

The Commission finds that the Town's wetland boundary map be amended to reflect the boundaries as flagged and concurred to by the soil scientists as shown on the "Plot Plan", dated August 15, 2020, prepared by Leonard Surveyors LLC.

Resolution
Application #IWW/M-11066-20
5 Gordon Lane
Date of Resolution: October 14, 2020

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-11066-20 by Peter & Cha Sedlarcik to amend the wetland boundary on Map: #F07, Lot: #044 on the property located 5 Gordon Lane with the following conditions:

1. Conformance to the plans titled:

"Plot Plan Prepared for Peter Sedlarcik & Chicako Sedlarcik 5 Gordon Lane, Westport, Connecticut", Scale: 1" = 20', dated August 15, 2020, prepared by Leonard Surveyors LLC

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: Lobdell Second: Bancroft
Ayes: Lobdell, Bancroft, Rycenga, Davis, Carey
Nays: 0 Abstentions: 0 Votes: 5:0:0

2. **128 Bayberry Lane:** Application #IWW,WPL/E-11007-20 by John F Fallon, Esq. on behalf of the Estate of James S & Dina Belta for a proposed "Open Space Subdivision" consisting of nine (9) residential lots, two of which will be retained by the Belta family. The lots will be accessed by a 960 ft. long by 22 ft. wide dead-end road with underground utilities and stormwater management. Each lot will be served by a private septic system and public water supply. Portions of the work are within the upland review area.

Ms. Mozian noted the hearing was continued from July 15, 2020 to allow for additional information including submission of a historic background of the farming activities on the properties; Flood and Erosion Control Board comments; and amendment of the landscape plan to augment the proposed wetland buffer plantings. She highlighted information received into the record since the July 15, 2020 hearing:

- A letter from the Engineering Department dated September 30, 2020 giving their positive review;
- The October 7, 2020 approval from the Flood and Erosion Control Board;
- Narrative of the farm's usage prepared by John Fallon received October 6, 2020;
- Health Department approval dated October 6, 2020 for a 9-lot subdivision with 5-bedroom dwellings. There is a note that says; "The Health District reserves the right to require additional soil testing at the time of lot development."
- Stormwater Infrastructure Long-Term Maintenance Program received August 28, 2020, prepared by Dymar;
- Revised Drainage Report dated August 20, 2020 by Dymar;
- A new neighbor notice and certificate of mailing was done on September 30, 2020;
- Revised plans including an upgrade to the culvert within Bayberry Lane to handle the 100-year flood; and
- A revised Landscape Plan for the wetland buffer on lots 3, 4, 5, 6 and 7 to include 102 plants, up from 71 that were proposed. (Sheet C-11B)

Ms. Mozian noted the Commission needs to discuss the Homeowner Association responsibility for the stormwater maintenance, basements in the groundwater are a concern, the conservation easement and the need to demarcate it in the field, the need for a site monitor and the bond.

Ms. Rycenga asked Mr. Lancor to highlight the changes to the plan.

Mark Lancor, PE stated there is an upgrade to the culvert pipe from a 15-inch to an 18-inch pipe on Bayberry Lane to accommodate the 100-year flood event. The Health Department wanted to know where the existing septic systems were located on lots 8 and 9 belonging to the Belta's and that will remain. The detention basin was sized to meet the 25-year storm event. He explained the service road to the detention basin will be gravel or have a gravel sub-base in order to prevent erosion.

Chris Allan, professional soil scientist and wetland scientist, reviewed the revised landscape plan, Sheet C-11B, and the invasive plant removal.

Mr. Carey asked how the conservation easement area will be demarcated in the field.

Mr. Lancor stated this is highlighted on Sheet C-8B and shows that posts will be placed up to 100 feet apart.

Mr. Lobdell asked if the property could be connected to the sewer system.

Mr. Lancor stated no. The sewer is not available in this portion of Town.

Mr. Lobdell asked about the comment in the staff report concerning the basements intercepting groundwater.

Mr. Lancor recognized there will be continuous flow of 5 to 8 gallons of water per minute from October to April but this should not cause an adverse impact to the wetland.

Mr. Davis clarified the clearing needed to be done for the detention basin installation.

Mr. Lancor acknowledged there will be more clearing than what is seen now.

Mr. Bancroft noted that finding that a 9 or 10-foot basement will intercept the groundwater then there is a concern that water can find its way in. He is also concerned with the use of Round-up. In his work experience working for a water company, he never used Round-up near the public water supply.

Mr. Allan noted in his narrative, they are suggesting a mechanical method of invasive removal first with chemical control afterwards if needed and with staff approval.

Ms. Rycenga asked about the service road and whether it could be more naturalized.

Mr. Lancor noted that they have proposed a gravel road as a means of preventing erosion. They could use grass pavers which would have the gravel sub-base but the more naturalized appearance. As seen on the site walk, the Commission saw what farm equipment can do to the landscape without some base material and the potential for erosion.

Ms. Rycenga asked how the Commission could ensure that the buffer plantings are installed other than posting of the bond.

Atty. Fallon stated he believes that bonds are the most effective way to ensure the landscaping is done. He added the Belta's will be living on the property and want the project to be developed properly.

Ms. Mozia noted the basement encroachment into the groundwater. She indicated there are several ways to address this issue as suggested by Mr. Lancor but staff does not want to hamstring the development of the individual lots with a specific design at this stage especially because there may be other ways other than what Mr. Lancor suggested.

Assessor's Map: G13 Tax Lot: 020
Assessor's Map: G13 Tax Lot: 021
Public Hearing October 14, 2020

1. **Receipt Date:** **May 20, 2020**

2. **Application Classification:** **Plenary**

3. **Application Request:**

Applicant is proposing an "Open Space Subdivision" consisting of 9 residential lots, served by a 22 ft. wide private road with underground utilities and stormwater management system. Each lot will be served by private septic system and public water supply. Portions of the property are within the upland review area. Two lots will be retained by the owners with their existing residences.

4. **IWW and WPLO Regulated Areas**

This subdivision is being reviewed pursuant to Section 9.1 of the Inland Wetland and Watercourse Regulations (IWW Regulations), which requires that all applications for subdivision of land containing a wetland or watercourse must be reviewed by the Conservation Commission before the Planning & Zoning Commission can act on said subdivision application. **There is no proposed work directly in the wetland or within the 50-foot upland review area.**

The Waterway Protection Line is located 15 ft. from the 25-year floodplain boundary of Muddy Brook. No work is proposed within the WPLO area. However, the application has been referred to the Flood & Erosion Control Board for comments pursuant to Section 6.5(e) of the IWW Regulations.

5. **Plans reviewed:**

a) "Belta Farm Subdivision 128 Bayberry Lane Westport Connecticut" Drawing package, Dated May 14, 2020 and last revised August 17, 2020 (except where noted), prepared by Dymar with following sheets:

- Cover Sheet
- "Subdivision Map Showing Belta Farm Subdivision prepared for Estate of James S. & Dina M. Belta 126 & 128 Bayberry Lane Westport, CT" Dated March 25, 2020, Scale 1"=60', Prepared by Dymar
- "Existing Conditions Plan prepared for Estate of James S. & Dina M. Belta 126 & 128 Bayberry Lane Westport, CT" Dated February 4, 2020, Scale 1"=60', Prepared by Dymar
- C-1: General Legend, Abbreviations & Notes
- C-2: Existing Conditions Site Analysis Map
- C-3: Existing Conditions Map – Conventional Lot Layout Plan,
- C-4: Existing Conditions Map – Cluster Lot Layout Plan, last revised 7/8/20
- **C-5 A Site Development & Grading Plan, last revised 9/30/20**
- **C-5 B Site Development & Grading Plan, last revised 8/31/20**
- **C-5C Test Hole Data**
- **C-5D Test Hole Data & Septic Feasibility Data, last revised 9/28/20**
- C-6 (A&B) Phase I – Road Infrastructure Sediment and Erosion Control Plan, last revised **6/1/20**
- C-6C Sediment and Erosion Control Narrative
- C-6D Sediment and Erosion Control Construction Standards and Miscellaneous Details
- C-6E Sediment and Erosion Control Details
- C-7A Construction Road Plan & Profile, last revised **8/17/20**
- C-7B Drainage Plan & Profile, last revised **8/17/20**
- C-8A Paving, Storm Sewer & Utility Details
- C-8B Miscellaneous Site Details, last revised **8/17/20**
- C-8C Detention Basin, Storm Sewer and Embankment Details, last revised **8/17/20**
- C-9A Construction Specifications & Standards
- C-9B Earthwork Specifications
- C-10 Sight Line Drawing
- C-11A Street Tree Landscape Plan, last revised **6/1/20**
- C-11B Wetlands Buffer Planting Plan, last revised **8/17/20**
- C-12 Detention Basin Landscape Plan, last revised **8/17/20**

- b) Wetland Impact and Assessment Report Proposed 9-Lot Open Space Residential Subdivision 128 Bayberry Lane Westport, Connecticut”, Dated May 14, 2020, Prepared by Landtech, (4pgs)
- c) **Drainage Report** Belta Subdivision 128 Bayberry Lane Westport, CT for Estate of James S. & Dina M. Belta 128 Bayberry Lane Westport, CT 06880”, Dated May 8, 2020 last revised **8/20/20**, prepared by Dymar, with Appendices A, B-1, B-2, and C.
- d) **Drainage Addendum #1**, Belta Subdivision 128 Bayberry Lane Westport, CT prepared for Estate of James S. & Dina M. Belta 128 Bayberry Lane Westport, CT 06880”, prepared by Dymar, Dated **8/27/20**
- e) Belta Subdivision – Storm Water Infrastructure Long Term Maintenance Program, undated

6. **Background Information:**

- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as a streamside floodplain within a wooded swamp. The perimeter of this wetland is listed as 50% residential and 50% forested.
- The parcel is located within two watersheds. The Sasco Brook watershed is located to the east and, the Muddy Brook watershed is located to the west.
- Landscape position of the property is noted as a hilltop and slope.
- The FEMA maps indicate that the property is beyond their study area for the 100-year floodplain of Muddy Brook. However, a recent study done for the Town by GZA GeoEnvironmental Inc., established the 100-year floodplain elevation.
- The Waterway Protection Line Ordinance boundary will be established 15’ from the 25-year flood boundary, or 15’ from the wetland line, whichever is the greater.
- Property does not exist within the Aquifer Protection Overlay Zone.
- Property does not exist within the Coastal Areas Management Zone.
- Existing Lot Area:
 - a. Parcel A: **21.505 acres or 936,745 sq. ft.**;
flagged wetlands: **3.45 acres or 150,448 sq. ft.**
 - b. Parcel B: **1.543 acres or 67,233 sq. ft.**
 - c. Total Area: **23.05 acres or 1,003,978 sq. ft.**
- **Proposed Lot Areas:**
 - 1. **1.362 acres or 59,350 sq. ft.**
 - 2. **1.404 acres or 61,198 sq. ft.**
 - 3. **1.804 acres or 78,612 sq. ft.**
 - 4. **1.597 acres or 69,586 sq. ft.**
 - 5. **1.489 acres or 64,845 sq. ft.**
 - 6. **1,931 acres or 84,104 sq. ft.**
 - 7. **3.008 acres or 131,019 sq. ft.**
 - 8. **2.031 acres or 88,486 sq. ft.**
 - 9. **2,557 acres or 111,368 sq. ft.**
 - **Open space: 4.879 acres or 212,532 sq. ft.**
 - **Right-of-Way: 0.984 acres or 42,878 sq. ft.**

*This is a 9-lot open-space subdivision in a 2-acre zoning district. If a conventional subdivision were proposed, 9 lots would also be allowed but only 2.62 acres would be provided compared to the 4.88 acres proposed in this layout.

7. **Soils**

Wetlands Description: *The wetlands soils on the property consist of mixture of glacial till, glaciofluvial deposits, and alluvial soils identified as **Ridgebury, Leicester and Whitman soils, extremely stony (3), Timakwa and Natchaug Soils (17), and Rippowam fine sandy loam (103)** respectively. The wetland boundary map was amended under Permit #IWW/M 10948-20; delineation by Chris Allan, Landtech, and reviewed by Jay Fain, Jay Fain & Assoc.*

Ridgebury, Leicester and Whitman soils, extremely stony (3) - *This is an undifferentiated mapping unit consisting of poorly drained and very poorly drained soils developed on glacial till in depressions and drainage ways in uplands and valleys. Their use interpretations are very similar and they typically are so intermingled on the landscape that separation is not practical. The Ridgebury and Leicester series have a seasonal high water table at or near the surface from fall through spring. They differ in that the Leicester soil has a more friable compact layer or hardpan, while the Ridgebury*

soils have a dense to very dense compact layer. The Whitman soil has a high water table for much of the year and may be frequently ponded.

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. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The flooding frequency for this component is rare. The ponding hazard is frequent. The minimum depth to a seasonal water table, when present, is about 4 inches.

Rippowam fine sandy loam (103) - This component occurs on depression and flood plain landforms. The parent material consists of alluvium. The slope ranges from 0 to 3 percent and the runoff class is very low. The depth to a restrictive feature is greater than 60 inches. The drainage class is poorly drained. The flooding frequency for this component is frequent. The minimum depth to a seasonal water table, when present, is about 9 inches.

The **non-wetland soils** are described as the following:

Woodbridge Fine Sandy Loam, (45a) - This component occurs on upland drumlin and hill landforms. The parent material consists of lodgement till derived from schist, granite, and gneiss. The depth to a restrictive feature is 20 to 40 inches to densic material. The drainage class is moderately well drained.

The Woodbridge series of soils is nationally recognized **as prime farmland soil by the U.S.D.A.**

Paxton and Montauk Fine Sandy Loams (84b) - These soil components occur on upland hill and drumlin landforms. The parent material consists of lodgement till derived from granite, gneiss, and schist. The depth to a restrictive feature is 20 to 40 inches to densic material. The drainage class is well drained.

Udorthents, smoothed (308) - This component occurs on leveled land and fill landforms.

8. Previously Approved Applications:

#IWW/M 10948-20: To amend wetland map #G13 and G14

Application #43: granted with conditions for filling in property and regrading soil, August 6, 1974.

Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

9. 6.1 GENERAL STANDARDS

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

Discussion

The Commission finds that the property is 23.048 acres (1,003,978 sq. ft.) in size. Of that, 4.88 acres (212,532 sq. ft.) is dedicated to be an open space parcel. The combined wetland area for the site is **3.45 acres (150,448 sq. ft.)** with **1.84 acres (79,947 sq. ft.)** located within the open space parcel.

The plans show that all proposed site improvements are located outside of the regulated areas onsite. Proposed lots 3, 4, 5, 6, 7 and the open space are the only parcels that contain wetlands. Proposed lots 1, 2, 8, and 9 contain no regulated areas.

The Commission finds that all improvements indicated on parcels that contain wetlands are depicted outside the upland review area from the wetlands onsite. Each of the lots with wetlands depict theoretical potential improvements including residence, subsurface sewage disposal systems (septic systems), driveways and drainage systems.

Test holes within the upland areas conducted by the design engineer typically reveal a thick layer of topsoil common with the historic land use as a farm. Additionally the results corroborate the findings of soil types as described by the soil scientist's investigation: Woodbridge Fine Sandy Loam (45a), and Paxton and Montauk Fine Sandy Loams (84b). The soil description shows a till with a denser layer of soils within the 20-40 inch range. Test pits confirm this dense area showing signs of mottling and having a description as dense or compact within this range. Groundwater and seeps were intercepted in several test pit locations ranging in depth of ~60" to ~80" with varying exceptions across the site.

The USDA National Resource Conservation Service (NRCS) Web Soil Survey describes the suitability of constructing dwellings with basements as:

"Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

The rating reason for the main limiting factor for both soil types is listed as "depth to saturated zone". The Commission finds that a review shall be required for house construction location and houses with proposed basements shall require evidence that the basements will not intercept with the groundwater or the discharge flows will be managed. The Commission finds that basement elevations shall be above groundwater unless the site engineer provides management of the intercepted groundwater and controls the discharge to the surface.

The NRCS Web Soil Survey also classifies the on-site soil conditions for road construction as somewhat limited primarily based on the depth to saturated zone and frost action.

6.2 WATER QUALITY

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

Discussion

The Commission finds that the proposed development will be serviced by municipal water and onsite subsurface sewage disposal systems for individual lots. Typical septic designs have been indicated on the plans and the Westport Weston Health District issued a letter reviewing and approving the nine-lot subdivision on October 6, 2020. Lots 3,4,5,6, and 7 show proposed residences, each with 5 bedrooms and, each contain wetland areas and the regulated review area setback from wetland.

The Commission finds that construction of basements that would intercept groundwater flow. Specifically, prospective residences on lots show the footing drain discharge in the rear of the proposed sites discharging downhill towards the wetlands. Each has been provided an energy dissipator to manage flow; these will be required to meet the Town of Westport Drainage Standards. The Commission finds that basement elevations shall be above groundwater unless the site engineer provides management of the intercepted groundwater and controls the discharge to the surface.

The Commission finds that the proposed vegetative buffer provides a filtration area where nonpoint source pollutants adhere to soil particles or may be diluted in the soil substrate prior to discharge into groundwater or wetlands. Clearing of trees or cutting of vegetation within the floodplain, wetlands, and the WPLO would be a concern as the stormwater quality from surface runoff entering Muddy Brook will be dependent on the riparian zone vegetation for treatment. **The Commission finds that a Conservation Easement would protect this vegetated buffer and wetland. A Conservation Easement area consisting of the wetlands and the 50' upland review area could preserve the vegetated buffer and limit any cutting, clearing, grading, filling or structures within the individual lots from future disturbances ensuring long-term protection of water quality in those areas.**

Amrik Matharu of the Town Engineering Department, requested on July 29, 2020, more information regarding the individual detention systems for each proposed residence. These shall be designed to meet the Town of Westport Drainage Standards. On September 30, 2020, Mr. Matharu issued a letter stating the most recent revisions to the drainage plans meet the Town Standards for residential construction.

Chris Allan, Soil and Wetland Scientist, of Landtech states that: "Potential indirect wetland impacts are minimized through the use of an engineered stormwater management system to detain and treat runoff from the proposed development site." Furthermore, he states: "Stormwater management systems are proposed to detain and treat runoff from the proposed roadway and from individual houses. Each lot is designed with systems to capture the roof areas' runoff and convey the volume to an underground plastic chamber storage and exfiltration technology. The proposed systems will vary to match the requirements of capturing and storing the first 1" of storm water for each proposed lot. For design purposes, the systems are sized for pure storage with no credit taken for infiltration".

Additionally, the Commission finds that the applicant provides a detention basin to manage the stormwater from the impervious areas of about 6.7± acres of the site including the roadway. **The sizing of the basin was done to include capturing runoff from the proposed lots (considering impervious coverage up to 25% for land use) as well as runoff from the proposed road. Due to topographic attributes, some stormwater runoff from the roadway, ~350' from the entrance of Bayberry Lane into the site, will be directed by way of catch basins to drain into the drainage system of Bayberry Lane. The existing 15" pipe crossing Bayberry Lane will be replaced by an 18" pipe and discharge into the existing riprap splash pad on the southern side of Bayberry Lane.**

The Flood & Erosion Control Board reviewed and approve this application at its October 5, 2020 hearing.

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 "Phase 1 – Road and Infrastructure Sediment and Erosion Control Plan" which incorporates the use of perimeter silt-fencing, temporary swales, sediment traps, water breaks, stockpile locations, and anti-mudtracking beds at the driveway entrance. The proposal also includes a Construction Sequence Plan for the duration of street and detention basin construction. The Commission finds that the proposed temporary construction access road for the detention basin construction will be underlain with geotextile fabric and covered with large stone.

Additionally, a site monitor shall be utilized to provide weekly reports monitoring sediment and erosion controls, as well as daily street sweeping. The construction traffic control and the work upslope of the

upland review areas during the construction activities will require frequent inspection. The Commission finds that the use of a site monitor for the portion of the project related to road and detention basin construction and notes that additional measures or controls may be required to address the construction along sloped areas as needed.

These items and standards on the proposed plans address requirements stated within the 2002 Connecticut Erosion and Sediment Guidelines.

The Commission finds that long-term erosion control measures are provided with vegetation coverage including thirteen (13) trees along the detention basin as well as New England Conservation/showy Wildlife Mix and New England Erosion Control/ Restoration seed mixes. Other long-term protection of sloped areas include thirty-two (32) street trees indicated along the road sided. Additional shrubs and plantings are proposed along the upland review area along lots 3, 4, 5, and 6, to provide a wetland buffer. These plants are native, non-invasive species.

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 Commission finds that the large undisturbed wetland along the north and eastern sides of the property and offsite is a high-quality wetland that serves as an important wildlife habitat area, migratory corridor, and as stormwater recharge area and floodplain associated with Muddy Brook. Soil and Wetland Scientist, Chris Allan, of Landtech wrote the "Wetlands Evaluation and Impact Assessment" on May 14, 2020, which discusses the habitat and potential species of wildlife that would make use of the wetland areas. There are no State-listed species within the NDDb at or within 0.75 miles of the site.

The Commission finds that a planted buffer has been proposed along the upland review areas for lots 3, 4, 5, and 6. This plan identifies the area as a scrub-shrub transitional area from past farmland to wetlands. Several species of invasive plants were identified. The applicant proposes the removal of these plants by mowing, pulling, and the selective use of herbicides. Then the restoration incorporates 102 native, non-invasive plantings within the 50' upland review area as well as a three (3) year monitoring period to ensure success. The Commission finds that a separate management plan shall be provided to direct the maintenance within this buffer and consider the long-term use of pesticides and herbicides on properties adjacent to wetland and Muddy Brook. The Commission finds that a performance bond shall be required to cover the cost of plantings and invasive monitoring.

The Commission questioned the buffer's size and number of plantings at the July 15, 2020 hearing, and whether it provided adequate habitat restoration and filtration of potential pollutants and provided the appropriate protection from invasive species. The Commission finds that the plan has been updated to address these concerns. The proposed planting amount represents a doubling of the previously submitted plan presented to the Commissioners.

The vegetation within the riparian corridor for Muddy Brook provides shelter and habitat for wildlife. The existing vegetation within this area helps shade the water and provide cover for both fish and terrestrial animals. Additionally, plantings provide the main source of organic detritus forming the basis of the food chain. The Commission finds that every effort should be made to preserve the existing woody vegetation along the wetland and wetland buffer. The Commission finds that the applicant shall provide a Conservation Easement Area with corresponding language or other means

of permanent protection of the wetlands and the created buffer on lots 3, 4, 5, 6, 7 and the open space parcel. This would permanently protect the resources on and directly off-site.

The Commission finds that eight bird boxes are proposed within the area of the constructed basin. Two separate designs are proposed to attract differing species, specifically, chickadees and bluebirds. This is an opportunity to improve bird habitat and diversity within the constructed area. The matured vegetation within the detention basin should provide additional habitat and food source from the plant's seeds. The Commission finds that the bird boxes should also be bonded to ensure they are installed.

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 Engineering Department has reviewed this drainage plan. Several items were listed by Amrik Matharu email dated July 29, 2020. A subsequent memorandum was written to the Flood & Erosion Control Board, completed by Mr. Matharu on September 1, 2020. Therein he comments about deficiencies in the plans. Specifically, the items of discussion related to the following:

The system crossing Bayberry Lane is required to be upgraded to handle a 100-year storm per the Planning & Zoning Regulations 17-18.3, and 55-3.1.3, which both state "Street culverts and bridges shall be designed for a 100-year storm."

The applicant requested a continuance on September 2, 2020 in order to address the comments. This necessitated a further postponement to the October 7, 2020 Flood & Erosion Control Board hearing and the Commission hearing date of October 14, 2020. Mr. Matharu submitted a letter on September 30, 2020 stating that the updated plans met the requested conditions and they comply with the Town Drainage Standards. The Flood & Erosion Control Board approved the application at the October 7, 2020 hearing with standard conditions.

The Commission finds that the applicant proposes to provide storage within an onsite detention basin that accounts for runoff from an area that includes 25% max coverage of impervious surfaces from all lots. Additionally, stormwater runoff from the proposed residential roofs will be directed to underground Cultec units on each lot to provide storage for the first flush or 1" of stormwater runoff.

The Commission finds that the storm water runoff directed to the detention basin will flow into catch basins designed to have a sump and hood (snout) over the outlet to stop debris or oils from flowing out. This flow will be directed into a plunge pool within the forebay. This is constructed at the initial part of the detention basin to allow further settling of sediment and filtering of contaminants. The water will continue to move across a stone seepage area into the main storage area of the detention basin. The outlet overflow of the basin is directed to a bioswale underlain by 4" pipe with two final discharge points onto stone dissipator pads. The detention basin will be planted with New England Conservation/Showy Wildlife Mix and New England Erosion Control/ Restoration seed mixes which should provide nutrient uptake and pollutant removals from the stormwater.

The Commission finds that the grading of the parcels for the individual home construction sites will be consistent with the natural existing topography. The rear yards of lots 3, 4, 5, 6, and 7 slope towards the wetland. This slope ranges from ~10 feet to ~15 feet in elevation from the rear of the proposed houses to the wetland along the back (~10-14% slopes). The Commission finds that changes to the existing grading on these specific sites shall be reviewed by the Commission when it is proposed within 100' from the wetlands. This will reduce the potential of filling in the rear yard as an attempt to achieve a level back yard for the individual houses. The septic systems will presumably be allowed without fill, if the WWHD approves the current design concepts. The Commission finds that failure to

restrict the grading will increase slopes in the area thereby increasing the rate of surface flow runoff into the wetland and create an erosion issue

The Flood & Erosion Control Board reviewed this application as a referral from the Conservation Department. On October 7, 2020 they approved the application with standard conditions.

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 that the current application will not have a significant impact on recreational and public uses. The open space parcel is presumably available for all the residents to enjoy but more than likely inaccessible without establishing a trail. The Commission finds that a conservation easement shall be placed on the open space parcel and vegetated wetland buffer and follow the management plan for the planted buffer areas.

10. Criteria to be considered by the Commission

Section 5.1 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport refers to the consideration of all relevant facts and circumstances including, but not limited to:

- a) the environmental impact of the proposed regulated activity on wetlands or watercourses;
- b) the applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
- c) the relationship between the short-term and long-term impacts of the proposed regulated activity on wetland or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d) irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resource and any mitigation measures which may be considered as a condition of issuing a permit for such activity; and
- e) impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses

The Commission finds that the applicant is seeking approval for an Open Space Residential Subdivision as a Cluster Lot Layout Plan. The application set of plans also includes a Conventional Lot Layout Plan as is required by the Town's Subdivision Regulations. The "Cluster" plan provides for a larger open space parcel to be created. The applicant has shown the proposed dwellings and subsurface sewage design systems, grading, and drainage for each proposed lot outside of the upland review area from the wetlands on site.

The "Wetlands Evaluation and Impact Assessment" prepared by Soil and Wetland Scientist, Chris Allan of Landtech, concludes that no direct impacts are expected with the proposed subdivision. Additionally, it states that indirect impacts are mitigated through the use of stormwater treatment plan, following the sediment and erosion control plans, and installation of the wetland buffer.

11. WATERWAY PROTECTION LINE ORDINANCE

Section 30-93 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.

Discussion:

The Conservation Commission received comments from the Engineering Department and Flood and Erosion Control Board on September 30, 2020 and October 7, 2020. **No work is proposed within the limits of the Waterway Protection Line onsite. The Commission finds that the stormwater runoff will be collected as designed and will not significantly impact resources as they are protected under the Waterway Protection Line Ordinance**

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL/E-11007-20
128 Bayberry Lane
Assessor's Map: G13 Tax Lot: 020
Assessor's Map: G13 Tax Lot: 021
Date of Resolution: October 14, 2020

Project Description: Applicant is proposing an "Open Space Subdivision" consisting of 9 residential lots, served by a 22 ft. wide private road with underground utilities and stormwater management system. Each lot will be served by private septic system and public water supply. Portions of the property are within the upland review area. Two lots will be retained by the owners with their existing residences.

Owner of Record: Estate of James S. and Dina Belta, Connie Caruso, Executor

Applicant: John F. Fallon, Esq.

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/E-11007-20** 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.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a) "Belta Farm Subdivision 128 Bayberry Lane Westport Connecticut" Drawing package, Dated May 14, 2020 and last revised August 17, 2020 (except where noted), prepared by Dymar with following sheets:
 - Cover Sheet
 - "Subdivision Map Showing Belta Farm Subdivision prepared for Estate of James S. & Dina M. Belta 126 & 128 Bayberry Lane Westport, CT" Dated March 25, 2020, Scale 1"=60', Prepared by Dymar
 - "Existing Conditions Plan prepared for Estate of James S. & Dina M. Belta 126 & 128 Bayberry Lane Westport, CT" Dated February 4, 2020, Scale 1"=60', Prepared by Dymar
 - C-1: General Legend, Abbreviations & Notes
 - C-2: Existing Conditions Site Analysis Map
 - C-3: Existing Conditions Map – Conventional Lot Layout Plan,
 - C-4: Existing Conditions Map – Cluster Lot Layout Plan, last revised 7/8/20
 - C-5 A Site Development & Grading Plan, last revised 9/30/20
 - C-5 B Site Development & Grading Plan, last revised 8/31/20
 - C-5C Test Hole Data plan dated 5/14/20
 - C-5D Test Hole Data & Septic Feasibility Data, last revised 9/28/20
 - C-6 (A&B) Phase I – Road Infrastructure Sediment and Erosion Control Plan, last revised 6/1/20
 - C-6C Sediment and Erosion Control Narrative
 - C-6D Sediment and Erosion Control Construction Standards and Miscellaneous Details
 - C-6E Sediment and Erosion Control Details
 - C-7A Construction Road Plan & Profile, last revised 8/17/20
 - C-7B Drainage Plan & Profile, last revised 8/17/20
 - C-8A Paving, Storm Sewer & Utility Details
 - C-8B Miscellaneous Site Details, last revised 8/17/20
 - C-8C Detention Basin, Storm Sewer and Embankment Details, last revised 8/17/20
 - C-9A Construction Specifications & Standards
 - C-9B Earthwork Specifications
 - C-10 Sight Line Drawing

- C-11A Street Tree Landscape Plan, last revised 6/1/20
 - C-11B Wetlands Buffer Planting Plan, last revised 8/17/20
 - C-12 Detention Basin Landscape Plan, last revised 8/17/20
- b) Wetland Impact and Assessment Report Proposed 9-Lot Open Space Residential Subdivision 128 Bayberry Lane Westport, Connecticut”, Dated May 14, 2020, Prepared by Landtech, (4pgs)
 - c) Drainage Report Belta Subdivision 128 Bayberry Lane Westport, CT for Estate of James S. & Dina M. Belta 128 Bayberry Lane Westport, CT 06880”, Dated May 8, 2020 last revised 8/20/20, prepared by Dymar, with Appendices A, B-1, B-2, and C.
 - d) Drainage Addendum #1, Belta Subdivision 128 Bayberry Lane Westport, CT prepared for Estate of James S. & Dina M. Belta 128 Bayberry Lane Westport, CT 06880”, prepared by Dymar, Dated 8/27/20
 - e) Belta Subdivision – Storm Water Infrastructure Long Term Maintenance Program, undated, received August 28, 2020 by Dymar
17. Conformance to Flood & Erosion Control Board conditions of approval, dated October 7, 2020.
 18. Individual permits must be secured for house construction on lots 3, 4, 5, 6 and 7. The installation of basements on lots 3, 4, 5, 6 and 7 shall be subject to review and approval by the Conservation Commission of detailed engineered plans for each individual lot in order to confirm that there will be no adverse impact to the wetlands due to a change in velocity or volume of discharge. In making this determination, the Commission will evaluate a design that considers the minimization of outlet volume and velocities consistent with the on-site soil types and proximity to the wetland.
 19. Any grading within 100’ of the wetland line on lots 3, 4, 5, 6, and 7 will require a prior review and approval by the Conservation Commission.
 20. A Conservation Easement shall be established to protect the wetland and adjacent 50 ft. wide vegetative buffer on lots 3, 4, 5, 6, 7, and the Open Space parcel area. A map showing the Conservation Easement Area and corresponding Conservation Easement language shall be filed on the land records prior to the issuance of a Conservation Certificate of Compliance. Said language shall include that: “No cutting, clearing, grading, filling or structures shall be built within said easement area.”
 21. The Conservation Easement shall be permanently delineated in the field with a post placed every fifty feet (50’). Said delineation shall be installed prior to issuance of a Conservation Certificate of Compliance for each individual house.
 22. A Wetland Buffer Management Plan shall be submitted prior to the issuance of a Zoning Permit for the first of the houses adjacent to the Regulated Area (lots 3,4,5,6 and 7). Said plan shall specify the long-term management of the wetland buffer and which minimizes the long-term use of pesticides and herbicides.
 23. A performance bond to cover the cost of bird boxes, buffer plantings, and invasive plant removal and monitoring (for three growing seasons) shall be submitted prior to the issuance of a Zoning Permit for the first of the houses adjacent to the Regulated Area (lots 3, 4, 5, 6 and 7.)
 24. A Homeowners’ Association (HOA) shall be established whose responsibilities, among others, will include the long-term maintenance of the detention basin and stormwater appurtenances in the private roadway and footing drain discharge locations on lots 3, 4, 5, 6, and 7. A document outlining said responsibility shall be submitted for review and approval prior to recording on the land records. Said recording to take place prior to issuance of a Conservation Certificate of Compliance.
 25. A site monitor shall be retained by the applicant to monitor sediment and erosion controls during road and detention basin construction. Said monitor shall provide weekly reports to the Conservation Department and after storm events of greater than 1 inch. Additional sediment and erosion controls may be required to address the construction along sloped areas as needed.
 26. Final inspection by Conservation Department staff and receipt of final written approval from the Westport Engineering Department will be required for the detention basin and stormwater appurtenances in the private roadway prior to issuance of a Conservation Certificate of Compliance.
 27. The Conservation Department shall be notified no less than 48 hours prior to work commencement for inspection of erosion and sediment controls.
 28. Conformance to the Long-Term Stormwater Maintenance Plan prepared by Dymar and submitted October 6, 2020. Bi-annual status reports as indicated within the plan shall be submitted to the Conservation Department and Engineering Department for review.

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: Bancroft

Ayes: Carey, Bancroft, Rycenga, Davis, Lobdell

Nays: 0

Abstentions: 0

Vote: 5:0:0

3. **37 Spicer Road:** Application #IWW,WPL-11053-20 by William Achilles, AIA on behalf of Spicer 37 Westport LLC c/o Nate Gibbons to demolish an existing detached garage and construct a new attached garage addition with hobby room above, additions and renovations to the existing residence including raising the roof above a portion of the existing second floor and new a/c unit. All structures will be constructed or rendered to be FEMA compliant. The existing driveway will be reconfigured and a new drainage system installed. Portions of the work are within the IWW upland review area and WPLO area of Pussy Willow Brook.

Bill Achilles, AIA presented the application on behalf of the property owner, Nate Gibbons, who was also present.

Mr. Kelly presented photos of the site as it exists today.

Mr. Kelly noted the detached garage will be demolished and replaced with a 2-story attached garage addition with room above. The existing house will have its roof raised over a portion of it. The cellar of the house is not within the flood zone but because the house addition is within the flood zone, the whole house has to be FEMA compliant. The cellar will be filled in to 1-foot above the 100-year flood zone.

Mr. Kelly showed the rendered site plan.

Mr. Achilles highlighted that Pussy Willow Brook, which is open at the north end of the property but is piped for the remainder of the property. They are abandoning the driveway to the east but expanding the driveway to the west to include a large parking courtyard. There will also be a covered porch and stairs. The FEMA floodline was also highlighted. Mr. Achilles reviewed the proposed drainage. He stated the pipe will need to be protected during construction. A manhole is proposed to be added in order for the pipe to be accessed for future cleaning. The pipe will be scoped before and after construction and protected during construction. Sediment and erosion control are proposed. A stockpile area is located in the front yard. They did consider leaving the detached garage but decided against it. Wetland buffer planting are proposed and a bamboo barrier is also proposed. He added they will capture the first inch of runoff.

Ms. Rycenga asked when the planting buffer will be installed. She would like to see the planting buffer installed, then the silt fence as a limit of disturbance. She asked about the stockpiling of materials.

Mr. Achilles stated they would be stockpiling a minimum amount of materials as not much excavation is proposed. The amount of cut material for the garage will be used to fill in the cellar.

Ms. Mozian asked why the driveway cannot be permeable.

Mr. Achilles stated originally it would be but in order to be permeable, they would have to dig to create a permeable surface. They are concerned with disturbing the pipe and opted to go with the asphalt driveway and conventional drainage.