

1                                   **CONSERVATION COMMISSION/INLAND WETLANDS AND**  
2                                   **WATERCOURSES AGENCY**

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4                   **SPECIAL MEETING April 25, 2023, 7:30 P.M. HELD MAIN MEETING ROOM**  
5                   **SIMSBURY TOWN HALL**

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7   **I.        CALL TO ORDER & ROLL CALL**

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9   Chairman Winters calls the meeting to order at 7:30 P.M.

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11 **Present:** Director of Community Planning and Development, George McGregor, Jason Berman,  
12     Joseph Campolieta, Donald Eaton, Jason Levy, Kyle Testerman (Alternate), Cailyn Welsh  
13     (Alternate), Margery Winters

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15 **Absent:** Andrew Bade, Charles Haldeman

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17 Kyle Testerman and Cailyn Welsh are seated as a full members in Dr. Bade's and Mr.  
18     Haldeman's absences.

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20 **II.       OLD BUSINESS**

21  
22 **Application CC#22-29** of Vessel RE Holdings, LLC, Applicant, EAY Properties, LLC, Owner,  
23 for a wetland permit to allow grading and construction of site improvements, including parking  
24 lot, landscaping, retaining wall and guardrail in the upland review area, associated with a 64-unit  
25 multi-family development, at 446 Hopmeadow Street (Assessor's Map G13, Block 142, Lot  
26 003C) Simsbury, CT 06070, Zone R-15. (Public Hearing closed on 4/4/23)

- 27     • Mr. Levy has concerns with concentration of run-off and potential for contaminants,  
28       including 6PPD, to enter the wetlands, which drains into the Farmington River which is  
29       designated wild and scenic and contains many species of special concern.
- 30     • Mr. Berman is also concerned with increased run-off as well, especially in the winter, as  
31       a result of the parking lot.
- 32     • Mr. Eaton is concerned with the volume, concentration and velocity of the run-off as  
33       currently outlined in the site plans.
- 34     • Mr. Levy notes there is no evidence that the proposed filtration system will address  
35       concerns over the contaminants, which will negatively impact the existing wildlife  
36       species in the area. The size of this project will significantly increase the amount of  
37       pollution entering the wetlands as compared with the current conditions.
- 38     • Ms. Winters responds that there was no expert testimony that indicated that the project  
39       would have a negative impact on the wetlands. Mr. Levy respectfully disagrees and  
40       references that Dr. Bade is an expert in Fisheries Biology and researched and discussed  
41       this concern previously.
- 42     • Mr. Eaton notes that the project is located on Hopmeadow Street, which is a main road  
43       that already causes pollution and likely drains into Second Brook.

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45 **Motion:** Mr. Levy motions to deny Application CC#22-29 of Vessel RE Holdings, LLC,  
46 Applicant, EAY Properties, LLC, Owner, for a wetland permit to allow grading and construction

47 of site improvements, including parking lot, landscaping, retaining wall and guardrail in the  
48 upland review area, associated with a 64-unit multi-family development, at 446 Hopmeadow  
49 Street based on the following findings:

- 50
- 51 a. The Simsbury Conservation Commission/Inland Wetlands & Watercourses Agency has  
52 considered the Criteria for Decision found in Section 10.2 of the Town Inland Wetlands  
53 and Watercourses Regulations and find the project does not meet the standards for  
54 approval and will adversely impact the wetlands and watercourses.
- 55 b. The project will adversely impact the wetlands and watercourses in the following  
56 manner:
- 57 • There is strong potential for erosion and siltation. The stormwater management  
58 facilities proposed are likely to create a concentration of outflow, specifically at  
59 EW-1 and FES-1, during large storm events, leading to offsite erosion and the  
60 depositing of silt and sedimentation and contaminants in the wetlands and  
61 watercourse. The project has not demonstrated that adequate protections are in  
62 place during large storm events. The project did not respond to requests to diffuse  
63 the stormwater run-off in these two locations. Thus, drainage patterns will be  
64 affected.
  - 65 • The project is unsuitable to the area for which it is proposed. The project  
66 proposes 54% impervious coverage on site, including 102 parking spaces where  
67 today sits a small single-family house. The site will generate contaminants from  
68 parked cars such as oil, gasoline, and other vehicular fluids. The project has not  
69 demonstrated that 100% of these contaminants will be contained on site and not  
70 make their way into the wetlands and watercourse where they will have a negative  
71 impact on wetlands habitat. The specific contaminant 6PPD-quinone, raised by  
72 Dr. Bade, an expert in Fisheries Biology- was not addressed by the Applicant.
- 73 c. The feasible and prudent alternative proffered, specifically the reduction of the project  
74 scale from 80 units to 64 units, does not reduce or remove impacts to the wetlands and  
75 watercourses. Although a total reduction of 16 units within a marginally smaller  
76 footprint is proposed, the grading plans and stormwater facilities are unchanged. Site  
77 development plans are impacts are not modified to the extent they would provide a  
78 significant reduction to the impacts of stormwater run-off, concentration of flows, or  
79 retard the release of contaminants offsite from the parking lot. A feasible and prudent  
80 alternative has not been offered which would cause less or no environmental impact. The  
81 proposed reduction does not remove site grading, stormwater facilities, and parking  
82 spaces from the upland review area.

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84 Mr. Eaton seconds.

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86 3 in favor, 2 opposed, 2 abstentions. (3-2-2)

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88 A short recess is called for Mr. McGregor to consult with the Town Attorney to clarify the  
89 number of votes needed to approve a motion.

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91 Mr. McGregor returns, relaying to the Commission the Town Attorney opinion that a majority of  
92 members present and seated (four of seven, in this case) is required to pass any motion.

93 Motion Fails.

94  
95 **Motion:** Mr. Campolieta moves to approve Application CC #22-29 of Vessel RE Holdings,  
96 LLC, Applicant, EAY Properties, LLC, Owner, for a wetland permit to allow grading and  
97 construction of site improvements, including parking lot, landscaping, retaining wall, and guard  
98 rail in the upland review area, associated with a 64-unit multi-family development, at 446  
99 Hopmeadow Street (Assessor's Map G13, Block 142, Lot 003C), based on the following  
100 findings:

- 101
- 102 a. The Simsbury Conservation Commission/Inland Wetlands & Watercourses Agency has  
103 considered the *Criteria for Decision* found in Section 10.2 of the Town Inland Wetlands  
104 and Watercourses Regulations and find the project meets all of the standards for approval  
105 and will not adversely impact the wetlands and watercourse.  
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  - 107 b. The expert testimony provided during the public hearing process concludes that the  
108 proposed construction activity will not adversely impact the wetlands and/or  
109 watercourses. The Commission concurs: the proposal is satisfactory, as submitted,  
110 revised, and conditioned below. The proffered feasible and prudent alternative, reducing  
111 the number of units from 80 to 64, further reduces the scope of the project and therefore  
112 further reduces any impact on the wetlands.  
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  - 114 c. Short-term impacts from the proposed development will be controlled by installation and  
115 maintenance of erosion and sediment controls and construction run-off controls.  
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  - 117 d. Long-term impacts from the proposed development will be controlled by installation of  
118 stormwater management practices, ongoing maintenance review, and the conditions  
119 offered below.  
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  - 121 e. There is no evidence that there will be an irreversible or irretrievable loss of wetland or  
122 watercourse resources.  
123
  - 124 f. Strict adherence to the terms and conditions imposed with this permit will protect the  
125 quality of wetlands and surface waters in the vicinity of the project.  
126

127 And subject to the following conditions:

- 128
- 129 1. The project shall be developed in substantial conformance with the site plan titled, *Site*  
130 *Development Plans*, dated December 16, 2022, REVISED March 30, 2023, with Sheets  
131 SL-1 and GD-1 Revised April 4, 2023 prepared by H&H Engineering.  
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  - 133 2. The project shall be developed in substantial conformance with the Stormwater  
134 Management Report, prepared by H&H Engineering, dated December 16, 2023 and  
135 REVISED March 30, 2023.  
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  - 137 3. Areas of disturbed soils shall be stabilized with the application of loam, seed, required  
138 plantings and appropriate erosion control measures.

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4. At all times during site work and until soil areas are stabilized, the applicant shall install and maintain erosion and sediment control measures depicted on the above referenced site plan set and/or other measures deemed necessary by the Commission's agent to prevent erosion and sedimentation impacts to wetlands and watercourses.
5. All erosion control and soil stabilization measures shall comply with the approved plans and the guidelines as established in the Connecticut Guidelines for Soil Erosion and Sediment Control, 2002, CTDEP Bulletin 34.
6. Upon direction of the Commission's agent, erosion and sediment control measures shall be removed by the applicant following stabilization of the site.
7. This approval is subject to the general provisions found in Section 11.9 of the Town of Simsbury's Inland Wetlands and Watercourses Regulations.
8. The Inland Wetlands Agent shall be notified at least 48 hours prior to commencement of activities.
9. For a period of three years from the approval date, the Applicant shall complete and submit two inspection and maintenance reports each year (one no later than June 30<sup>th</sup> and one no later than December 31<sup>st</sup>), prepared by a registered engineer in the State of Connecticut., for all onsite stormwater facilities, to the Planning Department. The Planning Department shall make these reports available to the Commission upon receipt.
10. Prior to the issuance of a building permit, the Applicant shall submit an Erosion and Sediment Control Bond, in a form acceptable to the Town, in the amount of \$50,000.
11. The parking lot lighting shall be limited to utilizing lighting fixtures having a Kelvin rating not to exceed 3,000 Kelvins utilizing the lighting fixtures as specified in the lighting plan prepared by Photinus, dated Revision 4, 2022.  

All exterior lighting shall utilize energy and time management controls such that the parking lot lights shall be at 100% illumination through 10 PM and at 40% illumination through 6 AM.

Subject to building code requirements and fire safety requirements, public area interior lighting visible from the exterior of the building shall be set at 100% illumination through 10 PM and at 40% illumination through 6 AM.
12. The vinyl fence depicted at 36 inches on the site layout SL-1 sheet referenced in condition #1 shall be increased to minimum height of 48 inches.
13. The Applicant shall submit an Integrated Pest Management Plan, with form and substance acceptable to the Town, prior to the issuance of a building permit.

185 14. Town Planning Staff is delegated the responsibility of transmitting a wetlands report  
186 regarding the action taking on this application to the Zoning Commission.  
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188 Ms. Winters seconds.  
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- 190 • Ms. Winters would like to amend condition 9 to include the wording “and annually  
191 thereafter” as the success of the project is dependent on the continual monitoring and  
192 cleaning of the stormwater system going forward.  
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194 2 in favor, 3 opposed, 2 abstentions. (2-3-2)  
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196 Motion Fails  
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- 198 • The Commission begins discussion on what conditions for approval could be included or  
199 modified in order to come to a decision.
- 200 • Ms. Welsh mentions considering quality monitoring as a condition for approval.
- 201 • Mr. Eaton would like to include a condition for approval relating to the disbursement and  
202 diffusion of water outflow and questions if site plans can be revised. Mr. McGregor  
203 notes this would need to be a condition for approval or recommendation to the Zoning  
204 Commission, as existing site plans cannot be revised.
- 205 • Mr. Levy remains concerned with the contaminants entering the wetlands and believes  
206 this project is too big of a risk to wetlands and watercourses.
- 207 • Mr. Testerman is concerned that there is no recourse available should the project plans  
208 not operate as intended. Ms. Winters replies that including the ongoing annual  
209 inspection reports to the Planning Department is one way to address this concern.
- 210 • Mr. Berman would prefer that certain thresholds be outlined in the conditions for  
211 approval to ensure that the systems are operating as intended. Ms. Winters voices  
212 concern over how this would be enforced and who would be responsible for testing.
- 213 • Ms. Winters would like to ensure that invasive plants are removed from the property,  
214 specifically the rain gardens.
- 215 • Mr. Campolieta comments that while he shares many of the same concerns, he believes  
216 the expert testimonies provided have appropriately addressed or mitigated these concerns.
- 217 • The Commissioners would like to include the following conditions for approval:
  - 218 • Applicant shall examine and consider engineering solutions to improve outflow  
219 diffusion for the stormwater management facilities.
  - 220 • Invasive species shall be monitored and removed from the rain garden and the site on  
221 a continuing and on-going basis.  
222

223 **Motion:** Mr. Campolieta moves to approve Application CC #22-29 of Vessel RE Holdings,  
224 LLC, Applicant, EAY Properties, LLC, Owner, for a wetland permit to allow grading and  
225 construction of site improvements, including parking lot, landscaping, retaining wall, and guard  
226 rail in the upland review area, associated with a 64-unit multi-family development, at 446  
227 Hopmeadow Street (Assessor’s Map G13, Block 142, Lot 003C), based on the following  
228 findings:  
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- 230 g. The Simsbury Conservation Commission/Inland Wetlands & Watercourses Agency has  
231 considered the *Criteria for Decision* found in Section 10.2 of the Town Inland Wetlands  
232 and Watercourses Regulations and find the project meets all of the standards for approval  
233 and will not adversely impact the wetlands and watercourse.  
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- 235 h. The expert testimony provided during the public hearing process concludes that the  
236 proposed construction activity will not adversely impact the wetlands and/or  
237 watercourses. The Commission concurs: the proposal is satisfactory, as submitted,  
238 revised, and conditioned below. The proffered feasible and prudent alternative, reducing  
239 the number of units from 80 to 64, further reduces the scope of the project and therefore  
240 further reduces any impact on the wetlands.  
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- 242 i. Short-term impacts from the proposed development will be controlled by installation and  
243 maintenance of erosion and sediment controls and construction run-off controls.  
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- 245 j. Long-term impacts from the proposed development will be controlled by installation of  
246 stormwater management practices, ongoing maintenance review, and the conditions  
247 offered below.  
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- 249 k. There is no evidence that there will be an irreversible or irretrievable loss of wetland or  
250 watercourse resources.  
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- 252 l. Strict adherence to the terms and conditions imposed with this permit will protect the  
253 quality of wetlands and surface waters in the vicinity of the project.  
254

255 And subject to the following conditions:  
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- 257 1. The project shall be developed in substantial conformance with the site plan titled, *Site*  
258 *Development Plans*, dated December 16, 2022, REVISED March 30, 2023, with Sheets  
259 SL-1 and GD-1 Revised April 4, 2023 prepared by H&H Engineering.  
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- 261 2. The project shall be developed in substantial conformance with the Stormwater  
262 Management Report, prepared by H&H Engineering, dated December 16, 2023 and  
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- 265 3. Areas of disturbed soils shall be stabilized with the application of loam, seed, required  
266 plantings and appropriate erosion control measures.  
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- 268 4. At all times during site work and until soil areas are stabilized, the applicant shall install  
269 and maintain erosion and sediment control measures depicted on the above referenced  
270 site plan set and/or other measures deemed necessary by the Commission's agent to  
271 prevent erosion and sedimentation impacts to wetlands and watercourses.  
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- 273 5. All erosion control and soil stabilization measures shall comply with the approved plans  
274 and the guidelines as established in the Connecticut Guidelines for Soil Erosion and  
275 Sediment Control, 2002, CTDEP Bulletin 34.

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6. Upon direction of the Commission’s agent, erosion and sediment control measures shall be removed by the applicant following stabilization of the site.
7. This approval is subject to the general provisions found in Section 11.9 of the Town of Simsbury’s Inland Wetlands and Watercourses Regulations.
8. The Inland Wetlands Agent shall be notified at least 48 hours prior to commencement of activities.
9. For a period of three years from the approval date, the Applicant shall complete and submit two inspection and maintenance reports each year (one no later than June 30<sup>th</sup> and one no later than December 31<sup>st</sup>), and annually thereafter, prepared by a registered engineer in the State of Connecticut., for all onsite stormwater facilities, to the Planning Department. The Planning Department shall make these reports available to the Commission upon receipt.
10. Prior to the issuance of a building permit, the Applicant shall submit an Erosion and Sediment Control Bond, in a form acceptable to the Town, in the amount of \$50,000.
11. The parking lot lighting shall be limited to utilizing lighting fixtures having a Kelvin rating not to exceed 3,000 Kelvins utilizing the lighting fixtures as specified in the lighting plan prepared by Photinus, dated Revision 4, 2022.
  - All exterior lighting shall utilize energy and time management controls such that the parking lot lights shall be at 100% illumination through 10 PM and at 40% illumination through 6 AM.
  - Subject to building code requirements and fire safety requirements, public area interior lighting visible from the exterior of the building shall be set at 100% illumination through 10 PM and at 40% illumination through 6 AM.
12. The vinyl fence depicted at 36 inches on the site layout SL-1 sheet referenced in condition #1 shall be increased to minimum height of 48 inches.
13. The Applicant shall submit an Integrated Pest Management Plan, with form and substance acceptable to the Town, prior to the issuance of a building permit.
14. Town Planning Staff is delegated the responsibility of transmitting a wetlands report regarding the action taking on this application to the Zoning Commission.
15. On an ongoing and continual basis, invasive species shall be monitored and removed from the site.
16. The Applicant shall examine and consider stormwater facility engineering solutions to improve outflow diffusion on site.

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Ms. Winters seconds.

5 in favor, 1 opposed, 1 abstention. (5-1-1)

**I. ADJOURNMENT**

**Motion:** A motion is made to adjourn. The motion is seconded.

All in favor, no opposed, no abstentions. (7-0-0)

The meeting adjourned at 8:20 P.M.

Respectfully Submitted,

Cara Blackaby  
Commission Clerk

DRAFT