INLAND WETLANDS COMMISSION
MANSFIELD, CT

In the matter of: **Date: May 16, 2016**

W1564- Storrs Lodges, LLC
218 Units, Hunting Lodge Road (Parcel I.D. 15.21.3)
Application for Permit for Regulated Activity
Mansfield, Connecticut

VERIFIED PETITION TO INTERVENE

Pursuant to Section 22a-19 et seq. of the Connecticut General Statutes the undersigned **Mansfield Environmental Trust**, a limited liability company consisting of Mansfield area residents concerned with environmental integrity, and Beverly Sims, of 61 Northwood Road, Mansfield, Connecticut hereby apply to become intervening parties in the above entitled administrative proceeding, and represent as follows:

1. The subject administrative proceeding involves an application by Storrs Lodges, LLC to construct 218 Units of apartments on a property located on Hunting Lodge Road, Mansfield, CT, Parcel ID 15.21.3.
2. This administrative proceeding involves conduct which has or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water and other natural resources of the state in the following ways as informed, inter alia, by expert consultants retained by the Intervenors and as described in reports prepared by them and submitted to the Commission.

    a. The proposed road from the east which crosses the wetland via the access will have a substantial and environmentally destructive impact on the wetlands because the wetlands crossing necessary for this road will require substantial excavation and dewatering of wetlands.
    b. The stormwater management system is insufficient to reduce pollutant loads from the proposed development and will result in harmful pollutant loads being discharged into the many wetland systems on the site.
    c. The extent of clear cutting, regrading and the increases in directly-connected impervious area will eliminate natural infiltration in the upland

areas and interfere with natural recharge and change the natural hydrologic period within the wetland system.

d. Stormwater discharges threaten to create thermal impacts to receiving wetlands and watercourses and may change subsurface flows of water connected with the site.

e. The use of chloride deicing agents on the roads and parking areas will adversely affect aquatic species and plants within the many wetland systems on the site.

f. The hydrological and ecological functions of the documented vernal pool will be adversely impacted by the proposed development located to the south and east of the vernal pool, and which comes within 100' of the vernal pool in several locations thereby reducing necessary buffer, altering the hydrologic period of the pool and discharging impaired runoff into the vernal pool.

g. That the proposed development being violative of more than one applicable regulatory standard constitutes a *per se* violation of the Connecticut Environmental Protection Act, 22a-19 et seq. under the rule in *Shukis v. Board of Education*, 122 Conn. App. 555 (2010).

h. At least one feasible, prudent alternative exists to the proposed site development which is consistent with the reasonable requirements of the public health, safety and welfare, and required to protect the air, water, and other natural resources associated with the subject property; including:

i. Reducing the number of units, as no need has been demonstrated for the scale of this intensity and scale of development;

ii. Increasing the width of undisturbed vegetative buffers

3. The Connecticut Environmental Protection Act of 1971 provides, in part, that any person may intervene as of right in any administrative proceeding upon the filing of a verified pleading asserting that the proceeding "involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the State". C.G.S. Section 22a-19(a).

4. It is the responsibility of the applicant in this administrative proceeding to adequately develop by the introduction of substantial evidence of record, evidence that will address the issues raised herein with respect to the potential impacts, and the applicant has the burden of establishing that the proposed action will not have such significant adverse impact as alleged and that no alternatives exist that would reduce or eliminate the potential for such adverse impacts.

5. Pursuant to C.G.S. 22a-19, et. seq., the undersigned requests all rights of participation granted to any party in accordance with the provisions thereto.

6. This request for intervention with party status will further the policies and purposes of the Connecticut Environmental Protection Act. (C.G.S. 22a-19, et. seq.)

7. The application involves a major change and intensification of the existing use of the subject property and the petitioner's intervention will advance the public interest with regard to the protection of the natural resources of the State.

8. The Intervening Petitioners, pursuant to the provisions of C.G.S. Section 1-21c, hereby request that they be given written notice by mail of all hearings and meetings to be held in connection with this proceeding as well as all negotiations pertaining to the above captioned application. Such notice shall be sent to the intervenor at the following address:

Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth, LLC
51 Elm Street, Suite 201
New Haven, CT 06510-2049
keithrainsworth@live.com

Applicable Law:

A. CEPA Allows Any Person To Intervene In Legal Proceedings to Raise Environmental Issues

As noted above, this Application is made pursuant to CEPA, the plain language of which was intended to provide wide access to the states' various tribunals. Red Hill Coalition, Inc. v. Conservation Commission of Town of Glastonbury, 212 Conn. 710 (1989).

The statute provides in relevant part:

> "[in] any administrative, licensing or other proceeding, and in any judicial review thereof made available by law, ...any person ...or other legal entity may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state."

§22a-19 (emphasis added).

Unlike a classical zoning cases, a §22a-19 or 22a-19 intervenor need not show "aggrievement". Hyllen-Davey v. Planning & Zoning Commission, 57 Conn. App. 598, 593, 749 A.2d 682, cert denied, 253 Conn. 926, 754 A.2d 796 (2000)("the EPA waives the additional aggrievement requirement in ...§22a-19, [which] authorizes any citizen or other entity, without having to first establish aggrievement, to intervene in an existing proceeding."); Scaringe v. Meriden Planning & Zoning Comm, CV-000274515-S, J.D. at Meriden, (November 26, 2002)(Gilardi, J).

An allegation of facts that the action at issue in the proceeding is likely to unreasonably impair the public trust in natural or historical resources of the State is sufficient. See, Cannata v. Dept. Of Environmental Protection, et al, 239 Conn. 124 (1996)(alleging harm to floodplain forest resources).

B. CEPA Is Not Discretionary: Once A Verified Application Has Been Filed, Intervention Is A Matter of Statutory Right

The Connecticut Appellate Court has noted that statutes "such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose." Avalon Bay Communities, Inc. v. Zoning Commission of the Town of Stratford, 87 Conn.App.537 (2005); Keeney v. Fairfield Resources, Inc., 41 Conn. App. 120, 132-33, 674 A.2d1349 (1996). In Red Hill Coalition, Inc. V. Town Planning & Zoning Commission, 212 Conn. 7272, 734, 563 A.2d 1347 (1989) ("section 22a-19 makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded"); Polymer Resources, Ltd. V. Keeney, 32 Conn. App. 340, 348-49, 629 A.2d 447 (1993) ("*[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.*") See Also, Connecticut Fund for the Environment, Inc. V. Stamford, 192 Conn. 247, 248 n.2, 470 A.2d 1214 (1984).

In Mystic Marinelife Aquarium v. Gill, 175 Conn. 483, 490, 400 A.2d 726 (1978), we concluded that one who filed a verified pleading under § 22a-19 (a) became a party to an administrative proceeding upon doing so and had "statutory standing to appeal for the limited purpose of raising environmental issues." "It is clear that one basic purpose of the act is to give persons standing to bring actions to protect the environment." Belford v. New Haven, 170 Conn. 46, 53-54, 364 A.2d 194 (1975).

This Application makes specific verified allegations of unreasonable impairment of natural resources, *inter alia*: water quality degradation, vernal pool habitat alteration by stormwater runoff; the dewatering of wetlands and the alteration of the hydrology of wetlands; the unreasonable destruction of wetlands buffers; thus, the undersigned parties intervene in this proceeding on the filing of this Verified Notice of Intervention and request notice of all meetings.

Alison Hilding

Alison Hilding, President
Mansfield Environmental Trust, LLC

Beverly Sims

Beverly Sims

STATE OF CONNECTICUT :

: ss: Mansfield

COUNTY OF TOLLAND :

On this 16th day of May, 2016, personally appeared Alison Hilding, President of the Mansfield Environmental Trust, duly authorized, and made oath to the truth of the matters contained in the foregoing application, before me.

Commissioner of Superior Court/Notary Public

ANGEL EVANS
NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 30, 2016

STATE OF CONNECTICUT :

ss: Mansfield

COUNTY OF TOLLAND :

On this 16th day of May, 2016, personally appeared Beverly Sims, and made oath to the truth of the matters contained in the foregoing application, before me.

Commissioner of Superior Court/Notary Public

ANGEL EVANS
NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 30, 2018

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was deposited in the United States mail, first-class, postage pre-paid, or hand delivered this _____ day of May, 2016 and addressed to:

Storrs Lodges, LLC-- , Anthony Giorgio, 30 Dorset Crossing, Suite 600, Simsbury, CT 06070

The Town of Mansfield Wetlands Commission

Keith R. Ainsworth, Esq.

Digitally signed by Keith R. Ainsworth, Esq.
DN: cn=Keith R. Ainsworth, Esq., o, ou=Law Offices of KRA, Esq., LLC, email=keithrainsworth@live.com, c=US
Date: 2016.06.07 10:12:59 -04'00'

Keith R. Ainsworth, Esq.