

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL SPECIAL MEETING ON TUESDAY, January 11, 2022, AT 7:00 P.M., VIA GOTOMEETING: by web, <https://global.gotomeeting.com/join/518369533>; or by phone, United States: [+1 \(877\) 309-2073](tel:+18773092073), Access Code: [518369533#](https://global.gotomeeting.com/join/518369533).

Present were Vice-chair Michael Beauchamp; and Commissioners Robert Breckinridge, Michael Feldman, Gary Gianini, CJ Hauss, and Michael Sacks. Also present was Emily Kyle, Planning and Community Development Specialist/Wetlands Agent.

Vice Chair Beauchamp called the meeting to order at 7:05 p.m.

I. ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON:

Vice Chair Beauchamp began by stating that the first item on the Agenda is to elect a new Chairperson and a new Vice Chairperson. He opened the floor for nominations for the Chair. M. Sacks nominated M. Feldman for Chairperson. C. Hauss seconded the nomination. M. Beauchamp asked if there were any other nominations. R. Breckinridge moved to close the nominations. M. Sacks seconded. The Motion passed unanimously. M. Beauchamp issued congratulations to the new Chairperson. Chair Feldman thanked everyone and stated that it was an honor to be elected. Chair Feldman extended Happy New Year greetings to everyone. He continued by thanking Cliff Thier on behalf of himself and the entire Commission for Cliff's steady leadership of the Commission for all these years through some difficult and controversial proceedings, always with a lot of dignity and respect. Chair Feldman continued by thanking Martha Dean (not present) who was always an incisive questioner and brought a lot of expertise in environmental law to the table. Chair Feldman welcomed the newly elected members, CJ Hauss and Gary Gianini, and they both have already done their homework by viewing the DEEP videos and reviewing the regulations and materials. Chair Feldman looks forward to continue working with the existing Commissioners and we will have the benefit of their experience and institutional knowledge. He also thanked E. Kyle and Janet Stokesbury, town staff, for all they do and he looks forward to working with them as well. Chair Feldman then opened the floor for nominations for Vice Chairperson. G. Gianini nominated M. Sacks to be Vice Chairperson. C. Hauss seconded the Motion. Chair Feldman asked if there were any other nominations. M. Beauchamp made a Motion to close nominations. G. Gianini seconded the Motion. The Motion passed unanimously. M. Feldman issued congratulations to Vice Chair Sacks.

II. NEW APPLICATION:

APPL. #773 – Thomas Molusis, Applicant/Owner; request for regulated activities within the 100 foot upland review area: construction of a 24' x 30' pre-constructed garage and related site work. Location: 81 Wheeler Road, Parcel 4580081.

E. Kyle posted the Agenda on the screen. Thomas Molusis will be speaking on behalf of his Application. T. Molusis began by stating that the proposal is for a pre-fabricated garage by The Barnyard. It is proposed within the 100 foot upland review area to a stream. He applied to the Town of Avon for a building permit and during the zoning review, he was notified that a Wetlands Permit was required.. He had a soil scientist complete a delineation report which the

Commissioners have a copy of. He also had a surveyor survey the property and he provided the plans and pictures for the Commission's review. The garage will not be any closer to the watercourse than the existing shed. The shed will be removed. The construction will take under a week because it's pre-fabricated. The driveway will be shortened. He has no plans to repave the driveway. The summary by the soil scientist on the last page of the report says that the proposal is reasonable and is not a significant activity. If properly installed, the proposed garage will not have a negative or adverse effect on the natural capacity of the wetlands or the functions or services they provide.

Chair Feldman thanked T. Molusis. M. Beauchamp asked if the garage would be on a slab. T. Molusis confirmed that it would be. He then asked how far the garage would be from the intermittent stream. T. Molusis replied that the corner would be 24 feet. M. Beauchamp then asked if that was the only place to put the garage. T. Molusis answered that his original proposal was for the garage to be parallel with the stream. He angled the garage in this proposal to be closer to the porch, with the ability to still get into the garage. In his opinion, this is the furthest he can put the garage from the stream.

R. Breckinridge asked where the water drains to. He questioned if it drains into the brook that crosses Route 44. T. Molusis replied that he was unsure but he does know that it goes across to Moravia, then across Wellington Heights, and then into the woods. R. Breckinridge stated that there is a fair amount of water flowing through it and asked what it is like in the summer. T. Molusis stated that it is intermittent – if it rains, it runs, and if not, it is completely dry. Also in the spring when the snow starts to melt, it runs as well. R. Breckinridge asked what will happen with the existing shed. T. Molusis said that The Barnyard will pick it up with a forklift and move it to a different spot on the yard until he sells it. Everything else will be taken away. R. Breckinridge asked if the shed had a foundation or is it on the ground. T. Molusis said that the shed is on a rock bed base with cement footers. He will remove the rocks as soon as the shed is moved and will replace the rocks with topsoil. He will not be planting seed behind it. R. Breckinridge asked if there would be some type of barrier to prevent the soil from washing into the stream. T. Molusis said that silt fence would be installed. R. Breckinridge stated that any materials to be removed will hopefully not just be moved to another part of the site still within the 100 foot review area. T. Molusis stated that everything will be hauled offsite immediately. He will be certain to move the shed outside of the 100 foot review area until it is sold.

Vice Chair Sacks questioned that if this was an addition that was 25 feet away and roughly half the size, 720 square feet, then E. Kyle could have approved this without the Commission. If that was the case, what would E. Kyle look at? Her concerns were consistent with the comments that have been addressed so far. She worked with Mr. Molusis during his application submittal process. Her biggest concern, aside from the construction of the garage, involved the other site work such as dismantling the garden though she viewed that as minor. The bigger questions she asked the applicant were about quantities of excavated material and what would be happening with that. E. Kyle also agreed that the shed needs to be moved outside of the 100 foot review area. Otherwise, that would need to be addressed on the application if it was moved to another regulated area. The location of the silt fence is confusing as well because it's proposed to be on top of where the garden is going to be removed. It is going to be newly seeded topsoil and she is concerned that the new topsoil would be disrupted by the installation of the silt fence. She did

not feel comfortable with the proximity to the stream and wanted the Commission to get a chance to review the application. Her review was very consistent with the questions that have been asked so far. T. Molusis stated that until he sells the shed, he will put it on the other side of his house which is not even close to the 100 foot review area.

C. Hauss indicated that all the questions she had has already been answered. G. Gianini appreciates all the questions asked so far and does not have anything to add.

Chair Feldman feels that the stream seems unprotected (of course now it is covered with snow). He assumes that adjacent to the stream is grass. T. Molusis stated that there is grass up to the area on the map that says 24'. There is no grass behind the shed. E. Kyle showed a picture of the current shed. Chair Feldman stated that there is grass coming right up to the stream bed and it seems that this stream could benefit from the planting of some wetland friendly native plant species. E. Kyle agreed and mentioned the benefit that there is some rock protection on the stream edge. If anything, she'd like that rock protection to extend to protect the stream. However, she does not believe this proposal is an environmental threat to the stream. Chair Feldman then asked about gutters on the shed. T. Molusis stated that there are no gutters. Chair Feldman noticed a downward slope and wondered if there is a way to drain the water away from the stream. T. Molusis believes that when they install the foundation, he can have them grade whatever way he needs to. He would just like more direction whether to grade toward the center of his yard. E. Kyle agreed.

Chair Feldman would like to get the consensus of the Commission as to whether the Commission needs to table this or act on this proposal. It seems like this is a straight forward, non-threatening proposal. Vice Chair Sacks thought the Commission was ready to vote. R. Breckinridge agreed as long as E. Kyle includes some of the protective measures that were discussed. Chair Feldman asked for a Motion to Approve. Vice Chair Sacks made a Motion to Approve Application # 773. R. Breckinridge seconded the Motion. Chair Feldman wants to articulate the conditions to the approval. The existing shed will be moved beyond the 100 foot review area from the stream. T. Molusis will consult with E. Kyle on a planting plan with appropriate species to plant along the stream and in a quantity at her discretion. There will also be an effort to drain the water runoff from the driveway and the pre-fab garage away from the stream. R. Breckinridge added that they need to use appropriate barriers during construction. Chair Feldman asked if the four conditions were acceptable to everyone. T. Molusis asked if hostas (which are already planted along part of the stream) would be acceptable. Chair Feldman indicated that T. Molusis could consult with E. Kyle on the types of plantings.

Chair Feldman then asked for a vote on the Motion. The Motion passed unanimously. T. Molusis thanked the Commission.

APPL. #774 - James A. LaRosa, Applicant, Mansoor Anwer Zaidi and Sheeba Nawab Zaidi, Owners; request for regulated activities within the 100 foot upland review area; relocate existing driveway and construct new driveway with associated grading and site work. Location: 10 Sky View Drive, Parcel 6060010.

David Whitney, Engineer, welcomed the new Commissioners. The Applicant is James LaRosa, who was present. E. Kyle showed one of the plans submitted by D. Whitney which is the 2002 approved Subdivision plan for Sky View Estates, located on the west side of Deercliff Road about halfway between Route 44 and the Farmington Town Line. 10 Sky View Drive is a corner lot with some frontage on Deercliff Road and Sky View Drive. J. LaRosa is currently building a house on 20 Sky View Drive which was approved with access across 26 Sky View Drive. This is typical design on a busy, dangerous road to minimize curb cuts and funnel all the houses in a subdivision to one road where you have one intersection with Deercliff Road. The driveway for 20 Sky View Drive is a 30 foot easement across 26 Sky View owned by Laura Surowiec. D. Whitney has shaded the 30 foot easement in yellow on his plan. In 2002, when the subdivision was approved, soil scientist David Lord identified two small wetland pockets on 10 Sky View Drive, now shown in green on the plan. At the time the subdivision was approved, the upland review area was 40 feet from wetlands soil boundary, shown on the plan by a dashed green line. The current upland review area is now 100 feet, shown on the subsequent maps. This is a three lot project involving 10, 20 and 26 Sky View Drive. Presentation Plan #2 shows the Proposed Driveway Relocation with existing conditions. The 30 foot driveway easement on 26 Sky View Drive is shaded in yellow. The two brown lines show the existing driveway to J. LaRosa's lot, 20 Sky View Drive. One map showed the driveway that is partially constructed at present – the one that J. LaRosa is using as construction access to his lot. Another map showed the current approved plan – the one that the issuance of the building permit for 20 Sky View Drive was based on. Presentation Plan #3 shows the existing driveway crossed out because what the neighbors have worked out is that the owners of 10 Sky View Drive, the Zaidis, will deed a thirty foot portion of their land to J. LaRosa that he will then construct a new driveway on. So essentially this is a proposal to move the driveway 30 feet east. By doing that and because the upland review area has increased from 40 feet to 100 feet, a portion of this proposed driveway will be located within the upland review area. D. Whitney located the two wetlands areas on 10 Sky View Drive. The proposed driveway is almost 500 feet long and about 280 linear feet of that driveway will be within the upland review area – shaded in red on the plan. Presentation plan #4 shows the detailed driveway design on a larger scale. Wetlands area 1 is the smaller wetlands area to the north which is about 1900 square feet or 4/100s of an acre and the larger wetlands area 2 is about 5500 square feet or .13 acres so the total amount of wetlands on 10 Sky View Drive is under 2/10s of an acre. There is also a storm drain discharge pipe to the south on the front of 10 Sky View Drive that discharges stormwater from the road to these wetlands. As part of the subdivision approval, a 15 inch culvert was proposed at the location where the driveway enters 20 Sky View Drive. D. Whitney assumes that was because, at the time, the designers anticipated some flow out of these wetlands but that pipe has been installed for some time now, continuously dry. D. Whitney believes that it will remain dry. This plan also shows, along the eastern edge of the new 30 foot access way, a row of silt fence to be installed along the entire length to protect the wetlands from any sedimentation. The plan shows the proposed contours of the driveway on top of existing contours. For the driveway itself, the cuts and fills are minimal – the maximum is almost 2 feet of cut and 2 feet of fill. The land slopes down from the existing driveway to the wetlands with a relatively moderate slope. The driveway itself will be running parallel to the contours so it will rise up from Sky View Drive at about 2% grade to a high point above wetlands area 2, then it will go down towards 20 Sky View Drive at a grade of about 4%. It gets a little steeper – about 6% - as you get to 20 Sky View Drive. This is a relatively flat driveway because it goes parallel with the contours. The land slopes towards the wetlands so on

the uphill side there will be a cut and on the downhill side there will be a little bit of fill just to create a flat driveway. There will be no excess material, the cuts and fills balance, and it is a relatively simple driveway construction. It will look like the driveway that is there except that it will be at a lower elevation. The wetlands were originally delineated by D. Lord in 1999 and upon re-delineation of the wetlands, he found that the wetlands were pretty much the same. Wetlands area 1 is flagged with flags 1 through 9 and the larger wetlands area with flags 10 through 18. The total area of disturbance in the upland review area is about 6800 square feet. The Site Walk Map shows a number of flags along the existing property line put there by the surveyor with orange ribbon to show the current property line (along the eastern side of the existing 30 foot easement). D. Whitney placed the 6 stakes (pink and green) along the center line of the proposed driveway. Stake one was right by the road. Stake two was where the driveway first enters into the upland review area from wetlands area 2. Stake three is a stake approximately in the middle of the upland review area from wetlands area 2. Stake four is at the point where a portion of the driveway goes outside of the upland review area. Stake five is in the middle of the upland review area from wetlands area 1. Stake six is where the driveway exits the upland review area. The proposed driveway is a bit lower than the existing driveway. D. Whitney also put a number of green flags on trees to help visualize the centerline of the driveway. He also flagged with pink flags the trees with a diameter of 3 inches and larger (hardwoods and evergreens) that will have to be removed as a result of the construction – approximately 66 trees within the upland review area. The distance of the disturbance from the proposed driveway east to wetlands area 2 is 65 feet, and about 75 feet from the proposed driveway east to wetlands area 1. There is a considerable amount of wooded buffer remaining.

D. Whitney began to summarize the soil scientist's report dated January 3, 2022, and referred to the Verification of Original Wetlands Delineation, a standard delineation report where D. Lord explains how wetlands are classified. These two pockets of wetlands are Wilbraham and Menlo, extremely strong stony soils. These are basically poorly drained soils. The non-wetland soils where the driveway will be constructed is Cheshire sandy loam and it is relatively well drained. The non-wetland soil between the driveway and the wetlands are reasonably well drained. It is not until you get to the toe of the slope that the wetlands are basically at a low point because the land rises up as you continue to go to the east. The second wetlands report from D. Lord, also dated January 3, 2022, is a Wetlands Function and Values Assessment which is D. Lord's opinion as to what the wetlands do, what their functions are, and the impact of the wetlands from this proposal. D. Lord researched the Connecticut DEEP natural diversity database and this site is not located within any of the shaded areas that indicate threatened or endangered species. There is an existing cover of hardwood and conifer trees. The wetlands consist of two small shallow depressions with no visible inlets or outlets. A storm drainage system on Sky View Drive discharges to the uplands south of the southern wetlands pockets. Slopes in the area of the alternate driveway are relatively slight. In the report, D. Lord continued by talking about the methodology he used which is the Army Corps of Engineers Highway Methodology Workbook. He also included what the thirteen functions and values of wetlands are. The wetlands functions he identified for these two wetlands pockets are basically sediment toxicant retention and nutrient removal. Basically the wetlands receive stormwater runoff and any pollutants or nutrients can soak into the ground. Again, there is storm drainage discharge from the road and the wetlands provide some degree of renovation of that stormwater runoff, now called urban runoff. D. Lord's report says that the functioning of the wetlands will not be significantly altered

by the relocation of the proposed driveway to an area 65 to 75 feet from the closest wetlands. He did recommend that the eastern side of the new driveway could be enhanced for wildlife habitat functioning by planting of berry producing shrubs. D. Whitney indicated that the Applicant, J. LaRosa, is willing to plant the berry producing shrubs on the eastern side of the driveway. J. LaRosa has hired a landscape architect to do a detailed planting plan for his entire property. The conclusion from D. Lord's report is that in his professional opinion, the proposed alternate access driveway location for a single family residence does not represent a likelihood for significant adverse environmental impact to the existing function of the on-site wetlands or their long term functioning at present levels. D. Whitney mentioned E. Kyle's Staff Report dated January 3, 2021 (meant to be 2022). She stated that it would be difficult to quantify vegetation removal but D. Whitney did count the mature trees from 3 inches to 24 inches in diameter and the number was 66. M. Feldman thanked D. Whitney for his thorough report.

R. Breckinridge asked J. LaRosa why this plan was made with two driveways running parallel to each other. Why not share the existing driveway? J. LaRosa replied that the existing developer gave an easement to 20 Sky View Drive on the property of 26 Sky View Drive. The owner of 26 Sky View Drive just purchased the property knowing there was an easement there. The owner of 26 Sky View Drive has a separate garage and a basketball court along the easement and on multiple occasions, friends of the owner's son would park along the easement to access the basketball court. It became difficult for J. LaRosa to access his driveway so he began discussing possible alternatives with his neighbor so J. LaRosa could have his own driveway. That was the main reason for this proposal but the other reason was that J. LaRosa began this process was that once he began laying out this property with the surveyor, J. LaRosa noticed that the neighbor at 10 Sky View Drive had a fence and newly planted trees that had gone over onto 20 Sky View Drive by approximately 70 feet. So J. LaRosa and the Zaidis, the owners of 10 Sky View Drive talked about trading land on the north side of 10 Sky View Drive for land on the west side of 10 Sky View Drive so J. LaRosa could then have his own driveway. R. Breckinridge asked how many trees would be cut for the new driveway. D. Whitney answered that there would be 66 trees in the upland review area that would have to come down. R. Breckinridge felt that this was very destructive and questioned having two parallel driveways. D. Whitney stated that the portion of the existing driveway from the basketball court to 20 Sky View Drive would be eliminated and revegetated. D. Whitney's experience is that people are more comfortable having their own driveways and not sharing driveways. D. Whitney stated that if they had thought there was going to be any impact to these mediocre wetlands, then they would not have proposed this. The wetlands are low value. They have a couple of functions but because of their size and their isolation, their functioning will not be impacted by the removal of some trees. Both Mr. Surowiec of 26 Sky View Drive and J. LaRosa plan to vegetate between their driveways and on the east side of the new driveway. They want to be good neighbors and this seemed like the solution to make everyone happy, and again according to David Lord, with no impact to the wetlands. R. Breckinridge asked if these wetlands are vernal pools in the spring. There was no information from the soil scientist on this and R. Breckinridge cannot judge this at this time of year, but he felt that they have that appearance. R. Breckinridge asked if there is ever any standing water in either area. D. Whitney has been there about ½ dozen times but has never seen standing water. D. Whitney stated that D. Lord said that the depressions in these low areas are 2-3 feet and are not deep enough to hold water for that two month period in the springtime. R. Breckinridge asked if the soil scientist could put this in writing. D. Whitney will ask D. Lord to

come to the next meeting. J. LaRosa stated that he cleared the land at 20 Sky View Road in early April, 2021. J. LaRosa has been going to the property, both driving and walking it, about 3 years deciding where to put the house. J. LaRosa then shared his background as a builder in the northeast in CT, MA, RI, NY and NJ and he does primarily multi-family housing projects as well as a lot of military work. He is constantly developing land as a constructor. Water on this land at 20 Sky View Drive drains extremely fast. After a downpour, he may have an inch of mud and that's it on his entire property. He has never seen standing water in that wetlands area and he has walked it numerous times to see if it went onto his property. When he put in the drainage which he did per the original development (approximately 30-40 feet of pipe), no water has ever come close to that drainage. J. LaRosa stated that he does not believe there is a vernal pool there because he has not seen any water other than from a rainstorm which is gone in half a day. He will do what the Commission feels is appropriate. He had a hard time even finding the wetlands until the surveyor went to the property and D. Lord located them. R. Breckinridge would like a soil scientist to give his opinion on this. R. Breckinridge is concerned because everything slopes down from all sides into that area and he would be concerned in the spring. R. Breckinridge would like an opinion on vernal pools. J. LaRosa stated that the owners of 26 Sky View Drive tried to get J. LaRosa to stop using his easement. He does not want to argue about using his driveway and even considered stopping construction and selling his property. The owner of 26 Sky View Drive is actually paying for the construction and buying J. LaRosa out. R. Breckinridge asked about the easement. J. LaRosa stated that his current easement from Sky View Drive is for access and utilities. J. LaRosa is currently using that driveway and has a legal right to use it. R. Breckinridge repeated that J. LaRosa could use that existing driveway.

M. Beauchamp commented that every homeowner involved knew from the beginning about the easement so none of the events should be a big surprise to any landowner. M. Beauchamp asked if J. LaRosa could currently still construct his home and move in. J. LaRosa agreed that the status quo could work but the neighbors and J. LaRosa would not like it. The easement on the deed is not clear what usage J. LaRosa has and what usage the neighbor at 26 Sky View Drive has. J. LaRosa said it is a poorly written easement according to his attorney. M. Beauchamp asked if that could be resolved with attorneys. J. LaRosa agreed that it could. M. Beauchamp is uncomfortable with the Application given that it could work as is.

C. Hauss stated that her questions had been answered. Vice Chair Sacks has some of the same concerns as others. He is concerned that the Commissioners could not see everything that is there due to the season. Vice Chair Sacks saw that some of the largest trees in the area were located in the area to be cleared. Those trees would provide a significant buffer in the area in terms of wildlife that could be living there. Vice Chair Sacks found it interesting that the soil scientist said that the levels of human activity and the associated noise levels have already had an impact on the functioning of the subject wetlands. More human activity here and more noise will only add to the impact on wildlife. There will be decreased shade but the increased life, like invasive plant species, could be a concern. The land is slanting down from the activity so the flow is into the wetlands. Vice Chair Sacks has grave concerns that the impact is considerable and the alternative to having this impact is readily available and very clear. He does not see a compelling reason to tear down all these woods. D. Whitney responded by referring to the soil scientist's report. He read "The following functions and values were identified as existing within the wetland resource (this is the third paragraph on Page 2 of the Functions and Value report) sub areas by the

evaluation process: the size of the wetland resources, their character, the adjacent single family residences, and the separation distances from other wetlands, has a limiting effect on the levels of functions and values. These functions and values are influenced to impacted by the existing levels of residential development. The levels of human activity and the associated noise levels have already had an impact on the functioning of the subject wetland. No existing wildlife species for example, are likely to be displaced as a result of this project.” Then D. Lord goes on to talk about the two functions that these isolated wetlands have: sediment retention and nutrient removal. No activities are going to be in the wetlands themselves. All vegetation that is there will continue to exist there. The storm water runoff from the road will continue to go into these wetlands and settle into the ground. So in D. Lord’s opinion, this activity on the edge of the upland review area still 65-75 feet away will not impact the functions of these mediocre wetlands. D. Whitney stated that all wetlands are not created equal. These wetlands are not too spectacular but those functions need to be protected and according to D. Lord there will be no impact. If his report is not satisfactory and the Commissioners want some additional information, D. Whitney believes that D. Lord will be glad to provide it. Vice Chair Sacks found that paragraph very valuable but interprets it very differently. Vice Chair Sacks thinks that paragraph is saying that there is already a serious compromise to this area that exists because of the settlement there. He does not want to see any further compromise to it. He believes the wetlands are valuable for the wildlife and valuable for the area. He would like to see the limited amount of wetlands that are in this area well preserved and protected and buffered in a way that we can do without a project that might entail changes that are not necessary. D. Whitney referred to D. Lord’s report on page 2 that states that the level of functioning in his professional opinion will not be significantly impacted by the proposed alternative driveway location on this property. D. Whitney stated that D. Lord is an expert and part of this process is to hire experts who give their testimony. Vice Chair Sacks stated that perhaps the Commission should hire their own expert.

G. Gianini would like to visit the site before he makes a decision. He had no questions.

Chair Feldman acknowledged that J. LaRosa is trying to be a good neighbor and accommodate his neighbor at 26 Sky View Drive with his desire to have a separate driveway. Chair Feldman’s understanding from driving around the site is that 26 Sky View Drive already has an existing driveway apart from the easement area. J. LaRosa agreed. Chair Feldman stated that this would be a supplementary driveway for them. J. LaRosa agreed and he does not know what the owners of 26 Sky View Drive intend to do with the easement. Chair Feldman now understands that the plan is not to eliminate the current driveway, it is to have two parallel driveways. J. LaRosa responded that the plan is for J. LaRosa to have his own driveway without sharing it with anyone. The easement in favor of 20 Sky View Drive would become solely for utilities. Chair Feldman echoes the concerns of R. Breckinridge. There will be a lot of trees removed. Chair Feldman did not realize that there will be 66 trees removed. Also, with snow on the ground in the middle of winter it is hard to get the full flavor of the amount of vegetation that is there in the summer like low bushes and ground cover. Chair Feldman would like to respect the upland review area which provides support and protection to the wetlands. The trees, the leaves, the branches fall down and nourish the wetlands. They provide habitat and nourish the creatures and the plant life of the wetlands. He believes that this application is talking about a very significant impairment to the upland review area which, in turn, would have a direct impact on the wetlands. He also believes that there are some hydrological concerns as well. Moving the driveway that

much closer to the wetlands, parallel to an existing driveway, equates to that much more impervious surfaces with that much more runoff going directly to the wetlands, with less area for it to percolate into the soil. While not all wetlands are created equal, we have to respect the small wetlands as much as the larger ones. If you add up all the small wetlands, that constitutes a very large portion of total wetlands. D. Whitney stated that the proposal does not touch any of the wetlands and the proposal is to clear a small, less than 2/10s of an acre, on the edge of the upland review area. He stated that the upland review area is not the same as the wetlands resource themselves. The upland review area serves a function but it's not as significant as directly in wetlands, nor will these wetlands will be diminished in any way by this proposal. Chair Feldman states that D. Lord's report does not go very far. D. Lord does not address the value of the trees in protecting the wetlands. 66 trees in a small area is a lot. Chair Feldman stated that the existing easement is part of the approved plan and would be a feasible alternative – just as feasible as putting in a new driveway. It is already cleared and graded and it will not be any more expansive than this proposal. J. LaRosa stated that the easement does not need to be just paved – it is not graded well and needs quite a bit of work. The only difference between the existing easement and the proposed driveway is the clearing of trees. D. Whitney agrees with Chair Feldman about the fallen trees. There are many, many fallen trees in this area now so there is that habitat which is being provided right now. There is no proposal to go in and clear out the fallen trees that are in the wetlands or even within the 65 feet to the wetlands. Also, in regard to the additional runoff, the non-wetlands soils are well drained. The applicant has talked about the fact that he has not seen a lot of water for long periods after storms. There is a considerable amount of woods where the water will drain into the well-drained soil before it even gets to the wetlands. D. Whitney would like to bring D. Lord in front of the Commission and do some drainage calculations because based on D. Lord's evaluation, these wetlands have minimal functions and there's not going to be any impact of those functions from this proposal. D. Whitney asked if this proposal could be continued. Chair Feldman stated that this Commission tries to be as deferential as possible to allow people to make as complete an application as possible. Chair Feldman questions what D. Lord could say to help this Application. D. Whitney asked about the mechanism in the regulations for the Town to hire a second opinion, a second soil scientist, paid for by the Applicant. D. Whitney asked if that would be helpful. Chair Feldman answered that it might. D. Whitney asked E. Kyle about the procedure for this. He stated that in the past when there has been opposition to projects and each side has a soil scientist, the Town has hired a third party. E. Kyle stated that this is an option that the regulations allow. E. Kyle would however like to do homework on that – a public hearing may be required. This is very rare and usually it is for tumultuous applications which give the Commission the authority to choose which expert testimony they are going to use. E. Kyle would like to research the requirements. Chair Feldman asked the Commissioners if they should be tabled to hear more evidence or whether to put it to a vote now. R. Breckinridge would like to table this. R. Breckinridge asked if the original intent of the developer for this and surrounding lots was to put the driveway where the temporary driveway is now. J. LaRosa replied that zoning in that area requires 200 feet of frontage so access to 20 Sky View Drive was done by this easement. The house on 10 Sky View Drive was built before the development. Shared driveways was something that was done frequently along Deercliff Road. He did not know that he did not own access until he was at his closing and realized that it was an easement. J. LaRosa mentioned other projects that he has worked on in the State. He has actually relocated wetlands in Waterford. If there is something that he can do to enhance the wetlands with this driveway, he will consider that. He'd like to table this proposal. R.

Breckinridge asked where the driveway was on 26 Sky View Drive. J. LaRosa answered that their driveway is about 100 feet further up Sky View Drive from the easement. R. Breckinridge asked if the owners of 26 Sky View Drive were using this easement as a driveway. J. LaRosa stated that they are to get to a garage off this easement. R. Breckinridge asked if 26 Sky View Drive has two driveways. J. LaRosa answered that they do. D. Whitney explained that the garage is actually more than just a garage – it is also a studio, an office, and a workshop. So J. LaRosa's easement is a secondary way to get to the garage, workshop, studio, and the basketball court. R. Breckinridge asked if the owner of 26 Sky View Drive can use this easement. J. LaRosa answered that they could and also stated that a land use attorney told him the easement was not written well. R. Breckinridge asked if a homeowner can put a driveway on an easement. E. Kyle answered that her question would be for Town Engineering if a property owner received an encroachment permit for this. D. Whitney stated that Sky View Drive was a public road. She believes that the owner of 26 Sky View Drive can use that easement. R. Breckinridge asked if the owner would have to pull a permit for the driveway. E. Kyle believes that it is on the subdivision approval and because it is on the original plan, it is covered. R. Breckinridge stated that if the original intent was for the easement to be the driveway for 20 Sky View Drive, then even if the wetlands are not productive, why would the Commission allow an intrusion on that. It is not part of the original plan of this neighborhood. D. Whitney stated that any applicant can come in if they want to improve a situation and change something. If the wetlands are not significant and there's no impact to the wetlands from an encroachment in the upland review area, anyone can ask like J. LaRosa is doing now. R. Breckinridge replied that the Commission would be much more critical in a situation like this vs. where there was no plan in the past and where things weren't outlined clearly as to the intent. At the time, the upland review area was 40 feet so they probably didn't have any problem establishing the driveway there but now things are completely different and the Applicant is asking the Commission to make an exception. J. LaRosa stated that the Commission is looking at why he wants to move the driveway rather than what he can do to minimize the impact to the wetlands. He is surprised at the outcome of this meeting because he has been building for many years and had done many things in wetlands in other towns without impacting the wetlands. He is shocked at the time spent on this small portion of driveway and would like the opportunity to table this to see if there's a solution that he would propose that would enhance what is existing today. He would also like the Commission, when they walk the property, to see the diseased hemlocks on the proposed driveway. There are a lot of dead trees that will fall over anyway. If they fall to the east, they fall towards wetlands and if they fall to the west into the easement, he removes them. There are also many dead trees on his property. R. Breckinridge is in favor of tabling this Application to get some more information. Chair Feldman understands that this easement was designed for the specific purpose of access to J. LaRosa's property and the Commission is now being asked to move it or to have a second driveway. Chair Feldman is fine with tabling the Application and asked for other thoughts from the Commissioners. C. Hauss would like more time to walk the site. Chair Feldman asked E. Kyle to look into the question of hiring an additional consultant to give us some input. J. LaRosa is free to supplement his Application before the next meeting. D. Whitney understands that additional information must be submitted within ten days prior to the next meeting. He may have an opportunity to improve those wetlands to do some plantings or something else to make these wetlands more valuable.

Chair Feldman asked for a motion to table this until a later date. M. Beauchamp made a motion to table this Application # 774 until the next regularly scheduled meeting. R. Breckinridge seconded it. The Motion passed unanimously. J. LaRosa thanked the Commission.

STAFF COMMENTS: E. Kyle welcomed the new members to the Commission. She mentioned that she is also using a new format for Staff Reports so they may look different and welcomes any suggestions to be as helpful to the Commission as possible. Chair Feldman appreciated the new format for Staff Reports and asked for a section on recommended conditions for approval of applications. Chair Feldman confirmed that E. Kyle would look into the possibility of hiring another soil scientist at the Applicant's expense. Vice Chair Sacks also questioned how this person would be selected. E. Kyle will do the research right away including what the ramifications are. G. Gianini then asked what the procedure is for site visits, for example, do you call first? Chair Feldman answered that this is an easy one because this is an empty construction site. The property owner has basically given the Commissioners permission to go onto their property so unless there is an issue, the Commissioners can go when they want. E. Kyle stated that when we get applications we have contact information for the owner so we can let the Commissioners know a phone number or an email address of the owner, whatever the applicant prefers.

III. APPROVAL OF MINUTES: M. Feldman asked if there were any changes, corrections or comments to the Minutes of the IWC Regular meeting on December 7, 2021. There were none. Vice Chair Sacks made a motion to approve the minutes. M. Beauchamp seconded the motion. The minutes were approved unanimously.

IV. NEXT REGULARLY SCHEDULED MEETING: The next regularly scheduled meeting is Tuesday, February 1, 2022.

C. Hauss made a motion to adjourn. Vice Chair Sacks voted to second the motion. The motion passed unanimously.

There being no further business, the meeting adjourned at 9:00 p.m.

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