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March 27, 2024

Town of Montville

Inland Wetlands and Watercourses Commission

Attention: Mrs. Stacy Radford, Wetlands Enforcement Officer

310 Norwich-New London Turnpike

Uncasville, Connecticut 06382

Re: Application of Pachaug Capital LLC – Old Colchester Road and Black Ash Road,
Montville, Connecticut

Dear Stacy:

Please be advised that this office represents Pachaug Capital LLC, the owner of property located at 970 Old Colchester Road in the Town of Montville, Connecticut. Our client's property is comprised of 31.516 acres of unimproved land located on the northerly side of Black Ash Road and the southerly side of Old Colchester Road, which our client intends to resubdivide into thirteen (13) single family residential building lots.

A wetland permit for the development of the subject property was issued by the Town of Montville Inland Wetlands and Watercourses Commission on December 18, 2008. The development initiative contained in that application was identical to the application being submitted herewith with the exception that the current formulation of the resubdivision proposal incorporates stormwater renovation measures to comply with the recommendations of the 2004 Stormwater Quality Manual promulgated by the State of Connecticut Department of Energy and Environmental Protection, including the installation of rain gardens to accommodate rooftop runoff and infiltration trenches, each as depicted on the resubdivision plan hereinafter referenced, in order to treat the water quality volume of stormwater runoff on each lot.

The December 18, 2008 decision of the Montville Inland Wetlands and Watercourses Commission was timely appealed to the Superior Court for the Judicial District of New London by Richard George in a matter styled *Richard George vs. Inland Wetlands Commission of the Town of Montville, et al*, Superior Court, New London Judicial District (Docket No. CV-09-4009292). That appeal was adjudicated by the Superior Court for the Judicial District of New London and

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Town of Montville
Inland Wetlands and Watercourses Commission
Attention: Mrs. Stacy Radford, Wetlands Enforcement Officer
March 27, 2024
Page 2 of 4

the decision of the Montville Inland Wetlands and Watercourses Commission was sustained in a Memorandum of Decision dated October 21, 2011.

In *Robert Fromer v. Two Hundred Post Associates, et al* 32 Conn. App. 799 (1993), the Connecticut Appellate Court held that an inland wetland permit is concerned solely with the property to be regulated, and that the change of ownership does not affect the validity of the permit. In *Fromer*, as well as *Bochanis v. Sweeney* 148 Conn. App. 616 (2014), the Appellate Court further held that the duration of a permit period is tolled during the adjudication of an appeal from the decision of a municipal land use commission. Since the Memorandum of Decision of the Superior Court for the Judicial District of New London in the *George* case was issued on October 21, 2011, the initial effective expiration date of that permit was extended to October 21, 2016 (i.e. five years). In 2012, the Connecticut legislature enacted Public Act 12-151 which amended Connecticut General Statutes §22a-42a(d)(2)(A) to provide that “Any permit issued under this section for the development of property for which an approval is required under Chapter 124, 124b, 126 or 126a shall (i) not take effect until each such approval, as applicable, granted under such chapter has taken effect, and (ii) be valid until the approval granted under such chapter expires or for ten years, whichever is earlier.”. Therefore, the operative effect of the revision of this statute was to extend the permit duration from October 21, 2011 to October 21, 2021 (ten years from the date of the decision of the Superior Court for the Judicial District of New London). Thereafter, the Connecticut legislature, in response to the COVID pandemic, pursuant to Public Act 21-34 amended Connecticut General Statutes 22a-42a(g) by adding subdivision (2) which, provides “Notwithstanding the provisions of subdivision (2) of subsection (d) of this section, any permit issued under this section on or after July 1, 2011, but prior to June 10, 2021, that did not expire prior to March 10, 2020, shall expire not less than fourteen years after the date of such approval...”. Since the permit in question was effectively issued (as per *Fromer* and *Bochanis* referenced above) on October 21, 2011 and, as referenced herein, had not expired prior to March 10, 2020, the operative effect of Public Act 21-34 is to extend the permit expiration date to October 21, 2025.

Therefore, Pachaug Capital LLC hereby requests that the Town of Montville Inland Wetlands and Watercourses Commission issue a declaratory ruling, based upon the above enunciated analysis, that the wetland permit issued for the development of the Black Ash Estates Resubdivision remains in full force and effect with an expiration date of October 21, 2025.

Pachaug Capital LLC further hereby submits an application to the Town of Montville Inland Wetlands and Watercourses Commission requesting that the Montville Inland Wetlands and Watercourses Commission conduct, in the alternative, a new resubdivision review pursuant to the requirements of Section 8-26 of the Connecticut General Statutes in conjunction with the Black Ash Estates Resubdivision application. As indicated in the application, no regulated activities are proposed in conjunction with this development initiative and a statutory resubdivision review is

Town of Montville
Inland Wetlands and Watercourses Commission
Attention: Mrs. Stacy Radford, Wetlands Enforcement Officer
March 27, 2024
Page 3 of 4

the only action requested of the Montville Inland Wetlands and Watercourses Commission. Submitted herewith and constituting the application for a resubdivision review in addition to the requested declaratory ruling to the Montville Inland Wetlands and Watercourses Commission are the following:

1. Original and five (5) copies of the Application for Resubdivision Review, including the Wetland Application Checklist and the Erosion and Sediment Control Checklist.
2. Five (5) copies of the List of Abutting Property Owners.
3. Authorization signed by the Pachaug Capital LLC authorizing the law firm of Heller, Heller & McCoy, the engineering firm of Wentworth Civil Engineers LLC and Joseph R. Theroux, Certified Professional Soil Scientist, to represent its interests, as applicant and property owner, in all proceedings before the Town of Montville Inland Wetlands and Watercourses Commission with respect to the request for declaratory ruling and request for resubdivision review.
4. Six (6) copies of the Project Narrative entitled "Application of Pachaug Capital LLC to Montville Inland Wetlands and Watercourses Commission General Procedures, Soils and Construction Sequencing Narrative Date: March 18, 2024" submitted with and constituting an integral component of the application to the Town of Montville Inland Wetlands and Watercourses Commission with respect to the subject application.
5. Six (6) sets of the resubdivision plans entitled "Black Ash Estates Resubdivision Land Now Or Formerly Pachaug Capital, LLC. Black Ash Road & Old Colchester Road Montville, Connecticut Applicant: Harry B. Heller, Esq. Heller, Heller & McCoy 736 Norwich-New London Turnpike Uncasville, CT 06382 Applicant: Pachaug Capital, LLC. Mr. Zachary Wood, Member P.O. Box 525 Jewett City, CT 06351 Property Owner: Pachaug Capital, LLC. Mr. Zachary Wood, Member P.O. Box 525 Jewett City, CT 06351 Bennett & Smilas Associates, Inc. 415 Killingworth Road, P.O. Box 241 Higganum, Connecticut 06441 (860) 345-4553 Fax (860) 345-3858 Wentworth Civil Engineers LLC 177 West Town St. Lebanon, CT 06249 Tel. (860) 642-7255 Fax (860) 642-4794 web: wentworthcivil.com File No.: GU20063 Date: 8-22-23 Sheets 1 of 10 to 10 of 10 Map No. 23-024-1C".
6. Completed State of Connecticut Department of Energy and Environmental Protection Reporting Form.
7. Six (6) copies of the stormwater runoff report for the project prepared by Wentworth

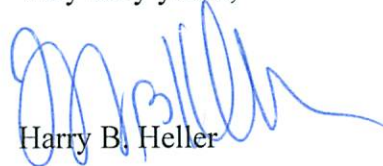
Town of Montville
Inland Wetlands and Watercourses Commission
Attention: Mrs. Stacy Radford, Wetlands Enforcement Officer
March 27, 2024
Page 4 of 4

Civil Engineers LLC dated March 6, 2024.

Since the instant application is an application for a declaratory ruling and resubdivision review only, with no regulated activities proposed, no application fee is submitted with this application.

Please place this matter on the Agenda of the April 18, 2024 meeting of the Town of Montville Inland Wetlands and Watercourses Commission. Should you have any questions concerning the application or need anything further, please feel free to contact the undersigned.

Very truly yours,



Harry B. Heller

HBH/rmb
Enclosures