

WHEREAS, The owners of the Red Barn Restaurant (the “Applicant”) located at 292 Wilton Road, Westport, have requested the Water Pollution Control Authority (the “WPCA”) to approve the connection of their property to the public sanitary sewer system in order to operate a restaurant with a design flow capacity of 6,000 gallons per day; and

WHEREAS, the subsurface sewage disposal system of the Applicant is currently regulated by the Connecticut Department of Environmental Protection (“DEP”); and

WHEREAS, Poplar Plains Brook, which runs along the property, is a tributary to the Saugatuck River and has been shown by recent water quality samplings to be an impaired waterway; and

WHEREAS, Applicant’s subsurface sewage disposal system has failed and is currently on a bi-weekly pumping schedule mandated by the Westport Weston Health District; and

WHEREAS, Applicant’s property is outside the Sewer Service Area (the “blue line”) designated in the Town of Westport Wastewater Facilities Plan dated March 2002 (the “Plan”); and

WHEREAS, the WPCA has a policy of sewer avoidance, the Water Pollution Control Plan Sewer Avoidance Policy, in all areas outside the Sewer Service Area subject to an exception “when municipal sewers are the only reasonable means of mitigating water pollution problems or health or safety problems caused by the failure of subsurface disposal systems ...”; and

WHEREAS, the Applicant has submitted a report entitled “Preliminary Engineering Report Wastewater Facilities” (“Preliminary Report”) which indicated the difficulty of the site meeting the DEP’s standards for pathogen renovation as well as the difficulty in operating an on-site wastewater treatment plant to meet nitrogen removal requirements; and

WHEREAS, by letter dated November 12, 2008, the Westport Weston Health District, by its Director, supports an extension of the Sewer Service Area to include the Applicant’s property “to eliminate a source of pollution to the ground and surface waters of the Town of Westport”; and

WHEREAS, the Westport Director of Conservation submitted a memo dated October 10, 2008 in support of the extension and stating that the results of soil tests conducted by her department were consistent with those from the Preliminary Report and further indicating that the soil types were insufficient to adequately protect the water quality and therefore a new septic system would not provide a long term solution for protecting against water pollution; and

WHEREAS, by letters dated December 30, 2008 and January 28, 2009, the DEP expressed its support for the connection of Applicant’s property to the sewer on the basis

that such connection is solving an existing water pollution source provided the connection is for Applicant's property only as a limited system; and

WHEREAS, in view of the foregoing and in addition to testimony provided during the WPCA hearing in support of the sewer connection, the WPCA finds that there is substantial evidence to support an exception to the Water Pollution Control Plan Sewer Avoidance Policy and to approve a sanitary sewer line connection to the Applicant's property subject to the conditions set forth herein.

NOW THEREFORE, the following resolution of the WPCA is hereby adopted:

RESOLVED, that:

- (1) The Applicant's request for an exception to the Water Pollution Control Plan Sewer Avoidance Policy is hereby approved.
- 2) The Applicant's property located at 292 Wilton Road (known as "The Red Barn"), with a design flow capacity of 6,000 gallons per day, is hereby authorized to connect to the public sanitary sewer system subject to the following conditions:
 - (i) The property is used as a restaurant as that term is defined in the Planning & Zoning Regulations as of the date of this approval;
 - (ii) Wastewater flow shall not exceed 6,000 gallons per day;
 - (iii) Compliance with the recommendations contained in the letter from the Director of the Westport Weston Health District dated November 12, 2008;
 - (iv) Compliance with the conditions set forth in the letter from the Town WPCA Coordinator dated November 21, 2008;
 - (v) Compliance with the conditions set forth in the letter from the DEP dated February 2, 2009 including the condition "that the connection is only for The Red Barn property and serves only as a limited system designed solely to meet the existing needs of the Red Barn".
 - (vi) A positive 8-24 report from the Planning and Zoning Commission; and
 - (vii) Approval by the Department of Environmental Protection of a modification to the Westport Wastewater Facilities Plan dated March 2002.
- 3) A modification to the Westport Wastewater Facilities Plan dated March 2002 and the filing of an amendment application by the Town of Westport to the Department of Environmental Protection to provide for a modification to the Plan for the sewer connection to Applicant's property is hereby approved.