

**R.I. DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES PERMITTING SECTION  
FRESHWATER WETLANDS PROGRAM**

**BIOLOGICAL EVALUATION  
OF  
APPLICATION TO ALTER FRESHWATER WETLANDS**

**Application No.:** 22-0264

**Applicant Name:** KenDan, LLC

**Biologist:** Jessica Lord

**Date:** June 3, 2024

**Location:** Approximately 150 feet south of Gooding Avenue, and approximately 300 feet southeast of its intersection with Broadcommon Road, near Utility Pole No. 218, Assessor's Plat 111, Lot 1, Bristol, RI.

**Project Description**

The applicant has proposed the construction of a 76-room hotel and associated parking area, screen plantings, stormwater mitigation systems, and associated utilities (electrical utility connection and connections to town water line, gas line, and sewer line).

Alterations to freshwater wetlands include filling, grading, clearing, excavation, creating soil disturbance, and other construction related activities. *Estimated wetland loss totals approximately 4,717 square feet of swamp and approximately 45,200 square feet of 50-foot perimeter wetland.*

The report entitled, "Written Narrative in Support of an Application to Alter a Freshwater Wetland for a Hotel Development, A.P. 111, Lot 1; Gooding Avenue, Bristol, Rhode Island" with a revised date of December 22, 2022, was submitted in support of this application proposal, and will be referenced to as the submitted narrative report.

**Wetland and Site Description**

The subject site is an undeveloped, wooded lot and is approximately 9.8 acres in size. The subject property is bounded by a contiguous swamp to the south and east, residential development to the west, and Gooding Avenue to the north. An approximately 20-foot-wide sewer easement runs diagonally through the center of the property and is maintained as a mowed/cut path. The terrain at the site slopes gently from the west to the east towards the swamp.

The swamp and its 50-foot perimeter wetland cover majority of the eastern and southern portions of the subject property. Red maple, black gum, willows, highbush blueberry, morrow's honeysuckle, green ash, winterberry, spicebush, arrowwood, swamp dewberry, soft rush, common bur sedge, spotted jewelweed, skunk cabbage, cinnamon fern, royal fern, sensitive fern, sedges, poison ivy, and jack-in-the-pulpit were observed throughout the swamp. Soil saturation, water-stained leaves, and hydric soils (gleyed with redoximorphic features) were observed throughout

the wetland. No wetland flags were observed during the site visit; however, the depicted wetland edge and limit of disturbance have not changed from the previous submittal under application no. 15-0033, therefore, the wetland edge is considered adequate as depicted.

The 50-foot perimeter wetland and upland within the project area have an overstory dominated by red maple and black gum and a sparse understory of black cherry, spicebush, sassafras, sensitive fern, poison ivy, princess pine, Canada mayflower, Virginia creeper, common raspberry, and cinnamon fern.

The freshwater wetlands affected by the proposed project include at least the following types: swamp and its 50-foot perimeter wetland.

### **Impact Assessment**

#### **Wildlife and Wildlife Habitat Impacts:**

This property is likely utilized by a variety of wildlife. Potential wildlife habitat present on the subject lot includes a forested perimeter wetland, a swamp, and forested upland. The freshwater wetlands and forested upland on this lot could supply water and food, resting, perching, breeding, nesting, and den sites, as well as shelter and escape cover for a variety of resident and migrant wildlife species. American robins, tufted titmice, Carolina wrens, brown-headed cowbirds, house sparrows, song sparrows, black-capped chickadees, and downy woodpeckers were identified either by sight or vocalization during the site visit.

A few tree cavities and snags were observed within freshwater wetlands and upland portions of the site; both tree cavities and snags can provide nesting, shelter, and feeding sites for a variety of wildlife. Mammals that are likely to utilize the site include at least white-tailed deer, raccoon, gray squirrel, eastern chipmunk, eastern cottontail, opossum, striped skunk, fox, and coyote. Deer tracks were directly observed during the site visit. In addition, a black swallowtail was observed within the subject property.

The swamp is already impacted by the existing visual and auditory impacts from Gooding Avenue to the north and the developed residential properties to the west. The visual and auditory impacts will likely increase due to the hotel construction and associated influx of human disturbance. Impacts to wildlife habitat from this project are primarily associated with clearing, grading, and filling. Impacts to wildlife and wildlife habitat include direct loss of biological swamp and associated 50-foot perimeter wetland. The proposed hotel is situated directly on a lobe of the swamp located on a slope in the north-central portion of the lot. The proposed project is situated as close to the road and other development to the greatest extent practicable. Screen plantings are proposed along the southern and eastern portions of the limit of disturbance (LOD), once the plantings have grown to a substantial size, they should help minimize the long-term impacts from noise, lighting, and other human disturbances associated with commercial use.

Upon review of the RIGIS Rare and Endangered Species Maps, the subject site is located within a natural heritage area; however, the nearest observation of a rare or endangered species is

approximately 1,650 feet from the project area. Further, there are no unique wetland types or unusual geomorphic features on this site to increase the potential for rare or endangered species to occur.

**Recreational Environment and Aesthetics Impacts:**

The property has the potential for a variety of recreational activities, including, at least photography, bird watching, nature study, and hiking. After construction of the proposed project, the site will still be able to support these activities, but the recreational areas would be restricted to the southern side of the property away from the proposed hotel and parking areas.

Regarding aesthetic value, no unusual geological formations or archaeological sites have been recorded at the site.

**Flood Protection and Drainage Impacts:**

The swamp has the ability to collect, retain and slow the release of storm water, thereby reducing flood hazards. The project site is located inland of the FEMA-mapped 100-year floodplain and is approximately 450 feet up-slope from Silver Creek. An infiltrating underground sand filter with proposed Isolator Row-TM pretreatment and an infiltrating surface sand filter with a sediment forebay as pretreatment are proposed to provide water quality treatment for the proposed impervious areas.

Refer to the attached engineering report dated 6/30/2023. Engineering clearance has been granted.

**Water Quality Impacts:**

An infiltrating underground sand filter with proposed Isolator Row-TM pretreatment and an infiltrating surface sand filter with a sediment forebay as pretreatment are proposed to provide water quality treatment for the proposed impervious areas, which include the rooftop, parking areas, and access drives. Sediment and erosion controls will be installed along the Limit of Disturbance (LOD) for the duration of the project to minimize potential soil erosion and sedimentation impacts to freshwater wetlands.

Refer to the attached engineering report dated 6/30/2023. Engineering clearance has been granted.

**Impact Avoidance & Minimization:**

Examples of avoidance and minimization incorporated include a row of screen plantings that are proposed along the entire eastern and southern LOD; the proposed plantings consist of sixty-two (62) northern white cedar, 5-feet-tall after planting and spaced 8-feet on center. Silt fence and/or straw wattles will be installed along the limit of disturbance to minimize soil erosion and sedimentation impacts to freshwater wetlands.

The hotel, parking areas, and associated stormwater mitigation systems are proposed within swamp and its 50-foot perimeter wetland. The portion of the swamp that will be directly impacted

is a topographic drainage area characterized by woody vegetation. This portion of the swamp leads directly to Gooding Avenue and residential properties. Those areas encroached upon are confined to areas now experiencing visual and auditory disturbances from Gooding Avenue and adjacent residences.

### **Notice Period**

During the 45-day Public Notice Period, thirty-five (35) letters were received commenting on this proposal.

All the letters received, except one, raised objections to the proposed project. The main concern raised was increased flooding issues if the hotel was approved and built. Other concerns raised included impacts to wildlife and the fact that other properties are available in Bristol that are more suitable for the proposed project, and that would not require filling in wetlands.

The Town Clerk/Council Clerk of the Town of Bristol submitted a letter that was neither in support nor objection to the proposed project. In the letter they did raise concerns about flooding problems in this area and provided the Silver Creek Drainage Study for the Silver Creek Watershed dated November 2007. They also raised concerns that the development of this property could have potential effects on the proposed development of the high school downstream. The old high school was built on top of Silver Creek prior to the promulgation of the Rules, and frequently experiences flooding issues.

Refer to Supervisor's determination to address comments.

### **Conclusions**

The applicant appears to have kept proposed alterations in compliance with Rule 1.10 (E) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act.

This project was previously issued a Significant Alteration Permit under Application No. 15-0033 on August 22, 2018 after a Negotiated Settlement was reached and a Consent Agreement was executed. The third permit renewal was issued on September 1, 2021 and expired on August 22, 2022; therefore, this new application was submitted that depicts the exact same project that was previously approved.

Although I do not concur with every statement in the applicant's written responses to address the review criteria, I generally concur with most of the findings that I am charged to review. Based on the information available, it is my opinion that the applicant has satisfactorily demonstrated that all impacts to the wetlands' functions and values have been minimized to the maximum extent possible.



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES

FRESHWATER WETLANDS / STORMWATER ENGINEERING  
CLEARANCE for NOTICE & FINAL REVIEW

Date: 6/30/2023

Reviewer: Nicholas A. Pisani, P.E.

*Nicholas A. Pisani P.E.*

Application Number:	FWW#:	22-0264
	WQC#:	22-114
	GWD/UIC#:	UIC--001650
	RIPDES#:	RIR101247
	OTHER:	_____

Applicant Name: KenDan, LLC

Project Name: Gooding Avenue Development

Plans and Analysis Reviewed: Plans and Reports received by DEM on 6/27/2022, with revised plans and analysis received on 5/25/2023.

Engineering Review conducted with Checklist rev. date: 2/20/2014.

Recommended Action: Adequate for Public Notice and Adequate for Approval with Condition.

Findings:

- 1) **Redevelopment Status:** The proposed project represents new development.
- 2) **Drainage and Water Quality Issues:** The submittal meets the pertinent requirements of the RIDEM Stormwater Management, Design and Installation Rule (250-RICR-150-10-8). Specifically:
  - **Re: Water Quality Standard:** The proposed design includes two (2) water quality treatment practices to provide water quality treatment for the proposed impervious area of proposed impervious areas proposed areas of rooftop and parking and access drives. These will consist of an infiltrating underground sand filter with proposed Isolator Row-TM pretreatment and an infiltrating surface sand filter with a sediment forebay as pretreatment. Together these will filter and infiltrate the water quality volume (one inch of runoff from contributing impervious areas) from the proposed project. The proposed design meets pertinent vertical separations to groundwater table and pertinent horizontal setbacks. Based on the above considerations the proposed design will meet the pertinent Water Quality Standard of the Stormwater Rules.
  - **Re: Recharge Standard:** The proposed design provides two (2) infiltrating sand filters. Together these infiltration practices will meet the pertinent Recharge Standard of the Stormwater Rules.
  - **Re: Channel Protection Standard:** The proposed project design includes an infiltrating subsurface sand filter, an infiltrating surface

sand filter, and two underground detention practices. Together these practices will provide a combination of infiltration and detention that will ensure that the discharge rate in the one-year storm event will be less than the allowable release rate required to ensure the 24-hour extended detention of the total runoff volume for the one-year storm event. Therefore, the submitted analysis shows that the proposed project design will meet Channel Protection Standard of the Stormwater Rules.

- **Re: Overbank Protection Standard:** The proposed design includes a proposed underground sand filter, a proposed surface sand filter, and two underground detention practices. The submitted analysis demonstrates that together these practices will serve to ensure that there will not be any increase in the peak runoff discharge rates in either the 10-year or the 100-year 24-hour Type III storm events. Therefore the proposed design meets the pertinent Overbank Protection Standard of the Stormwater Rules.
- The designer has addressed potential downstream flooding concerns by indicating that the submitted analysis shows that the total runoff volume of runoff to the receiving wetland will be decreased in the 1, 10 and 100-year 24-hour Type III storm events.

**3) Re: Soil Erosion and Sediment Control Issues:** The submittal includes an acceptable Soil Erosion and Sediment Control Plan.

**4) Floodplain and Floodway Issues:** The site of the proposed development is located inland of the FEMA-mapped 100-year floodplain.

**Technical Justification(s):** If the site plans for the proposed development include a BMP that does not fully comply with all the applicable design requirements of the RISDISM, then please note below:

- NA

**Permit Conditions:**

- 1) The long-term operation and maintenance plan shall be strictly followed. The long-term operation and maintenance plan shall be that entitled "Operation & Maintenance Plan, Gooding Avenue Development, Located in Bristol, Rhode Island; Applicant: Kendan, LLC", dated 1-23-2018, Revised 4-06-2021, dated received 6/27/2022, prepared by DiPrete Engineering.