memo, dated October 10, 2023, it found that the proposed drainage substantially complies with the Town of Westport Engineering Department Drainage Standards.

The E&S plan depicts compost filter tubes, anti-tracking pad at the construction entrances, and material stockpile areas. The application includes a "Conceptual Phasing Plan" which highlights a sequence in which each part of the lot will be completed. Site phasing will function as a way to limit the intensity of overall site disturbance at any time. In the Flood and Erosion Control Board memo, dated October 10, 2023, it found that the proposed E&S controls substantially comply with the Town of Westport requirements. The Commission finds that the temporary impacts due to the effects of erosion and sedimentation will be adequately mitigated with the proposed controls provided in the plan. The Commission finds that the long term effects of the improved lot configuration and surface drainage features will improve the quality of the stormwater that discharges into the surface water of the Saugatuck River.

Natural Habitat Considerations:
The Commission references a preliminary review of the State of Connecticut DEEP Natural Diversity Database (NDDB) for potential presence of state-listed species on or adjacent to the subject property using the EZfile online tool. The review provided results of potential habitat for following state species of special concern; Northern diamondback terrapin (*Malaclemys terrapin terrapin*), mudwort

(*Limosella australis*), and blueback herring (*Alosa aestivalis*), as well as the state threatened species great egret (*Ardea alba*). Since the work area is not within the water column or within intertidal areas, the Commission finds there is no threat to habitat for terrapins or herring. Since the property is mostly devoid of any contiguous canopy, the project area does not feature the candidate habitat for great egret rookeries. Preferred nesting habitat exists in offsite adjacent forested areas along the Saugatuck River. Conservation Staff filed a for a determination of impacts with CT DEEP. The determination #202303805 found no threats of impacts to State-listed species resulting from the proposed activities.

As a part of the redevelopment of the parking lot, the existing landscape vegetation will be lost. As a parking lot has limited potential as natural habitat, the proposed landscape areas will be a minor improvement over existing conditions. The existing trees and lawn provide little benefit to habitat within the WPL. The application includes a planting plan for the proposed landscape beds and greenspace on the lot. The plants provided in the plan include red maple sycamore, American elm, river birch, inkberry, winterberry, sweetspire, chokeberry, and various rushes and grasses. The Commission finds that the diversity of native plants will be an improvement over the landscape trees that currently exist on site. The fruiting trees and shrubs listed in the planting plan will provide forage for resident and migrating bird species. The plan specifies that shade trees will be installed along the riverfront boardwalk. The larger trees may serve as nesting habitat for several bird species.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #WPL-11805-23
Parker Harding Plaza
Parker Harding Parce Assessor's Map: C10 Tax Lot: 086
Gorham Island Parcel Assessor's Map:C10 Tax Lot 087
Date of Resolution: October 18, 2023

Project Description: To redevelop an existing asphalt parking lot by reducing parking area, constructing walkways, constructing a boardwalk along riverfront seawall, and introducing green spaces and drainage retention areas (rain gardens) within the WPLO of the Saugatuck River.

Owner of Record: Town of Westport
Applicant: Keith Wilberg, Westport Town Engineer, Department of Public Works

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL-11805-23** with the following conditions:

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 applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.

6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an “as built” survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of **October 4, 2023,** including adding additional spot elevations in the rear yard to the site plan prior to issuance of a zoning permit**.**

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
    a. **Limited Property & Topographic Survey** depicting Parker Harding Plaza, Westport, CT, prepared for Town of Westport, prepared by DiMarzo & Bereczky, dated December 6, 2022, Scale: 1” = 20’, ROW 1 of 2.
    b. **Limited Property & Topographic Survey** depicting Parker Harding Plaza, Westport, CT, prepared for Town of Westport, prepared by DiMarzo & Bereczky, dated December 6, 2022, Scale: 1” = 20’, ROW 2 of 2.
    c. **Overall Site Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1” = 40’, Sheet CS100.
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    k. **Planting Notes & Details,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: NTS, Sheet LP501.
    l. **Overall Site Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Scale: 1” = 40’, Sheet CS100.

m. **Parker Harding Plaza Soils Report and Geotechnical Investigation Findings,** prepared by Langan, dated September 14, 2023.
n. **Conceptual Phasing Plan,** Reconnecting the Riverfront: Parker Harding Plaza, Westport, CT, prepared by Langan, dated: March 16, 2023 and revised to September 14, 2023, Sheet FG01.
o. **Stormwater Management Memo,** Parker Harding Plaza, Westport, CT, prepared by Langan, dated September 14, 2023

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: Lewi Second: Ryll
Ayes: Lewi, Ryll, Carey, Davis, Bancroft
Nays: 0 Abstentions: 0 Vote: 5:0:0

Paul Davis left meeting at 7:35 p.m. as he was not at the September 13, 2023 hearing and had not participated in the continued hearing for 79 Riverside Avenue and 3 Tupelo Road.

2. **79 Riverside Avenue:** (Continued from September 13, 2023) Application #WPL-11774-23 by Bryan Nesteriak on behalf of Lucien Vita for a new residence, driveway, patio, walkway, steps and retaining wall. Portions of the work are within the WPLO area of the Saugatuck River.

   Bryan Nesteriak, PE noted that the Commission asked for additional information including updating the planting plan and addressing the comments in the NDDB.

   Alexander Wojtkowiak, soil scientist of WM Kenny Associates, reviewed the revised planting plan, which includes tidal wetland plantings and a robust buffer planting. He stated the removal of the trees along the Saugatuck River will enhance the tidal vegetation growth.

   Mr. Hally noted the plans have not changed. The revise planting plan is more robust than what the Commission saw at the last meeting. He recommended a planting bond and monitoring for three years.

   Mr. Carey clarified the bond is for the plantings within the WPLO.

   Mr. Hally agreed.

   Mr. Carey asked for public comments.

   Rod Larson, 75 Riverside Avenue, reviewed a brochure received from Planning & Zoning regarding flooding.

   Richard Stein, 24 Prospect Road, stated that removing the large oak will require 15 trees to replace it. He emphasized that we need to protect our tree canopy here and throughout the town.

   Lewis Mall, 30 Ludlow Road, RTM member, noted that the neighborhood takes personal ownership of the park that abuts this property. He spoke in opposition to the project due to destroying a significant property within the neighborhood.

   There were no further public comments.

   Mr. Nesteriak stated that no zoning variances are required with this project. The Planning & Zoning Commission will review this project under a CAM approval. The entire project meets the FEMA

regulations, is not within the DEEP Coastal Jurisdiction Line (CJL), and are providing a robust planting plan.

Mr. Bancroft asked if there will be parking on Riverside Avenue during construction.

Mr. Nesteriak stated there will be no parking on Riverside Avenue. The phasing plan is going to be very important.

Motion to close the public hearing.

Motion:	**Lewi**		**Second:**	**Bancroft**	
Ayes:	**Lewi, Bancroft, Carey, Ryll**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**4:0:0**

Town of Westport
Conservation Commission
Findings
Application #WPL-11774-23
79 Riverside Avenue
Assessor's Map: C09 Tax Lot: 123
Public Hearing: October 18, 2023

1. **Application Request:** The applicant is proposing to construct a new single family residence, a driveway, a patio, walkway, steps and a retaining walls with associated site improvements and site grading. The proposed work is occurring partially within the WPLO (elevation 9') area of the Saugatuck River.
2. **Plans Reviewed:**
   a. **Proposed Site Development Plan**, of 79 Riverside Avenue, Westport, Connecticut, prepared for Lucien Vita, prepared by B&B Engineering, LLC, dated July 12, 2023, revised to August 30, 2023 Scale: 1" = 10'.
   b. **Property Survey,** of 79 Riverside Avenue, Westport, Connecticut, prepared for Vita Design Group, 1 Wilton Road, Westport, CT, 06880, prepared by Accurate Land Surveying, LLC, dated June 1, 2023 and last revised to August 28, 2023, Scale: 1" = 10'.
   c. **Planting Plan** (new submission), 79 Riverside Avenue, Westport, CT, prepared by William Kenny Associates, dated October 6, 2023, Scale: As Noted
   d. **Wetland and Watercourse Impact Assessment (**new submission), 79 Riverside Avenue, Westport, Connecticut, prepared by William Kenney Associates, dated October 6, 2023; 6 pages.
   e. **Proposed Residence for 79 Riverside Avenue,** (Architectural Renderings), Westport, CT, 06880, prepared by Vita Design Group, dated June 16, 2023, scale as noted.
      i. **Floor Plans** Sheet A-100
      ii. **First Floor Plan** Sheet A-101
      iii. **Exterior Elevations** Sheet A-200
      iv. **Exterior Elevations** Sheet A-201
      v. **Building Sections** Sheet A-300
      vi. **Building Sections Door & Window Interior Trim Details** Sheet A-301
3. **Past Permits: None**
4. **Property Description:**
   - **Location of 25-year flood boundary:** 9 ft. contour interval. The WPL is established 15 linear feet (LF) from the 9 ft. contour interval.
   - **Property is situated in Flood Zones AE (el. 10')** as shown on F.I.R.M. Panel 09001C0413G Map revised to July 8, 2013.
   - **Proposed First Floor Elevation:** 17.0 ft.
   - Proposed Cellar Elevation: 7.0 ft.
   - **Proposed Top of Patio Wall Elevation:** 10.0 to 15.0 ft.
   - **Proposed Driveway Elevation:** 14.4 ft.
   - **Existing Average Grade:** Elev. 12.7
   - **Proposed Average Site Grade:** Elev. 12.5 ft.

- **Proposed Lot Area:** 0.09 acres (3,946.6 sq. ft.)
- **Base Lot Area:** 3,624.1 sq. ft.
- **Proposed Site Coverage:** 24.94% (904 sq. ft.)
- **Proposed Building Coverage:** 14.96% (542 sq. ft.)
- **Sewer Line:** The property is serviced by municipal sewer.
- **Zoning:** Property is located in Residential Zone A

5. **Aquifer**:
   The property is outside of the Aquifer Protection Overlay Zone. The property is underlain by Saugatuck River Aquifer which is a coarse-grained stratified drift aquifer.
6. **Coastal Area Management**: The subject property is located within the Coastal Area Management (CAM) zone. The coastal resources are identified as: **Estuarine Embayments**, **Nearshore Waters**, **Shellfish Area** and **Coastal Flood Hazard Area**. Estuarine Embayments are protected coastal bodies of water with an open connection to the sea in which saline sea water is measurably diluted by fresh water including tidal rivers, bays, lagoons and coves. Estuarine embayments facilitate high biological productivity, provide significant habitat for shellfish, finfish and waterfowl, serve as spawning and feeding grounds for a wide variety of fish species and various aquatic fauna. Nearshore Waters are those waters and their substrates lying between mean high water and a depth approximately by the ten-meter contour. Shellfish Area areas support an important source of food, provide recreational shellfishing opportunities, provide economic opportunities for the shellfish industry, and provide employment through the shellfish industry. Coastal Flood Hazard Areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during “100-year” flood events. Coastal Hazard Areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential type uses.
7. **Proposed Storm Water Treatment**: The applicant proposes to treat the first 1” of runoff with a pervious driveway with a stone reservoir underlayment. Roof leaders from the residential addition will convey roof runoff to the stormwater reservoir beneath the driveway. Runoff from the driveway surface will be collected within the stormwater reservoir beneath the driveway. Stormwater collected from the pervious patio will be conveyed to and stored within the stormwater reservoir beneath the driveway.
8. **Discussion:**
   During the public hearing held on September 13, 2023, several members of the public, residents of Westport, voiced their concerns of the potential impacts the proposed development would have on the local ecosystem. The Commission agreed that more information should be provided to show considerations had been for state listed species and removal of all of the existing vegetation. The Commission requested that the applicant submit an updated planting plan, as well as submit an impact assessment for removal of the trees and understory vegetation. The report was to comment on the presence or absence of state listed plant species. The applicant submitted a planting plan, and an impact assessment. No changes were made to the development plan.

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

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

   The eastern portion of the property lies within the WPLO boundary (elevation 9’) of the Saugatuck River. The property abuts the Saugatuck River. There are tidal wetlands on the property. The mean high water line of the abutting tidal marsh is established at elevation 3.3’ (NAVD88) to the east of the property. The Coastal Jurisdiction Line is established at elevation 5.3’. The site plan demonstrates the coastal jurisdiction line (CJL) is located along the eastern property boundary.

   Based on the existing spot elevations shown on the site plan, the topography of the site slopes from the west gradually towards the center of the property. The center of the property slopes steeply to the

eastern end of the property along the river's edge. The application proposes to clear the site of existing upland trees and vegetation, grade out a portion of the slopes and construct a single family house with a pervious driveway, pervious patio, walkway and retaining walls. The project will maintain a similar average grade while creating a more gradually sloping grade across the site to accommodate the development. A portion of the house, the patio, site grading and retaining walls are shown located within WPLO area. The proposed limit of grading will be supported by a perimeter retaining wall. A retaining wall is also depicted around the patio. The retaining wall closest to the river's edge has a maximum top-of-wall elevation of 10' and a minimum elevation of 6.4'.

The proposed residential addition will be built to conform to FEMA standards with the first habitable floor (el. 17.0') constructed above the 100-year base flood elevation (el. 10'). The Town's Engineering Department found this design to be compliant. The Flood and Erosion Control Board approved the application on September 6, 2023 with no special conditions.

Water Quality Considerations: The potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. The proposed site coverage is ~25%, which is within the 10-25% cover that is expected to impact water quality. Coverage calculations are provided on the site plan. The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck River Watershed/Saugatuck Shores is densely developed, the coverage exceeds the percentage in which water quality can be assumed to be impacted.

The site plan depicts one layer of perimeter silt fence beyond the limit of development. Haybales are shown collocated with the silt fence along the eastern limit of disturbance upgradient from the tidal wetlands. A detail for typical silt fence and haybale installation is provided on the site plan. The plan depicts significant grading across the center and eastern portion of the property to eliminate a portion of steep slopes on the property. The site plan estimates ~170 cubic yards (cu.yd.) of total cut and fill. Soil stockpiling will occur at the southwest corner of the property near the Riverside Avenue roadway. The site plan does not specify the utilization of E&S controls around the soil stockpile area. An anti-mud tracking pad will be installed at the southwest corner of the property.

Stormwater calculations are provided on the "Proposed Site Development Plan". The "Driveway Storm Water Reservoir" detail provided on the site plan demonstrates that the driveway will be constructed with a 6" subbase of 1 ¼ " clean crushed stone. The drainage calculations demonstrate the proposed driveway stormwater reservoir has a retention volume of 113.2 cu. ft. which is greater than the 75.3 cu. ft. required by Town drainage standards for the first 1" of runoff from the new impervious surfaces. The drainage report demonstrates that the stormwater runoff volume from the roof will be collected and retained by the permeable driveway. The applicant provided drainage to treat the first inch of runoff from the impervious areas proposed onsite, which is considered the Water Quality Volume (WQV). The Commission finds the proposed pervious surfaces as a benefit, and these features should enhance the stormwater quality across the site from the existing conditions. The Commission requires that the design engineer shall witness and certify all site drainage and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.

The site plan demonstrates that groundwater was not encountered at Test Pits #1 and #2, which were advanced to 84" and 100", respectively. The Commission finds that groundwater will likely not be encountered for excavation activities. The Commission finds "Sediment and Erosion Control Note" #12 on the "Proposed Site Development Plan" indicates the potential utilization of a dewatering method. However, The Commission finds no specific dewatering method or location is depicted on the plan.

The applicant provided a planting plan, entirely composed of native trees, shrubs, and groundcover. The planting offers 13 trees, 10 shrubs and 483 herbaceous plants. The plan provides landscape planting (screening) along the north, west and south property boundaries. The planting includes a buffer feature above and below the proposed retaining wall along the riverfront. The plants above the wall will be composed of one (1) tree and 243 herbaceous plants, creating a dense buffer before the

intertidal zone. The 200 plants along the base (east) of the retaining wall will expand the vegetative cover of the existing wetlands. The commission finds the portion of the planting within the WPL will help slow and diffuse stormwater runoff towards the wetlands, trapping suspended sediment and pollutants prior to infiltrating into groundwater or discharging into the Saugatuck River.

The commission finds the applicant will further treat stormwater runoff within driveway reservoir, as discussed in the first Staff Report. The Commission requires that the design engineer witness and certify all site drainage and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.

The commission finds stormwater quality across the property has the potential to improve with the inclusion of the pervious driveway and the planting plan. Both features should help mitigate any potential impacts to surface water quality within the Saugatuck River from on-site runoff. The commission requires a deed restriction to be filed on the land record stating that the proposed driveway and rear patio will remain pervious in perpetuity. The commission requires a performance bond for only the portion of the planting plan within the Waterway Protection Line. The Commission requires that the bond amount be held for one year, to ensure vitality of the plants. The Commission requires addition monies be held in bond for three (3) years of annual monitoring to ensure the long term success of the wetland planting and the suppression of any invasive species.

Natural Habitat Considerations: The Commission referenced a preliminary review of the State of Connecticut DEEP Natural Diversity Database (NDDB) for potential presence of state-listed species on or adjacent to the subject property using the EZfile online tool. The review provided results of potential habitat for following state species of special concern; Northern diamondback terrapin (*Malaclemys terrapin terrapin*) and mudwort (*Limosella australis*). Conservation staff requested the application to consult with the state for a determination of potential impacts. The Commission requires the applicant perform a survey of the property for listed species prior to the issuance of a Zoning Permit.

Conservation staff requested the applicant consult with the state for a determination of potential impacts. Staff received a determination from the State CT DEEP recommending that a presence / absence survey be conducted for the state listed plant species, prior to the commencement of permitted activities.

The applicant retained the services of William Kenny, PWS (professional wetland scientist) and Principal of William Kenny Associates. The scientist performed two investigatory site visits on September 8 and October 2 of 2023. The scientist summarized his observations and findings in “Wetland and Watercourse Impact Assessment” report, dated October 6, 2023. The scientist surveyed the subject property and the downstream adjacent public park for state listed wetland plant species, delta mudwort and saltmarsh bullrush. The scientist did not find the plant species or their preferred habitat.

The Commission requested the applicant assess potential impacts to the local ecosystem, specifically the vegetative community, due to the proposed development of the property. In the ecological report, the scientist established that the upland vegetative community can be characterized as meadow that included native and invasive species shade trees. The trees present are pin oak, sugar maple, black walnut, and Norway maple. The shrub stratum includes burning bush, privet, honeysuckle and multiflora rose. Herbaceous vegetation includes goldenrod, chicory, common mullein, pokeweed, garlic mustard, periwinkle, and mugwort.

The planting plan provided with the impact analysis demonstrates that the upland portion on the high side of the proposed retaining wall will be planted with one (1) sugar maple, 33 switch grass, and 210 black-eyed Susan.

The scientist characterized the tidal wetlands as sparsely vegetated with limited potential for intertidal growth. The scientist provided a comparative analysis of wetland function in pre-development and post development conditions. The table shows that the scientists anticipates that wetland function will remain the same or slightly improve with the proposed development. The planting plan demonstrates

that the area upgradient from the tidal wetland boundary and downgradient from the proposed retaining wall will be enhanced with a planting of 100 spike grass plugs and 100 black grass plugs.

Within the northeast corner of the property, five existing mature trees will be replaced by one sugar maple sized at 4" caliper. The commission finds that the design of the upland planting plan will not restore lost canopy coverage. The applicant's scientist has stated that keeping the tidal wetland free of canopy shading will help the tidal wetland vegetation succeed. The commission finds the new design beneficial to the tidal wetland and riverine habitat by the potential expansion of tidal wetland vegetation. The commission requires planting installation oversight and monitoring for three years, by the applicant's scientist or another qualified professional, to ensure the success of native tidal wetland vegetation and the prevention of invasive species growth.

The commission finds that conditions of the tidal wetland and riverine habitat will be improved post development. The upland habitat within the WPL will be altered and reduced to accommodate the development of the house, lawn, and retaining wall. The biodiversity of the vegetative community will be improved and invasive species will be removed. Black-eyed Susan will provide some forage for pollinators and the bayberry will provide forage for migrating birds. The proposed grasses will help stabilize the soil surface and promote stormwater infiltration while slowing runoff towards the surface water of the Saugatuck River.

Town of Westport
Conservation Commission
Conditions of Approval
Application #WPL-11774-23
79 Riverside Avenue
Assessor's Map: C09 Tax Lot: 123
Public Hearing: October 18, 2023

Project Description: To construct a new residence, driveway, patio, walkway, steps and retaining wall. Portions of the work are within the WPLO area of the Saugatuck River.

Owner of Record: Lucien Vita
Applicant: Bryan Nesteriak of B&B Engineering,LLC

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application # **WPL-11774-23** with the following conditions:

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 applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.

7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of **September 6, 2023.**

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
- **a. Proposed Site Development Plan**, of 79 Riverside Avenue, Westport, Connecticut, prepared for Lucien Vita, prepared by B&B Engineering, LLC, dated July 12, 2023, revised to August 30, 2023 Scale: 1" = 10'.
- **b. Property Survey,** of 79 Riverside Avenue, Westport, Connecticut, prepared for Vita Design Group, 1 Wilton Road, Westport, CT, 06880, prepared by Accurate Land Surveying, LLC, dated June 1, 2023 and last revised to August 28, 2023, Scale: 1" = 10'
- **c. Planting Plan** (new submission), 79 Riverside Avenue, Westport, CT, prepared by William Kenny Associates, dated October 6, 2023, Scale: As Noted
- **d. Wetland and Watercourse Impact Assessment (**new submission), 79 Riverside Avenue, Westport, Connecticut, prepared by William Kenney Associates, dated October 6, 2023; 6 pages.
- **e. Proposed Residence for 79 Riverside Avenue, (Architectural Renderings**), Westport, CT, 06880, prepared by Vita Design Group, dated June 16, 2023, Scale as Noted.
    - **i. Floor Plans**
    - ii. **First Floor Plan**
    - **iii. Exterior Elevations**
    - iv. **Exterior Elevations**
    - **v. Building Sections**
    - **vi. Building Sections Door & Window Interior Trim Details**

17. The driveway and patio shall remain permeable in perpetuity with said restriction placed on the land records prior to issuance of a Conservation Certificate of Compliance.
18. The design engineer shall witness and certify the construction of all permeable surfaces.
19. The applicant shall submit a construction sequence for Conservation Staff approval, prior to the issuance of a Zoning Permit.
20. The Conservation Department shall be notified 48 hours prior to the installation of the portion of planting plan within the WPL.
21. The applicant shall retain a wetland scientist to oversee the installation of the tidal wetland planting, as well as implement a three-year monitoring plan to ensure the success of the planting.
22. The applicant shall submit a performance bond for the portion of the planting plan within the WPL to be held one full growing season to ensure vitality of the plants. Addition monies shall be held for three (3) years of annual monitoring and reporting. The bond shall be paid prior to the issuance of a Zoning Permit.
23. An "as-built" survey shall be submitted prior to the issuance of a 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: Carey Second: Lewi
Ayes: Carey, Lewi, Ryll, Bancroft
Nays: 4:0:0 Abstentions: 0 Vote: 0

3. 11 Mortar Rock Road: Application #IWW/M-11797-23 by Kousidis Engineering LLC on behalf of Neal T & Rachel L Herman to amend wetland boundary map #D07.

Jim Kousidis, PE presented the application to amend wetland boundary map D07 on behalf of the property owners. The Town wetlands maps do not indicate any wetlands. The owners retained Jay Fain to flag the wetlands. The Town retained Mary Jaehnig to verify the delineation. Both agreed on the wetlands flagging.

Mr. Carey noted the surveyed wetlands area is 835 s.f.

Mr. Hally stated Mary Jaehnig confirmed the wetlands delineation and staff recommends adoption of the proposed line.

Mr. Carey asked for public comment.

There were no public comments.

Motion: Lewi Second: Carey
Ayes: Lewi, Carey, Bancroft, Ryll
Nayes: None Abstentions: None Vote: 4:0:0

FINDINGS
Application #IWW/M-11797-23
11 Mortar Rock Road
Assessor's Map: D07 Tax Lot: 008
Public Hearing: October 18, 2023

1. **Application Request:** The applicant, Kousidis Engineering, LLC, on behalf of Neal T. and Rachel L. Herman, is requesting to amend wetland map #D07 on Lot #008.
2. **Soil Scientist for Applicant:** Jay Fain, Principal, Soil Scientist, Jay Fain and Associates, LLC
   Soil Scientist for Town of Westport: Mary Jaehnig, Pfizer-Jaehnig Soils, LLC
3. **Plans Reviewed:**
   Zoning Location & Topographic Survey, prepared for Neal T. & Rachel Herman, #11 Mortar Rock Road, Westport, CT, dated September 14, 2021 last revised October 3, 2023, Scale: 1" = 20'.
4. ***Wetlands Description:***
   "**Soils Mapping & Wetland/Watercourse Delineation Report,** 11 Mortar Rock Road, Westport, CT 06880", prepared by Jay Fain & Associates, LLC, dated September 07, 2023.

   Intermittent Watercourse and Associated Wetlands *(Flags #1 through #7, as indicated on the Wetland Sketch Map dated July 31, 2023.*

   Wetland soils characterized in the area:
   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 characterized in the area:
Urban Land (307):
Urban land: Urban land is land mostly covered by streets, parking lots, buildings, and other structures of urban areas. The slope ranges from 8 to 15 percent and the runoff class is very high.

5. **Past Permits: None**
6. **Property Description and Facts Relative to the Map Amendment Application:**
   - **a.** The existing house was built in 1967. It is served by public sanitary sewer.
   - **b.** The property is 0.498 acres (21,712 sq. ft.) in size; located in Residential Zone A.
   - **c.** The parcel is located within the Pussy Willow Brook Watershed. The Stony Brook watercourse is located offsite, ~1200' to the east.
   - **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.** There is no historical wetland boundary shown on the Town's GIS.
   - **i.** The surveyed wetland areas total **835 sq. ft.** as determined by the Zoning Location & Topographic Survey", prepared for Neal T. & Rachel Herman, #11 Mortar Rock Road, Westport, CT, dated September 14, 2021 last revised August 2, 2023
7. ***Discussion:***

The applicant submitted a soils report by Jay Fain, Principal, Soil Scientist, Jay Fain and Associates, LLC dated July 31, 2023. This documents Mr. Fain's investigation of the soils on the property from July 31, 2023. This report characterizes the intermittent watercourse and associated wetlands along the northeast corner of the property.

The soil scientist's sketch map identifies the flag locations that mark the location of the wetland boundaries shown on the "Zoning Location & Topographic Survey", prepared for Neal T. & Rachel Herman, #11 Mortar Rock Road, Westport, CT, dated September 14, 2021 last revised August 2, 2023, Scale: 1" = 20'. **The new wetland area totals ~835 sq. ft.**

The Town of Westport retained the services of Mary Jaehnig, Pfizer-Jaehnig Soils, LLC to review the proposed wetland boundary findings. Ms. Jaehnig conducted an on-site investigation on October 1, 2023. Ms. Jaehnig submitted a letter, dated October 9, 2023, stating a general agreement with the findings from Mr. Fains's report.

With the finding of the concurring soils scientists, The Commission approves the new wetland line.

Resolution
Application #IWW/M-11797-23
11 Mortar Rock Road
Assessor's Map: D07 Tax Lot: 008
Public Hearing: October 18, 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-11797-23** by Kousidis Engineering, LLC on behalf of Neal T. and Rachel L. Herman to amend the wetland boundary on Map: #D07 Lot: #008 on the property located at 11 Mortar Rock Road with the following conditions:

1.) Conformance to the plans titled:

a. **Zoning Location & Topographic Survey**, prepared for Neal T. & Rachel Herman, #11 Mortar Marion Road, Westport, CT, dated September 14, 2021 last revised October 3, 2023, 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: Ryll Second: Bancroft
Ayes: Ryll, Bancroft, Lewi, Carey
Nays:0 Abstentions:0 Votes: 4:0:0

4. **3 Tupelo Road:** (Continued from September 13, 2023) Application #IWW,WPL-11782-23 by Aleksandra Moch on behalf of Emily & Lewis Liebert to construct an in-ground swimming pool with associated stormwater management system. Work is within the upland review area setbacks and the WPLO area of Deadman's Brook.

Mr. Hally submitted a new planting plan from Aleksandra Moch to the Commissioners.

Aleksandra Moch presented the application on behalf of the property owner. She gave an overview of the previous proposal to show the changes. Under the revised plan, the pool was shifted and now meets the 20-foot review area setback except for 20 s.f. They have removed the compensatory storage area and the drainage system near the pool. This allows them to limit the grading previously proposed in the 20-foot review area setback. They are proposing a double row of silt fence and will be dewatering with dirtbag. She noted there is an extensive planting plan that includes a 10-foot no-mow zone, creating a meadow area and 1,620 s.f. of shrubs.

Mr. Kelly clarified that the planting plan is based on the latest drainage plan.

Mr. Lewi asked that the pool equipment location be pointed out.

Mr. Carey stated that eliminating the drainage, compensatory storage area and shifting the pool is a significant improvement to the plan.

Mr. Bancroft noted that there will be a significant amount of dewatering with an 8-foot pool.

Ms. Moch noted that only a portion of the pool is 8 feet deep.

Mr. Ryll noted the extensive plantings and indicated they will be a filter to the wetland.

Mr. Hally asked how we can demarcate or let future homeowners know about the meadow and the no-mow zones. These would be a part of the Commission's reason for allowing the project and need to be protected. He also asked how long it would take to establish the meadow.

Ms. Moch stated that she is not in favor of using boulders. If demarcation is required, she would recommend monuments in the ground that would be slightly raised . She is asking to allow the grass to remain and establish the meadow over the grass. By doing this, it does not allow the invasive species to take over. It will take at least a year to establish the meadow, but it may have to be overseeded for a couple of years.

Mr. Hally reviewed the overall design. The compensatory storage, drainage and grading have been removed. They removed the stockpile area close to the wetlands. The pool size has remained the same. Engineering has indicated that moving the pool any farther away from the wetlands would move it closer to the existing retention system. Engineering is fine with the proposal. Mr. Hally reviewed his proposed conditions including a site monitor, submission of a detailed dewatering plan, planting bond and 3 years of monitoring, and submission of a construction sequence plan.

Mr. Carey asked for public comments.

Edward Sfreddo, 2 Pilgrim Trail, stated his property backs up to this property. His property has an area in backyard that floods and believe that it is a vernal pool. He sees a lot of peepers and toads. A vernal pool must have a 100-foot setback. He is concerned with loss of habitat.

Dee Chapman, 211 Sturges Highway, reviewed the Commission's comments from the September meeting. She brought up questions about the survey utilized by the applicant. She stated that an application in 2014 for a pool was denied. She is opposed to this proposal.

Ms. Moch stated she did note in her report that there is a Red Maple swamp on 21 Pilgrim Trail. She also noted there is dumping within that swamp.

Motion to close the public hearing.

Motion:	**Carey**		**Second:**	**Bancroft**	
Ayes:	**Carey, Bancroft, Lewi, Ryll**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**4:0:0**

Mr. Carey stated it is his opinion that there were substantial changes made to the plan with elimination of compensatory storage, drainage, expanded planting, and shifting the pool.

The Commission discussed adding monuments to the no-mow zone.

Town of Westport
Conservation Commission
Findings
Application # IWW, WPL-11782-23
3 Tupelo Road
Assessor's Map: F16 Tax Lot: 053
Public Hearing October, 18 2023

1. **Receipt Date:** **August 17, 2023**
2. **Application Classification:** **Plenary**
3. **Application Request:** To install an inground swimming pool with associated stormwater management system. Portions of the work are within the upland review area and the WPLO area of Dead Man's Brook.
4. **Plans Reviewed:**
   a. **Drainage Plan** prepared for Lewis Liebert, 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated February 9, 2023, last revised to September 19, 2023, Scale: 1" = 20', Sheet 1 of 2.
   b. **Detail Sheet** prepared for Lewis Liebert, 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated February 9, 2023, last revised to September 19, 2023, Scale: As Noted, Sheet 2 of 2.
   c. **Wetland and Wetland Buffer Restoration Plan** for 3 Tupelo Road in Westport, CT by Aleksandra Moch, Wetland Scientist and Landscape Designer, dated September 11, 2023.
   d. **Drainage Report** prepared for Existing and Proposed Site Conditions located at 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated September 14, 2023.
5. **Past Permits:**
   - **AA,WPL/E-10126-15** construct a stonewall and install plantings
   - **AA,WPL/E-9755-14** 1-car addition and driveway extension
   - **AA,WPL/E-8719-10** construct a 5 bedroom home
   - **WPL-7361-04** demolition and reconstruction of single family residence (withdrawn)
   - **IWW-WPL-11707-23** construction of pool and drainage system (withdrawn)
6. **IWW and WPLO Regulated Areas**
   The Waterway Protection Line is established 15' from the 25-year flood line onsite. The proposed pool is within the WPLO boundary on the property.

There are two areas of flagged wetlands on the property identified by A. Moch. The "Drainage Plan" indicates 4,931 sq. ft. of wetlands, however measurement of the flagged wetlands and watercourse combined is ~18,786 sq. ft., including areas of the Pepperidge Lake. This lake is part of Deadman's Brook watercourse and Watershed.

The Inland Wetland and Watercourse Regulations (IWW) setbacks determined for regulated activities on this property include:
35' upland review area for a pool,
25' upland review area for a pool equipment pad, and
20' upland review area for earth disturbance.

The proposed pool located within the 35 ft. upland review area. The proposed pool equipment is located within the 25 ft. upland review area. Associated site work is within the 20 ft. non disturbance buffer.

Wetland soils found on the property
Timakwa and Natchaug Soils (17)
This component occurs on depression landforms. The parent material consists of woody organic material over sandy and gravelly glaciofluvial deposits and/or loamy alluvium, loamy glaciofluvial deposits, or loamy till. The drainage class is very poorly drained. The wetlands onsite are part of Deadman's Brook.

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.
The National Wetlands Inventory (U.S. Fish & Wildlife Service) lists the lake as **PUBHh**.
Palustrine (P) : The Palustrine System includes all nontidal wetlands dominated by trees, shrubs, persistent emergents, emergent mosses or lichens,
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.
Diked/Impounded (h) : These wetlands have been created or modified by a man-made barrier or dam that obstructs the inflow or outflow of water.

The Commission discussed the application during the public hearing held on September 13, 2023. The Commission moved to continue the hearing until the following items were analyzed:

1.) potential to move, reduce, or eliminate the proposed compensatory flood storage basin,
2.) potential to reduce the size and grading related to the proposed stormwater system, and
3.) alternative configurations of the proposed pool that would decrease coverage, decrease depth, and decrease encroachment towards the wetlands.

a. Base Lot Area: 52,988 sq. ft.
b. Proposed Pool Coping Elevation: **226.5'**
c. Existing Site Coverage: **11.2% (5,945 sq. ft.)**
d. Pool Coverage: **800 sq. ft.**
e. Pool Coping and Patio Edge Coverage **544 sq. ft.**
f. Proposed Site Coverage: **13.8% (7,289 sq. ft.)**
g. Aspetuck Health Department approval: **February 2, 2023**

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

8. 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 September 19, 2023, depicts that the proposed pool will be developed ~15' from the wetland boundary to the south, where it was located 8' from the same wetland boundary in the previous plan's orientation. The proposed pool equipment pad is located 18' from the wetland boundary. The proposed drainage system, grading, and compensatory storage area, shown in the previous site plan, was removed from the plan, as it was no longer a requirement for the new configuration.

The pool depth is shown as 8' deep on the "Detail Sheet". The Commission finds the test pit data indicates mottling in soils onsite ranging from 24"-28" deep in locations of test pit data. This would require dewatering of the excavation, with constant pumping. A dewatering area is provided on the "Drainage Plan."

In a review email from the Engineering Department, dated September 18, 2023, Ted Gill stated,

"The revised plans and drainage report meet (Town) standards, and the revisions are in line with what (was) recommended at the F&ECB meeting. As such, the drainage system and the compensatory storage basin have been removed, and (the) plans conform to Town standards. As discussed at the F&ECB meeting, (the revisions) represent a reduction in proposed disturbance within the WPL, and as such, (the application) will not need to return to the F&ECB for approval.… Any rotation or relocation of the pool that would cause it to be within 10' of the existing drainage system would be problematic, as that is the minimum separation distance from subsurface drainage to a pool."

Overall, the revised plan represents a reduction in scope and potential for adverse impacts. The proposed compensatory flood storage, stormwater system and grading represented the greatest potential risk for adverse impacts. The footprint of the pool has been reconfigured, so the pool is further away from the wetland boundary. The size and depth of the pool remains the same as the plan that was most recently reviewed by the Commission. Based on the comments from the Engineering Department, Conservation The Commission finds the only way to move development further from the wetland boundaries would be to reduce the coverage of the pool and patio. Dewatering of the pool excavation remains a temporary risk for moderate impacts to the wetlands and watercourse. This risk can be mitigated by constantly monitoring and maintaining the dewatering area and changing filtration bags.

9. 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 surface water quality classification for Deadman's Brook (Connecticut Environmental Conditions Online, http://www.cteco.uconn.edu/), 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 references UConn's CLEAR Local Watershed Assessment Tool. The local watershed basin for Deadman's Brook has a combined condition index (CCI) score of 0.24. A CCI score of less than 0.43 indicates the watershed basin may be significantly impaired. The Tool defines Deadman's Brook's Recovery Status as "Mitigation", identifying that the watershed condition can be improved with mitigation efforts such as restoring naturalized riparian zones.

The revised "Drainage Report" demonstrates that the drainage calculations account for the 4" freeboard within the pool. Increased runoff will be retained within the pool and the existing storm water retention system. The groundwater recharge volume is 204.5 cu. ft., And the water quality volume is 817.9 cu.ft. The existing stormwater retention will help surface water quality by capturing suspended sediments and pollutants during the "first flush" and allowing the captured water to slowly infiltrate into the ground water.

Potential sediment release from the pool excavation poses the greatest threat to water quality. The excavation poses moderate risk of impacts to the wetland and watercourse because of the anticipated need for dewatering. Dewatering systems have the tendency to fail when not constantly maintained and monitored. A release of sediment-laden water will transport the sediments down gradient into the watercourse. The destabilized ground around the pool poses a minimum to moderate risk of sedimentation based on the correct installation and thorough monitoring of E&S controls. The Commission finds there is no longer a plan to stockpile soil onsite. The applicant has specified that all excess soil will be direct-loaded and moved off site.

The Commission finds that the applicant proposes plantings within the wetlands to the south of the proposed pool. These native, non-invasive plantings consist of one (1) tree and 64 shrubs. The planting includes the creation of a no-mow buffer 10' wide enhanced with meadow seed mix. The buffer planting and no-mow zone should help water quality by trapping sediment, and diffusing storm water flow before reaching the surface water of the wetland and watercourse.

During its meeting held on September 6, 2023, Westport's Flood and Erosion Control Board reviewed the application for 3 Tupelo Road, The board approved the application with no special conditions.

10. 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 applicant has provided sediment and erosion controls on the revised "Drainage Plan" which incorporates the use of a double row of silt fence back by haybales around the western and southern limits of disturbance, a single row of silt fence in the southeast corners of the property, an anti-mud tracking pad at the edge of the driveway to the side yard/proposed pool area, and a dirtbag dewatering area reinforced by a double row of silt fence backed by a row of haybales. The Commission finds the soil stockpiling is no longer being proposed by the development plan. The Commission finds impacts to wetlands could occur from vehicular disturbance, excavation activities, over- digging, and soil transport onsite. The silt fence should be placed at the 20' non disturbance buffer, where it is practical to do so.

The applicant provides an area for dewatering approximately ~20' from the wetland boundary. Previous site work experience and soil conditions indicate silty soils. This creates a difficult condition to remove silt from the effluent water of the pump. The contractor should be prepared to have several replacement dirtbags on hand to manage the outflow when it becomes clogged with silt. The Commission requires the applicant revise the site plan to depict these changes. Additionally, the Commission consider requires a site monitor to inspect and provide reports on the effectiveness of these sediment and erosion controls when the excavation is being dewatered.

In a Flood and Erosion Control Board application review memo from the Engineering Department, dated August 30, 2023, Ted Gill stated "*The proposed construction access crosses over the existing storm water drainage system, which must be adequately protected during construction. We recommend a minimum of the use of the steel plates over all of the existing drainage that may be driven over during construction activities*."

The Commission requires that Staff be contacted 48 hours prior to construction commencement to inspect erosion controls and meet with the site monitor to review potential protections for the pipe near the watercourse and existing storm water system. The Commission requires a construction sequence to ensure there isn't too much intensive activity on the site at once.

11. 6.4 NATURAL HABITAT STANDARDS

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

Discussion:
The site contains a portion of Deadman's Brook, a perennial watercourse, and candidate habitat for fish and macroinvertebrates. A review of CT ECO online fish community data viewer (https://cteco.uconn.edu/projects/fish/viewer) demonstrates that the nearest sampling station on Deadman's Brook is approximately ~1.25 miles southwest of the subject property. The fish community data recorded bluegill, redfin pickerel, golden shiner, and American eel. All listed species are common warmwater fish community species and don't provide any indication of water quality, but the Commission assumes the fish community in the subject property is composed similarly.

The Commission referenced 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. The Commission finds there will be no impacts to state listed species or critical habitat as a result of the proposed project.

The Commission finds the applicant provides an updated wetland planting plan that proposes enhancing and restoring vegetation principally within the wetland as well as along the upland edge of the wetland. The plan proposes installing one (1) tree, 64 shrubs, and establishing a large area of wetland meadow by seeding with meadow seed mix. The plants include inkberry, red osier dogwood, buttonbush, swamp azalea, winterberry, and witch hazel. The Commission finds the planting to the south of the residence will restore lawned wetland to a shrub scrub / wetland and help will demarcate the wetland boundary prevent future utilization of the wetland as lawn. The Commission finds that the revised plan provides a benefit to biodiversity of vegetative community and animal habitat and forage. The Commission finds the planting plan and no-mow buffer should offer better protection, compared to existing conditions. The dense buffer planting and non-mow zone consisting of meadow vegetation will help absorb, diffuse, and infiltrate stormwater runoff, while trapping suspended sediment from entering the wetlands and watercourse. The Commission requires a form of demarcation to show the limit of maintained lawn, and the beginning of meadow/ no-mow buffer.

12. 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 revised drainage report demonstrates that proposed runoff rate from the overall site is 4.43 cubic feet per second (cfs). The runoff rate from the existing conditions is 4.49 cfs. Much of the site runoff will bypass the retention, and discharge via sheet flow into the wetlands and watercourse, matching existing conditions. The placement of the pool will eliminate pervious surface in the floodplain of the watercourse. The new development within the floodplain reduces the site's capacity to store flood water. Runoff from the pool and pool patio will be collected by the pool and the existing drainage system. The Commission finds the proposed condition for managing runoff as being better than the previous plan, and with the planting plan installed, moderately better than existing conditions.

13. 6.6 RECREATIONAL AND PUBLIC USES

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

Discussion:
The Commission finds the current application will not have a significant impact on recreational and public uses.

14. 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 25-year flood line. A portion of the proposed activity will occur within the WPLO boundary. The proposed site coverage is 13.8% (7,289 sq. ft.). The potential for most projects to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. The proposed coverage falls within the 10-25% cover that is expected to impact water quality. The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Dead Man's Brook watershed increases development, the coverage exceeds the percentage in which water quality can be assumed to be impacted.

The revised drainage report shows the overall proposed new impervious area is 1344 sq.ft., which is associated with the new pool area. Stormwater calculations are provided in the drainage report. The calculations demonstrate that the pool and existing stormwater management system will collect the stormwater runoff from the 25-year storm. The proposed pool freeboard has a retention volume of 264 cu.ft. The applicant provided drainage to treat the first inch of runoff from the impervious areas proposed onsite, which is considered the Water Quality Volume (WQV).

A pool cross-section detail is provided on the revised "Detail Sheet", dated September 19, 2023. The pool is shown to be installed to a depth of 8'. The pool coping and patio elevation will be at elev. 226.5.' The pool equipment pad is proposed outside the WPLO boundary to be installed at elev. ~228.

With the proper installation, monitoring, and maintenance of the E&S as well as the installation of a robust buffer planting plan along both wetland boundaries, The Commission finds impacts to water quality and natural resources will be mitigated.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #IWW-WPL-11782-23
3 Tupelo Road
Assessor's Map: F16 Tax Lot: 053
Public Hearing: October 18, 2023

Project Description: to construct an in-ground swimming pool within the upland review area setbacks of wetlands and a watercourse and within the WPLO area of Deadman's Brook.

Owner of Record: Emily & Lewis Liebert
Applicant: Aleksandra Moch

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-11782-23** with the following conditions:

Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application, or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.

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.
16. Conformance to Flood & Erosion Control Board September 6, 2023 conditions of approval.
17. Conformance to the previously adopted "Standard Pool Conditions" for pools located near wetlands or watercourses as applicable and as enumerated below:
   a. The pool is to be serviced by a diatomaceous earth, sand/cartridge, or some other kind of re-circulating, closed filter system.
   b. Pool chemicals should be stored in an enclosed container in an enclosed area preferably above the 100-year flood elevation. Pool equipment should be located at or above the 100-year flood elevation.
   c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer should be maintained between the pool and the waterway or wetland.
   d. Alternative use of chlorine for sanitation should be sought from the pool company. These include: salt chlorine generators, ozonators, ionizers, or mineral purifiers.
   e. Pools should be covered over the winter or when they will not be in use for long periods of time, i.e. three (3) or more months.
   f. When discharging pool water at the end of the season for winterization, no direct discharge to a watercourse or wetland is allowed; a 50ft separating distance with some kind of energy dissipation at end of hose is required.
   g. The pool water to be discharged shall have a pH between 6.5 and 8.5. The chlorine level shall be less than 0.1 mg/l and not cause foaming or discoloration of the receiving waters.

SPECIAL CONDITIONS OF APPROVAL

18. Conformance to the plans entitled:
   a. **Drainage Plan** prepared for Lewis Liebert, 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated February 9, 2023, last revised to September 19, 2023, Scale: 1" = 20', Sheet 1 of 2.
   b. **Detail Sheet** prepared for Lewis Liebert, 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated February 9, 2023, last revised to September 19, 2023, Scale: As Noted, Sheet 2 of 2.
   c. **Wetland and Wetland Buffer Restoration** Plan for 3 Tupelo Road in Westport, CT by Aleksandra Moch, Wetland Scientist and Landscape Designer, dated October 17, 2023.
   d. **Drainage Report** prepared for Existing and Proposed Site Conditions located at 3 Tupelo Road, Westport, Connecticut, prepared by Fairfield County Engineering LLC, dated September 14, 2023.
   e. **Environmental Impact Analysis** of the Proposed Swimming Pool located at 3 Tupelo Road, Westport, CT, prepared by Aleksandra Moch, dated August 11, 2023.

19. The applicant shall place protections over the existing drainage system during site machine work.
20. The applicant shall retain a site monitor for the installation and maintenance of E&S controls.
21. Staff shall be contacted 48 hours prior to construction commencement to inspect erosion controls and meet with the site monitor to review potential protections for the pipe near the watercourse and existing storm water system.
22. A pool discharge/ dewatering plan must be submitted to the Conservation Department prior to issuance of a zoning permit.
23. A pool form as-built shall be submitted to the Conservation Department prior to the pouring of concrete.
24. Pool depth shall be verified prior to the issuance of the Conservation Certificate of Compliance.
25. Pool mechanicals shall be located above the 100-year base flood elevation.
26. The applicant shall revise the wetland planting plan to reflect most recent site plan revisions.

27. All plantings proposed in the Planting Plan shall be installed by hand. The plantings shall be installed prior to the issuance of a Conservation Certificate of Compliance.
28. The applicant shall submit a planting bond to cover the cost of any proposed planting prior to the issuance of a Zoning Permit or a performance bond to cover the cost of plantings and sediment and erosion controls prior to the issuance of a Zoning Permit.
29. The applicant shall submit a sequence of all site activity including demolition, construction, grading an implementation of the planting plan and demarcation markers prior to the issuance of a Zoning Permit.
30. The design engineer shall witness and certify all site drainage and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.
31. Demarcation markers shall be placed 15-20 ft on center along the limit of meadow/ no mow buffer. The final design shall be subject to the approval of Conservation Staff prior to the issuance of a Zoning Permit. Installation of the markers shall be completed prior to the issuance of the 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: Carey Second: Lewi
Ayes: Carey, Lewi, Ryll, Bancroft
Nays: 0 Abstentions: 0 Vote: 4:0:0

Work Session:

1. Receipt of applications

Mr. Kelly stated there were three applications to receive for the November 15, 2023 hearing:

a. 7 Short Street: Application #IWW,WPL-11823-23 for a new single family residence, pool and associated site improvements.
b. 11 Mortar Rock Road: Application #IWW,WPL/E-11824-23 for a garage addition, driveway addition and associated site improvements.
c. 8 Twin Bridge Acres: Application #IWW/M-11827-23 to amend wetland boundary map #B16.

Motion to receive the applications.

Motion:	**Carey**		**Second:**	**Ryll**	
Ayes:	**Carey, Ryll, Bancroft, Lewi**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**4:0:0**

2. Approval of September 13, 2023 minutes.

The September 13, 2023 minutes were approved with corrections.

Motion:	**Carey**		**Second:**	**Lewi**	
Ayes:	**Carey, Lewi, Bancroft, Ryll**				
Nayes:	**None**	**Abstention:**	**None**	**Vote:**	**4:0:0**

3. Other Business
a. CACIWC Annual Meeting

Mr. Kelly noted the CACIWC Annual Meeting is on November 11, 2023. He asked members to let staff know if they are interested in attending by Friday so registrations could be sent.

b. October 30th meeting

Mr. Kelly noted staff has packets for the October 30,2023 meeting before members leave.

c. Compliance Report

Mr. Kelly noted the updated Compliance Report is available. He stated Mr. Hartshorne has reduced the list to 20 items and continues to work with the property owners to clear outstanding issues.

The October 18, 2023 Public Hearing adjourned at 9:14 p.m.

Motion:	**Bancroft**		**Second:**	**Lewi**	
Ayes:	**Bancroft, Lewi, Carey, Ryll**				
Nayes:	**None**	**Abstentions:**	**None**	**Vote:**	**4:0:0**