

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING ON TUESDAY, JULY 11, 2023, AT 7:00 P.M., VIA GoToMeeting: by web <https://meet.goto.com/650653005>; or by phone, United States: [+1 \(571\) 317-3116](tel:+15713173116), Access Code: [650653005#](https://meet.goto.com/650653005#).

Present were Chair Michael Feldman, Vice Chair Michael Sacks, and Commissioners Michael Beauchamp, Robert Breckinridge, Gary Gianini, and Carol Hauss. Also present was Emily Kyle, Planning and Community Development Specialist/Wetlands Agent and Attorney Kari Olson and Attorney Joseph Szerejko, both of Murtha, Cullina LLP, attorneys for the Town of Avon.

Chair Feldman called the meeting to order at 7:01 p.m. There is a quorum of 5 Commissioners present (G. Gianini joined the meeting subsequently).

I. PENDING APPLICATION:

APPL. #786 – The Silvio Brighenti Family LLC, Owner and Applicant; request for regulated activities within the 100 foot upland review area: construction of house, driveway, utilities, and related site work on each of three (3) lots (the “Property”). Locations:

250 Northington Drive, Parcel 4910250;
256 Northington Drive, Parcel 4910256; and
7 Saddle Ridge Drive, Parcel 6210007.

David Whitney, P.E. of David F. Whitney, Consulting Engineers, LLC, George Logan, Soil Scientist of REMA Ecological Services, LLC, and Jeffrey Brighenti, Principal of the Owner/Applicant are also present. D. Whitney said this Application was for reapproval for three (3) existing lots of record in the Bridgewater Estates Subdivision. For 250 and 256 Northington Drive, plan revisions since the last IWC meeting were made on the side of each lot where the proposed houses are closest to the wetlands. He had previously proposed boulder rows at the edge of the Conservation Easement Area (the “CEA”) to be a physical barrier to lawn encroachment towards the wetlands. D. Whitney proposed adding more boulders at 25-30 foot intervals to serve the same function as a physical barrier. He is also proposing aluminum discs on trees at regular intervals to indicate the CEA (something the Town used to do). Those two (2) items will make it clear to a homeowner where the CEA starts. For 7 Saddle Ridge Drive, he previously had a boulder row at the edge of the proposed CEA and he has added additional boulders on the east side of the lot to protect the wetlands on at least 3 of 4 sides. He had also previously indicated an area of enhanced wetlands plantings to help maintain the canopy over the wetlands and G. Logan had indicated the types and numbers of plantings, trees and shrubs.

G. Logan began by saying that he just received the report from the North Central Conservation District (the “NCCD”) and he will see if there is anything else that he could do. His report should have given the IWC an understanding of what the wetlands looked like though he focused more on the vernal pool habitat which is several hundred feet to the left of this parcel. He knew from the environmental report from Eric Davison of Davison Environmental there was potential vernal pool activity (breeding) in Wetland Area #1. G. Logan found wood frogs breeding in the area

marked on the plan. He went out to the site twice – March 28 and April 17, 2023. He is very familiar with reviewing vernal pools. The timetable of vernal pool inspections is to catch early migration and then later migration. Typically he has two keystone species, the wood frogs and the spotted salamanders, that he looks for and some others depending on the kind of vernal pool habitat. He has noticed over the years that 90% of wood frogs come to a breeding pool more or less at the same time because it is an ecological advantage for them to deposit their egg masses in the raft. There are several pulses of spotted salamanders that come to a breeding pool. The first pulse is the males that can come early as they have a little bit of cold tolerance. The females come a few days to two weeks later. They already have eggs to be fertilized, they pick up the spermatophore, and then lay egg masses. He has been doing vernal pool surveys since about 1990 and believes that by visiting the site on March 28 and April 17, he would see 98-99% of any amphibians that would breed. He went through the southwestern lobe of Wetland Area #1 which is seasonally flooded looking for egg masses in water depths that are at least 10” because wood frogs like the deeper water which is a little cooler. Over the years the wood frogs tend to come to the same spot though G. Logan also checked areas that were marginal and suboptimal. In the area which was about .2 acres he found 35-40 egg masses. He also dip netted with an aquatic net looking for marble salamanders because those breed in the fall and winter though they are typically found in rocky areas with deep water. In summary, this is a breeding area for wood frogs which is not surprising as this wetlands area is large and even though it is surrounded by development, there are many ways that wood frogs can transverse this habitat. It is not unusual for wood frogs to breed in very poorly drained wetlands like this one. They are able to be above water in the winter to hibernate in those spots. That is one of the reasons that even though this wetlands is surrounded by development, it has continued to maintain a wood frog population and probably will for many years to come. This is a Tier 1 vernal pool but the most important area is what is closest to the breeding pool habitat – usually about 100’. As far as protection from a wetlands regulatory perspective is concerned, the question is whether there are any physical impacts. G. Logan was part of three court cases that went to the CT Supreme Court and he has dealt with vernal pool regulations. Physical impacts would include changing the hydrology of the wetland, changing the water quality, filling the wetland, or impacting it short-term by erosion and sedimentation. None of these items are happening here so there are no physical impacts. Even from a purely ecological perspective, it is his professional opinion that this particular vernal pool breeding habitat is preserved even with the development of these two lots. He said that there is a seasonally saturated wetland that is nearer to the proposed lots but they are not as sensitive as the seasonally flooded area which is at least 100’ away from the lots on all sides. He is trying to develop these lots in a sensitive enough way so there are no physical impacts to the wetlands resource. There is no direct wetlands impact here. There is a large amount of CEA that is being proposed in relation to the lots. There is protection even beyond the limits of the lots and there are buffers that are an average of 35-40’ which include gentle slopes, good infiltrated soils, dense enough vegetation, and good canopy. Looking at the factors that promote infiltration and water quality, it is his opinion that there will not be a significant, adverse impact.

M. Beauchamp said that these two lots are surrounded by wetlands on three sides and is concerned about runoff from the driveways because they look very steep. He also believes there will be a mosquito problem in the summer so a homeowner will spray the backyard. G. Logan said the driveways are steep but there is a yard drain there and the runoff is being directed to the

drain. So the “first flush” which washes out pollutants and constituents is going into the yard drain. One of the best management practices is to infiltrate and there are long flow paths down to the wetlands so by the time the water gets through to the wetlands, the constituents have either been absorbed or attenuated. This is the best management practice and is recommended for this kind of development when you are on less than an acre. Even the 2004 Water Quality Manual does not recommend what the Applicant is doing here as the guidelines are only applicable for disturbances that are more than an acre. Even though the wetlands are surrounded by development, the functions and values of the wetlands are doing fine. This is a robust enough and large enough wetlands with enough of a buffer from the lots. He believes that there is more wildlife utilizing this area than he saw and from an ecological perspective this development is not something that is going to adversely affect the overall functionality of Wetland Area #1. The mosquitoes are not a wetlands issue but it is a reality that people will spray the area though many have realized that prior spray treatments were not good around children and pets. The spray used now is biological and not chemical so it is hitting the developmental phase of mosquitoes so larvae cannot emerge. There are a dozen+ mosquito species in CT but only a couple that are a concern. Typically mosquitoes breed in wetlands and do not go more than 50’ away from there. D. Whitney said that the driveways that he designed are not steep – they are a maximum of 8% grade. Driveways in Avon are allowed to be up to 14% but that is very steep so he tries to keep them under 10%. These driveways are longer than necessary but also a lot safer. If he tried to bring the driveways straight out to the road, the grade would exceed 20% which does not meet Avon’s regulations and would be inaccessible at times (i.e. icy conditions). He said that the intent for all three lots is for the runoff from the driveway to flow down to yard drains and be captured and directed into a stormwater infiltration system. So the runoff from the house and more importantly, the driveway will go into a treatment system which is best management practices.

C. Hauss believes that the NCCD Report raised some conflicting information such as these wetlands and vernal pool both being particularly sensitive to development because of the headwater wetlands and the Tier 1 vernal pool. She is concerned about the buffer and is not convinced there is enough buffer area. She is also concerned about the wood frogs. She read G. Logan’s report that said that wood frogs do not need much habitat because they can migrate and yet in one of the reports it talks about this wetland area already being impacted by development and bifurcated by the roadways. G. Logan said from an ecological perspective, he does not think there is an issue. C. Hauss said that wood frogs are a species that could have an impact on the wetlands itself. G. Logan discussed the wood frog court case. Dr. Michael Klemens was the Applicant’s consultant on the vernal pool issues and G. Logan was hired by the Connecticut Fund for the Environment in opposition to the development. The case went to the CT Supreme Court and said that it recognized that wood frogs are a keystone species and if there was a severe impact on the wood frog population it could change the chemistry of the vernal pool, and therefore there would then be an adverse physical impact. Here is a cryptic vernal pool habitat (different than the type in that court case) with a large wetland and G. Logan believes that the development of these two lots will not have an adverse impact to that wood frog population to the point that it will change the chemistry of the wetland. The portion of the wetlands that breeds wood frogs is only a small part of a very large system and that system is very resilient from a water quality perspective. It is not just an isolated classic vernal pool that is 1,000 square feet in the middle of a forest. He believes that there is no physical impact as a result of what is

happening here via wood frogs to the wetlands. G. Logan has written about buffers for different organizations and spoke about a couple of instances. He said that you need to look at different facts such as the sensitivity and functional value of that particular resource and whether it is a cold water stream, a vernal pool, a bog, a fen, or a coastal wetland that has sensitivity to nitrogen. And then you need to look at the characteristics of the proposed buffer such as is it steep, are the soils tight or can they be infiltrated, and what is the vegetation like. Finally, you have to look at what is being proposed. Is it a supermarket with a lot of traffic, noise, etc. or is it a residence. For 250 and 256 Northington Drive you can see that the slopes are not steep above and through the buffer, there is vegetation within the buffer itself, the wetland here is not that close, the vernal pool is hundreds of feet away, and there is not a flowing stream. Looking at all these conditions, G. Logan believes that the 35-40 foot vegetated buffer is more than sufficient to protect the resource even from light impacts or excess nutrients. You do not have a sensitive resource immediately near, the slopes are good, and the particular usage is not intense. D. Whitney quoted from the NCCD Report regarding matters beyond the scope of NCCD and stated that G. Logan is the only expert here. He does not understand C. Hauss' reference to conflicting opinions. She said she was talking about buffers and not the vernal pool.

G. Gianini asked about having only one home on the farthest property and having more area for the buffer. He said that typically there are circular buffers but he asked about directional buffers. G. Logan asked for an explanation of the difference. G. Gianini said a circular buffer goes out from the center of a radius, maybe 750'. G. Logan said that the 2014 studies led to conservation recommendations for terrestrial buffers or life zones but quoted the report as saying that this amount of protection may be unrealistic in urbanizing environments. Here this is an urbanizing environment with an altered landscape so the species are likely to use corridors in certain landscapes and G. Logan believes that is happening here – the wood frog population associated with Wetland Area #1 has acclimated to the environment so that it uses paths but also uses the habitat within the wetlands itself. As research has progressed especially for wood frogs, it has been determined that the way wood frogs disperse or come to or go away from a breeding habitat is random. They follow the landscape and could be crossing the road but G. Logan has not seen any evidence of that here. He does not think that a 750 foot circular buffer applies here for wood frogs.

R. Breckinridge asked if there was any advantage to having front loading garages here. D. Whitney said yes and shared a sketch that he drew up after receiving the NCCD report. It allows the houses to be moved 10' closer to each other and a little further from the wetlands. G. Logan asked if the driveways would be significantly less in size. D. Whitney said that the driveways would be a 10% grade which is the maximum grade he likes to see. He said that the driveway entrances could be moved a bit closer to each other to pull some of the fill away from the wetlands and the driveways would still be considered safe and reasonable. The impervious surfaces would be slightly less. R. Breckinridge asked if it was a significant advantage by moving the homes further away from the wetlands. G. Logan said the only advantage is livability meaning that the homes are further from the CEA which may help homeowners to not violate the CEA. R. Breckinridge asked if there was any chance for in-ground pools on these lots and D. Whitney said that it was a possibility a homeowner could request one. He said that anyone that purchases one of these lots and wants to propose a layout different than the feasibility plan would have to come back to the IWC for approval. If the proposal at the time of building permit

application is dramatically different from the feasibility plan (i.e. a swimming pool), the homeowner would have to come back to the IWC. G. Logan said that the only issue with pools is that people dump chlorinated water into the wetlands though many of these high scale homeowners do not use a lot of chlorine in their pools and use other systems for disinfection. R. Breckinridge asked what the effect would be if someone did dump chlorinated water into the wetlands. G. Logan said it would change the PH and would have an immediate effect on the microbiology at least within the upland review area but it would not be a long-lasting effect because chlorine does not stay in the environment for a long time – it either evaporates, is sequestered by organics, or diluted with rainstorms.

Vice Chair Sacks asked if there was any research to show that the reduction of the critical terrestrial habitat would not lead to the reduction of the wood frog population. G. Logan said it was his professional opinion, and also on a quote from M. Klemens which says that regarding wood frogs, a 50% impact on the critical upland habitat zone still maintains the preservation of the vernal pool. G. Logan said it would be highly unlikely that the situation here would reach the threshold in the court case of losing the entire population or a significant portion of the population of the wood frogs. There is no effect on the vernal pool water quality so there is no physical impact. Vice Chair Sacks does not think that there is any scientific research on the possible reduction of the wood frog population with development on the same scale as here. G. Logan said that if the research does not exist, how could you come to the conclusion that there will be an impact. He said that based on his professional experience doing vernal pool surveys for a large part of his career, reading the scientific research that does exist, and looking at the landscape perspective here where this vernal pool habitat is embedded in a larger system, it is his professional opinion that by developing these two lots it will not have an effect on this habitat to the extent that we would lose this habitat. This is not a classic vernal pool which is a depression layer surrounded by upland habitat. Here the water quality would not change because the wetland which is being used by wood frogs is part of a large system and is so resilient. There is no nexus to developing these two lots and impacts. The landscape setting even with all the roads and development will not change due to adding these two lots. Vice Chair Sacks said there was a substantial change within this terrestrial habitat and we do not yet know its impact. He understands G. Logan's professional judgment but feels that people may differ about the effect. He said the NCCD report recommendation was that an independent, qualified third-party expert should be hired to review the Applicant's wetlands report with particular attention to potential vernal pool impacts. Typically, a town may invoke a complex application fee to hire a qualified, independent third-party at the applicant's expense to review the vernal pool assessment and the assertions that the headwater wetlands will not have adverse physical impacts as a result of the proposed development. G. Logan said that even if the wood frog population or the vernal pool was lost (which would not happen) it would not have a physical impact – this is a robust system. Also, the IWC does not regulate wildlife. Vice Chair Sacks said that M. Klemens' claimed that in order to discover whether there were breeding salamanders, he had to go back to the pool several times. Vice Chair Sacks asked how G. Logan could be sure that looking at this pool in March and April was sufficient to determine whether or not there were salamanders there. G. Logan said that M. Klemens was talking about something he experienced which is different than this. Vice Chair Sacks said that experts may disagree so Vice Chair Sacks thinks there are enough questions here that he feels doubts about this proposal. He also thinks that G. Logan is disagreeing with his own paper on the scientific basis for wetlands and watercourses buffer

zones. G. Logan wrote that paper to inform development planning for large subdivisions but here the proposed development is similar to what is already there. Vice Chair Sacks does not believe that here you will have the same kind of treatment of water that you would have gotten from trees, leaves, shade and everything natural that you are eliminating. G. Logan said this wetland area was not a headwater but the wetland on 7 Saddle Ridge Drive is. Vice Chair Sacks said that there was 6-8" of accumulated water to the right of 256 Northington Drive and he asked if that was seasonal flooding. G. Logan said he did observe that water but it was at least 100' from the property line. Vice Chair Sacks is concerned about the elimination of trees that would occur with construction so close and the disturbance of the long roots of trees into the wetlands. There would be light coming through, invasive species, and a change in the water that flows in the direction of the wetlands. He thinks this area with the standing water is a fairly sensitive area of wetlands. G. Logan does not believe that this is any more sensitive than other areas of the wetlands that he has looked at. Vice Chair Sacks would not want to alter what is flowing into that area. G. Logan said the water would be infiltrated from the impervious surfaces. He also pointed out that the vernal pool has development all around it and there are at least three direct discharges of road runoff close to the vernal pool. But this wetlands area is resilient and has kept its functionality regardless. The proposed development has soft drainage which includes infiltration and a 35-40 foot buffer over gentle slopes to the wetlands which will ameliorate any potential problems. Vice Chair Sacks points to these serious threats to the wetlands and feels that developing these two lots are going to eliminate buffers right in the heart of the wetlands. He feels that the wetlands should not be put under a further stress test. He is also concerned that the development is close to the wetlands and homeowners will want a swimming pool or will want light coming in without large trees overlooking the lot. He thinks if the homeowners violate the CEA it is unlikely to be detected because there are no neighbors. He feels there is a vulnerability here and a temptation to go beyond the CEA, even with the proposed boulders. C. Hauss added that on page 2 of E. Davison's report, Wetlands Area #1 is a headwater wetland to Roaring Brook. G. Logan disagreed with that and Vice Chair Sacks pointed out that experts disagree. G. Logan said that E. Davison's general comment may be because this wetland feeds a stream but from a geo hydromorphic classification system it is not a headwater wetland because it is a depression and not a surface groundwater slope area. D. Whitney said that he needed more time to respond to the NCCD report and allow Attorney Robert Reeve to address the legal aspects of the Application. D. Whitney asked that this Application be continued until September, 2023.

G. Logan thinks he has looked at 7 Saddle Ridge three times and wrote about it in his May 19, 2023 report. The wetland there is characterized by polymeric poorly drained soils that are seasonally saturated and it is a groundwater slope so it is definitely a headwater wetlands. There is an upper portion of a seasonal groundwater discharge area which becomes more pronounced as you go off site. There are some sagging moss and other mosses which means that the area is at least moist throughout the year and it is probably seasonally discharging. This is a seasonal seep which may become more pronounced several hundred feet further down where this is a part of a very large contiguous open space of 250-300 acres owned by the Town. The primary issue here is the preservation of wetland hydrology. D. Whitney emphasized infiltrating water into below ground water infiltrators to maintain the hydrologic regime of this wetland. G. Logan knows the IWC is concerned with thermal impacts on this headwater wetlands. An adverse thermal impact is a change of state of the physical characteristics of a wetland which can have a cascade effect. There is a spectrum of potential thermal impacts to the wetlands which has to do with what kind

of headwater wetlands this is – here this is more of a seasonal situation onsite. Further down that may change and it may be more prolonged because there is more of a watershed there. Sensitivity goes up precipitously when you have a documented cold water system but that is not the case here. He believes there are no thermal impacts here because of that the way the lot has been configured with the water being infiltrated into the ground, the fact that it is not a large lot or area, that the development preserves the hydrology and also preserves enough of a tree canopy, and that this is a very small area in relation to the host system. Also, usually thermal impacts occur when you have a southern exposure where there is more light (this is a northern exposure). As far as mitigation, there is a planting scheme to fill in the gaps which will have a cooling effect. The water including surface water will infiltrate quickly and there is a 35-40 foot buffer on the wetland.

R. Breckinridge asked D. Whitney if a front loading garage is a possibility as the NCCD report recommended. D. Whitney said that a side entrance garage makes a lot more sense esthetically on this lot. G. Logan said his conclusion is that there is not a significant adverse impact to the wetlands because of the mitigation described. G. Gianini asked about sources of pollution whether it is from pesticides or fertilizer. He asked if the IWC has the authority to require organic based fertilizers or an integrated pest management plan. E. Kyle said that from a long term enforcement and management perspective, that is not feasible for Town staff to manage. G. Gianini would like to request a pest management plan for the homeowners in the beginning. G. Logan said that he has seen this done for a subdivision (not a single lot) where there is a homeowner's association which could oversee that. He said that typically the homeowners in these houses are highly educated and educational information has more of an effect. He will confer with D. Whitney to see if there is anything else to promote the soft drainage and protect the wetlands more from pesticides, herbicides, and excessive nutrients. D. Whitney shared his sketch of Hawley Brook and Environs showing the three headwater wetlands on the larger wetlands area which includes the Town's open space of 287 acres. The wetlands on 7 Saddle Ridge Drive totals 759'. He said putting this into perspective, he is not sure how this limited amount of clearing on 7 Saddle Ridge Drive will have an impact on this overall system. G. Logan agrees and said that the critical word is "adverse" impact. C. Hauss had no questions. Vice Chair Sacks asked what the quantity of water is that would go into the drains – how many gallons of water are they going to capture. D. Whitney said it would be 1" of rainfall on all impervious surfaces on the house and driveway. Vice Chair Sacks asked how many gallons it would be. D. Whitney said he would have to calculate that amount. G. Logan said 1" of rainfall on average is 85-90% of the total precipitation in a year. Vice Chair Sacks believes that it is more water than it would have been with trees there instead of impervious surfaces. G. Logan said that increased water flow is a possibility but you are infiltrating 1" of water so it is not surface flowing towards the wetlands. The water is going subsurface which is a good thing. Vice Chair Sacks asked how the water flow would be different from the current situation where it flows through leaves and debris and this heavily forested area. G. Logan said there is less runoff that is cooling the wetlands because now less water gets into the groundwater. There will be more groundwater discharge happening in the wetland which is not necessarily a bad thing. As far as pollution, the roof runoff is relatively clean and most of it is being put into the ground. By the time that water gets to the wetland, it will be completely polished and have no adverse impact. There will be vegetation there and their root systems of what is currently there and what will be planted will do the job of further polishing and cleaning the water. Vice Chair Sacks is

concerned that this is a large, very sloped area where water flows in a concentrated way to the headwater. Even if small trees were planted near the wetlands they would not be anything like the large trees currently there which provide leaves for nutrients and filtering for pollution. He does not believe that if you open up an area and you transform it in a way that may bring in invasive species, it will be equivalent. He has concerns about the consequences on the wetlands – the same concerns that led him to vote against this the first time. M. Beauchamp had no questions. Chair Feldman asked D. Whitney if he would like this Application continued and D. Whitney agreed. E. Kyle said an extension statutorily will be necessary and the Applicant will need to consent to grant an extension of time. D. Whitney said the Applicant will consent to the extension.

M. Beauchamp made a Motion to Continue Application #786 to the next IWC meeting. Vice Chair Sacks seconded. The Motion passed unanimously.

II. NEW APPLICATION:

APPL. #787 – AMCO Development, LLC, Applicant, and Virginia B. Shaw Trust, Owner; request for regulated activities within the 100 foot upland review area: construction of house, driveway, utilities, and related site work. Location: 68 Scoville Road, Parcel 3880068.

Andrew Morse of AMCO Development, LLC, proposes to build a single-family home at 68 Scoville Road. The rear, left corner of the lot includes some wetland areas and he is proposing to clear and build the home within the 100 foot upland review area. He just sent E. Kyle a revised site plan. E. Kyle said this plan was quite different than the one received with the Application so she does not have any staff comments regarding this modification. Chair Feldman asked if this was just submitted to the IWC and A. Morse agreed that it was. He said the clearing and the house location are different than what was originally submitted. C. Hauss said the Application did not have a functions and values report from the soil scientist and the IWC does not have all the information on this Application to discuss it. James McManus, Certified Professional Soil Scientist with Jim McManus Consulting Services, said that the Application is not incomplete by statute without a functions and values assessment and he feels that the site plan, the Town paperwork, the soil delineation report, and the fees are all you need to accept the application. Vice Chair Sacks would like to table this Application. Chair Feldman asked J. McManus which statute he was referring to when he said he did not need a functions and values report. J. McManus replied that he did not have the statute number. Chair Feldman said that the IWC needs to see information prior to the meeting so the Commissioners can read it, digest it, and come to the meeting prepared to discuss. J. McManus would like to discuss this application now but C. Hauss would like to table this so she can review the information, and she would like a proper site walk map as well. K. Olson supports the IWC's stance on this. E. Kyle said that she discussed with A. Morse (and every applicant that reaches out to her prior to submitting an IWC application) what he needed to submit. She recommended to A. Morse that this application was not complete and he should wait but he declined. J. McManus said that the report was provided but just not timely. K. Olson said that the regulations allow the IWC to request any additional information that they deem appropriate in their analysis of an application. K. Olson suggests that this Application be tabled to the next IWC meeting so all of the information can be submitted. K. Olson reiterated that the IWC needs the all the information in advance to treat the Applicant

fairly and equally with everybody else that comes before the IWC. Chair Feldman said that today was the date of receipt of the Application, new materials were just received, and the IWC is not ready to hear this.

Vice Chair Sacks made a Motion to Continue Application #787 to the next IWC meeting. C. Hauss seconded. The Motion passed unanimously. K. Olson is concerned about the deadline if the IWC thinks this Application needs a public hearing. Chair Feldman said that the IWC does not have enough information to decide whether a public hearing is needed. K. Olson said that if the IWC has an obligation to make certain decisions with the statutory timeframe. If the IWC decides at the next meeting that what is being proposed is a significant activity, there is still time to schedule a public hearing without running afoul of a statutory deadline.

III. COMMUNICATIONS FROM THE PUBLIC (unrelated to any Application): None.

IV. OTHER BUSINESS: Chair Feldman asked about Executive Session. E. Kyle replied that the potential case has a planting deadline of July 15 so she hopes to have positive updates at the September meeting.

A. Discussion of Potential Future Regulation Modifications:

Vice Chair Sacks said that he hopes everyone agrees that there is a greater need for the IWC to be able to bring in a third-party expert. E. Kyle said that the Planning Department is almost ready to go to the Town Council with a draft ordinance that allows the IWC to charge a fee for a third-party expert. Following that initial review, she will distribute it to the IWC for comments, concerns and questions before the September Town Council meeting. Chair Feldman asked about the fee ordinance going to the Town Council first and E. Kyle replied that the fee ordinance is the first of two steps. Chair Feldman asked if the IWC is allowed to amend its regulations and K. Olson said yes but the Town Council must create a fee ordinance first that authorizes the charge for those consultants. G. Gianini answered R. Breckinridge's question about Simsbury and said that when that IWC requests an expert opinion, it is restricted by square footage of whatever the project is. Simsbury is now requesting a revision to their ability to hire experts for large and complex projects. G. Gianini said that Simsbury is asking the Town to pay for this, not the applicant. E. Kyle said that she hopes to blend the Farmington and West Hartford regulations to create something that works for this IWC. K. Olson reiterated that it makes sense to go to the Town Council first and then revise the IWC Regulations.

B. Staff and Commissioner Comments (unrelated to any application): None.

C. Approval of Minutes: June 6, 2023 – Regular Meeting. C. Hauss made a Motion to Approve the Minutes from the June 6, 2023 Regular Meeting. R. Breckinridge seconded. The Motion passed unanimously.

V. NEXT REGULARLY SCHEDULED MEETING: July 11, 2023

Vice Chair Sacks made a Motion to Adjourn. R. Breckinridge seconded. The Motion passed unanimously.

There being no further business, the meeting adjourned at 9:40 p.m.

Janet Stokesbury
Clerk, Inland Wetlands Commission
Town of Avon Department of Planning and Community Development