THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL SPECIAL MEETING ON Monday, June 27, 2022, AT 6:30 P.M., VIA GOTOMEETING: by web, https://global.gotomeeting.com/join/119537053; or by phone, United States: +1 (646) 749-3129, Access Code: 119537053#.

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.

Chair Feldman called the meeting to order at 6:32 p.m. There is a quorum of 6 Commissioners. G. Gianini stated that he reviewed the virtual record of the regular IWC meeting held on June 13, 2022 so he can fully participate tonight.

I. PENDING APPLICATIONS:

APPL. # 780 – Lionel and Deborah I. Feigenbaum, Owners and Applicants; request for regulated activities within the 100 foot upland review area: construction of an addition to an existing garage and related site work. Location: 57 Breezy Knoll, Parcel 1410057.

David Whitney, PE, stated that the wetlands were delineated by George Logan, Soil Scientist. The surveyor located the wetland flags as shown on Presentation Plan #1, as well as the existing house, pool and driveway, together with the field topography in the area of the proposed development, which is an addition to the garage. D. Whitney prepared the site plan using accurate information from an on the ground field survey. Presentation Plan #2 shows the site plan submitted with the Application. The site is an existing single family residential lot of 3.3 acres at the corner of Breezy Knoll and Vermillion Drive. The house, proposed addition, wetlands, and upland review area are shown - the addition is within the 100 foot upland review area. At present, the area where the addition will go is an existing blacktop turnaround which will be eliminated. There is no increase in the impervious surface for this proposal. A trench drain will be installed along the front of the garage door because the two driveways flow down directly towards the garage. At present, the stormwater runoff sheet flows across the turnaround area, then across the grass and into the wetlands. Proposed pipes will direct the runoff and it will be discharged at a location near the wetlands. In addition, there are currently several downspouts by the front door and he will connect those roof downspouts and the proposed addition roof downspouts into a collection pipe so there will be two pipes, one from the trench drain and one from the outlet. These pipes will discharge to an area adjacent to the wetlands where he proposes installing an infiltration basin which is an area where the water can slow down the velocity and soak into the grounds. The infiltration basin is designed for the 1” water quality volume which is what is recommended by the DEEP for sizing basins such as this. D. Whitney placed stakes at three of the four corners of the proposed addition and a fourth stake in the center of the shallow infiltration basin to be built in the backyard. The closest location from the addition to the wetlands is stake #2 which is the southeast, rear corner of the garage – a distance of about 12’. There will be a minimal amount of earth excavation involved with this project – the contractor will remove the existing pavement, excavate 4’ deep trenches for the footings, and put the foundation in. It will be at existing grade so there are virtually no cuts or fills or other grading required. The excavation for the infiltration basin will be about 18” deep, where the runoff from

the garage can settle, infiltrate into the ground, and evaporate before it would enter the wetlands. E. Kyle's staff memo dated June 1 recommended that a double row of erosion control be installed. At present the plan shows a row of silt fence to be installed around the east side of the garage and then around the infiltration basin. D. Whitney has added a second row, a straw wattle, below the infiltration basin where it is in closest proximity to the wetlands. E. Kyle suggested that they extend that second row of erosion control, the straw wattle, all the way around the building and the Applicants agreed.

G. Logan stated that the wetlands are shown by the green line on D. Whitney's plan. The rest of the property past this is mostly wetlands. There is a seepage runoff area with a little bit of runoff that comes off Vermillion Drive. He visited the site today and there was a full leaf out which is good as far as delineating wetlands with soils but looking at the diversity vegetation, this is a sweet site, meaning it is circle neutral as far as its Ph. The wetlands have a great diversity of vegetation, especially in the herbaceous layer, but it also attracts a lot of invasive species. Closer to the wetland boundary – in about 25-30' – the understory of the wetlands is mostly invasive species. There is good diversity and good structure in the wetland itself. There is no additional impervious surface – the same amount of rain that is falling now on the pavement will be falling on the roof. The level spreader is an improvement. He will specify a rain garden mix/pollinator mix which grow very well. G. Logan said that there is no direct impact to the wetlands - there are no hydrologic impacts so it will be maintained the same and they are not introducing any issues with water quality impairment. They will be removing some vegetation for the level spreader but there are invasives there and some dead or dying trees so that is positive. His conclusion as a soil scientist is that there is no significant adverse impact from this Application to the wetlands and watercourses.

D. Whitney said that the Applicants agree to the suggested conditions of approval in E. Kyle's staff report. In addition to the double row of erosion control, she requested that any material removed as part of the garage excavation that will not be used for landscaping projects be removed off site. She also requested a stockpile location area by added to the plans. D. Whitney said that no significant trees will have to be removed as part of this project – just dead trees, scrub growth, and invasive species.

G. Gianini asked about sheet draining and D. Whitney explained that sheet draining is when stormwater runoff is not concentrated at one point. The water will flow – over the grass in this case - but it is not concentrated in any one area. G. Gianini then asked about the trench drain. Whitney replied that a trench drain is a linear drain that has slots or perforations in the grate along the entire drain. A trench drain is 8-10" wide (it can be whatever length you want it to be) and it is designed to pick up the sheet flow from the driveway to protect any water from coming up against the new garage door. It is approximately 12" deep and 8" wide and the water will flow in through a grate similar to a catch basin in the road. G. Gianini asked about the pitch and how you minimize any kind of erosion due to big storms. D. Whitney said this is a level spreader which is designed to take the discharge from a point discharge and allow it to pool and spread out and slow the velocity. The water will now come out of the pipe and instead of flowing straight to the wetlands it will flow to either side and fill up this basin. It will be like a settling pool where the velocity will dissipate. It is designed for the 1" rainfall which is 90% of the storms each year in Connecticut. If we get a larger storm, the basin will overflow but it will not

overflow at one point – it will overflow all along the downhill side of the basin and the velocity of the water coming into the basin will be reduced.

M. Beauchamp said that his only concern is that we are only 12' from stake two to the wetlands. He asked if this is the only alternative that the Applicants has or could the addition be moved in any way. D. Whitney said that it is his understanding that the Applicants and their architect talked about different alternatives but the Applicants and their architect have reduced this to the minimum that they feel is necessary.

C. Hauss had no questions but she does like the pollinator mix idea. R. Breckinridge asked if the washout about 10' to the east of the driveway was the result of water coming down the driveway, going across this area, and then into the woods or is the water coming off the upland review area from Vermillion and coming down into this area. He asked if G. Logan can indicate the flow of water off of the Vermillion Drive ridge. G. Logan said that there is a drainage easement at least 75' in and there was some water flowing which made sense due to the earlier rainstorm but it was not really affecting anything and he did not see any evidence of erosion. The wetland has achieved a kind of equilibrium and whatever happened in the past exposed some boulders which are acting as a sort of dissipator. As far as the driveway is concerned, there might be some minor overflow from the existing pavement into the wetland. R. Breckinridge asked if this design would improve the situation and G. Logan agreed. R. Breckinridge asked if there was a watercourse and G. Logan replied that it is not a watercourse just an area subject to storm flow. R. Breckinridge asked where does the water end up. G. Logan referenced the topography map he provided which shows where the outlet is and further down there is a channel that has formed based on the contours so he expects that is where the water ends up concentrating and then it turns the corner, and continues down. R. Breckinridge asked if any runoff that is coming down to that point is well filtered. G. Logan said that with these kinds of soils and these kinds of vegetation, absolutely yes.

Vice Chair Sacks asked if the significant tree that he saw located on the edge of the infiltrator would have to be removed. D. Whitney replied that the configuration and the exact location of the level spreader or infiltrator basin can be modified in the field – he can easily move the basin to the west if the excavation would harm a healthy tree. Vice Chair Sacks asked what would be in the 10-12' between stake two and the wetlands after construction. D. Whitney replied that the same as what is there now - grass. There will be no need for construction equipment to go between stake two and the wetlands because they will take the pavement out and dig the trenches from the inside. Vice Chair Sacks is concerned about the extent of the work so close to the wetlands and the elimination of any buffer. D. Whitney said that the grass would extend out 2-3' from the stake as it does now and there would be no need to extend the lawn all the way to the wetlands. Vice Chair Sacks believes that the buffer zone between the property and the wetland trees will now be reduced and as we get closer to the wetlands without any form of buffer it makes the wetlands even more vulnerable. D. Whitney said there will be a few feet of lawn from the building so the Applicants can walk around the garage. G. Logan commented that runoff is not going towards the wetlands – it is going in a southerly direction. That particular portion of the wetland is not highly functioning in that it has been disturbed in the past – it is transitional, it does have invasive species in there, and it does not have the functionality of the wetland further south. He suggests that the IWC could scrutinize this post-construction to make sure there is no

restoration that needs to happen. G. Logan continued that from the perspective of the functionality of the wetlands, he does not think what is being proposed will have a physical impact and he believes that you will have room for this enhancement for stormwater and can still avoid a tree.

Chair Feldman asked D. Whitney and G. Logan if they wanted to propose some enhancements, mitigations or conditions that the IWC should consider. G. Logan would suggest that for the level spreader infiltrator, he will use a combination of rain garden mix which likes the moisture with some pollinator species in it. Secondly, the corner of the garage can be scrutinized post-development with staff to see if a restoration enhancement plan for that area is needed. Finally, they can tag the tree by the infiltrator/level spreader so we can identity where it is and avoid it. That can be done in the field so a field correction or adjustment could happen during the construction phase. Chair Feldman asked if the Applicant can submit these conditions in writing for the IWC to consider before voting. G. Logan and D. Whitney agreed. Vice Chair Sacks made a Motion to Table Application #780 until the next regular IWC meeting. R. Breckinridge seconded. The Motion passed unanimously.

APPL. #781 - The Silvio Brighenti Family LLC, Owner and Applicants; request for regulated activities within the 100 foot upland review area: construction of house, driveway, utilities, possible pool and related site work on each of six (6) lots. Locations:

250 Northington Drive, Parcel 4910250;
256 Northington Drive, Parcel 4910256;
274 Northington Drive, Parcel 4910274;
7 Saddle Ridge Drive, Parcel 6210007;
31 Stockbridge Drive, Parcel 6220031; and
49 Stockbridge Drive, Parcel 6220049.

Jeffrey Brighenti is here representing the Applicant and Eric Davison from Davison Environmental is the soil scientist who wrote the functions and values report that was submitted with the Application. D. Whitney said the Bridgewater Subdivision was approved over the years in various phases. There are approximately 12 lots left that have not been developed and 6 of those lots contain wetlands. At the time the subdivision was approved in 2004, the upland review area was 40’ from the wetlands and these lots were approved under those regulations. In 2007 Avon revised its wetlands regulations to the current 100 foot upland review area. These six lots are existing lots of record that the Applicant has been paying taxes on since they were approved. Prospective buyers are concerned because, with the regulation change, it is now impossible to build on these lots without activities within the upland review area.

D. Whitney continued saying that wetlands area #1 is a very large, significant wetlands system located between Stockbridge Drive and Northington Drive and small parts of it are located on four of the six lots. Wetland area #3 is to the north and is a smaller, isolated wetlands area that encumbers two of these lots, 49 Stockbridge and 274 Northington. Wetlands area #2 is the small area on 7 Saddle Ridge Drive. The site plan for 7 Saddle Ridge Drive shows a proposed reasonable and typical rectangle for houses in the area. He has located the proposed house for 7 Saddle Ridge Drive on the 40’ building line and tried to keep the house as far from the wetlands

as possible. The amount of wetlands on 7 Saddle Ridge Drive is very small but because of its location in the center of the lot, the upland review area encumbers a great deal of the property. All six lots will be connected to public sewer and water so there is no need for septic systems. D. Whitney has shown some of the typical sedimentation and erosion control features that you would normally expect on plans – soil stockpile areas and the limits of clearing and grading. There is also silt fence encompassing the entire disturbed area along with a second row of erosion control with straw wattle in the areas in closest proximity to the wetlands. When the subdivision was approved in 2004, 20 foot conservation easements were established around the wetlands and filed on the Land Records. For 49 Stockbridge Drive, he located the house on the front building line to keep it as far away from wetlands as possible and for 274 Northington Drive, he did the same though Northington Drive is an arterial street so the front setback line is 60'. 274 Northington Drive also has a small portion of wetlands along the southern property line. 250 Northington Drive has a small area of wetlands along the southern property line and 256 Northington Drive has a larger area of wetlands mostly at the rear of the property. In these lots the area of the house is lower in elevation than the road so it necessitates that the driveways be longer than the other houses so they are not excessively steep. There is a maximum grade for driveways in Avon. There is a vernal pool about 135' southwest that would be to the left off the site of 250 Northington Drive. Presentation Plan #4 shows the last lot, 31 Stockbridge Drive, that has a small area of wetlands off the eastern property line. The entire rear portion of this lot is almost sheer rock and rises up very steeply so you cannot move the house back to get more of it outside of the upland review area.

E. Davison tried to simplify the layout of the three wetlands. Wetlands #2 is the wetland that is on 7 Saddle Ridge Drive and that wetland sits in its own drainage basin relative to the rest of the project. That wetlands drains into an area to the southwest and into Hawley Brook which drains down through the Unionville reservoirs and into the Farmington River. The section of wetland that is on the property line is the uppermost portion of that wetland. There is no stream or defined channel in wetland #2 but downslope about 150', the drainage area becomes larger and you can see defined channel and flow - this is the uppermost portion of the Hawley Brook headwater wetlands system. Wetlands #3 is an isolated system that straddles 49 Stockbridge Drive and 274 Northington Drive. It has no groundwater component – it is a perched wetland on bedrock, is a marginal wetland in terms of hydrology and soils, and is on the dryer end poorly drained soil. You do not get any standing water – you just get some soil saturation in the late winter and spring so wetlands #3 is a marginal wetland in terms of its functions and values. Wetlands #1 is the largest wetland and lies between Stockbridge Road, Hawk's Ridge and Northington Drive. It is a significant wetlands both in size and function and the watershed and flow pattern has been altered a bit with the development that has occurred around it to date. On the east side at 31 Stockbridge Drive there is a culvert outlet where all of wetland #1 drains down and off site under Stockbridge Drive. At that point, it becomes a well defined channel. This system is part of the Roaring Brook watershed. Wetlands #1 is a high functioning wetland – it has seasonal flooding, very dense vegetation, deep organic soils and very complex micro topography. Those are the wetlands that provide a high level of functions and values mostly relating to their ability to trap stormwater runoff and mitigate flood flow and peak flows. Because they can capture and hold so much water, they tend to be the wetlands that have higher wildlife value because of that seasonal flooding and support amphibian breeding. He did observe a large mass of wood frog tadpoles that had hatched so because wood frogs are a vernal indicator

species, he denoted it as a vernal pool. There are probably other amphibian breeding sites in that wetland, potentially spotted salamanders. So wetlands #1 is a significant wetland in terms of function and also has a wildlife function. Wetlands #2 is also a significant wetland in terms of its context. Headwater wetlands in general are important resources – they contribute cold, well oxygenated groundwater to downstream aquatic habitats. So having a forested undisturbed buffer around headwater streams and wetlands makes a wetland high functioning. E. Davison and Michael Klein reviewed the wetlands line and found the wetlands locations to be substantially correct and accurate.

R. Breckinridge asked E. Davison why the 100 foot setback is so important. E. Davison said that we are talking about the functionality of a wetland buffer and upland review area and in this case, you have a forest and wetland buffer which provides shading and nutrient input into the wetlands. The upland review area also filters surface runoff and infiltrates surface runoff before it gets to the wetlands and most importantly, it provides habitat as most wetland wildlife in Connecticut do not spend all their time in wetlands. This wildlife only uses wetlands temporarily and then they use the areas bordering the wetlands so wildlife habitat, water quality, water temperature, and protection are some of the key functions of wetlands. R. Breckinridge asked if the IWC allows development on 250 and 256 Northington Drive and 31 Stockbridge Drive what would be the effects on the wetlands #1. E. Davison said that any time you alter the upland review area, you have to mitigate the changes in flows that come when you add impervious surface. If you can convert wetlands buffers to dense plantings that can provide infiltration and water quality runoff (like rain gardens), then you can mitigate water quality impacts. Some of the temperature impacts are a bit more difficult but you can create infiltration that mitigates for temperature impact. You cannot mitigate much for habitat loss. R. Breckinridge asked if 100’ is enough to protect a vernal pool. Also, what is the typical migration pattern of a species that comes out of a vernal pool. E. Davison replied that it goes up to several thousand feet in the instance of wood frogs. R. Breckinridge said that in the lower corner of wetlands #1, south of 250 Northington Drive, he does not see any area for habitat and asked if 250 and 256 Northington Drive are developed, where does the habitat go from that vernal pool. E. Davison said that it puts a strain on the 100 foot zone which is the zone where adult wildlife stage and migrate through and juveniles spend time when getting out of the pool. The habitat loss on 250 Northington Drive is an area that is important and the reality is that Northington Drive probably had a significant impact on the pool. R. Breckinridge agreed, and D. Whitney understands and said that he cannot move the houses so these lots cannot be built on if they cannot build within the new 100 foot upland review area. R. Breckinridge asked if all 5 lots around wetlands #1 were developed what would be the effect on that wetlands. E. Davison replied that for a residential lot it is easy to mitigate the impacts of run off, both volume and quality. The only way to mitigate the impacts of habitat loss on vernal pool species is to preserve a significant amount of the forest that is on those lots. Inland wetlands regulations are good at protecting impacts from polluted water and runoff quality but they are not well designed to protect impacts to habitat. R. Breckinridge said that the IWC has to protect vernal pools because they have such a high effect on a particular species that use that wetland.

Vice Chair Sacks agrees with the importance of headwater wetlands and the idea that the portion of the wetland on the property is irrelevant. It is a question of what feeds into that wetland or where it goes. He asked about the trees and carbon sequestration. E. Davison said that carbon

sequestration or carbon loss is going to be higher in areas that are more wet because it can have a deeper organic layer and deeper carbon build-up. So wetlands are going to have higher amounts of carbon storage than uplands but this wetland does not have a deep duff layer which is basically the decomposing leaf matter and material that sits above the topsoil. Limiting tree clearing would limit carbon loss. In Connecticut, we have more forests than 50 years ago so carbon sequestration is on the upswing statewide.

M. Beauchamp asked if FEMA was involved with this area 5-6 years ago. D. Whitney said he did not think so. M. Beauchamp would be more comfortable if this Application was one lot at a time. E. Kyle said that her staff report suggested separate motions for each lot – there will not be one motion for all the lots. Chair Feldman finds the current approach helpful because you can see all the lots and how they interact with a large wetland and with each other as opposed to just looking at one lot.

Vice Chair Sacks said that he sees a massive canopy of trees throughout this property and this may cause difficulties with invasive species. The canopy seems to have a significant function in preserving the area. E. Davison said that he referenced thermal impacts as a function of removal of shade from a wetland. The whole ridgetop is part of Huckleberry Hill, what was a big unfragmented forest and there was a secondary community of oak which tend to not get much in the way of invasive species. Invasive species tend not to occur in these types of forest habitats to a significant degree. E. Davison thinks the biggest thermal impact is not the removal of shade, it is taking groundwater input to the wetland and converting it to surface water runoff. So if the engineering design were to take all the runoff from impervious surfaces, get that back into the ground, and infiltrate that before it gets to the wetlands, that is usually the best way to preserve it. He said that the majority of invasives in Connecticut favor open canopy and full sun. Vice Chair Sacks asked how far out the roots to the large trees on these properties extend. E. Davison said that generally if you have a large, mature oak that is 20-40" in diameter, you would have a root spread of 25-30' – usually the root spread is not any larger than the canopy spread. He said that the best thing for tree protection is to not compact and grade the soil below the drip line. Vice Chair Sacks understands that there is a microbial environment surrounding those roots and extending from one tree to the next so the trees are able to feed one another. E. Davison said that Connecticut is not a virgin landscape – all of these species have gone through a complete cutting and agricultural turnover so you will not get generational change.

G. Gianini asked if the wetland on 274 Northington Drive and 49 Stockbridge Drive was self-contained with limited functions. E. Davison answered that that was correct. C. Hauss has concerns about 250 and 256 Northington Drive and 31 Stockbridge Drive because they are in wetland #1 which has highly functioning wetlands. Chair Feldman said that given the values and functions of these wetlands, how large they are, how rare in Avon, and given that this is an area where you have significant development, it seems like the proposed building is going to be infringing or impairing the wetlands in a variety of ways. Chair Feldman asked E. Kyle about the additional information for three lots mentioned in her staff report. E. Kyle suggests an impact assessment report for the three lots that appear to be potentially more detrimental to the wetland. C. Hauss agreed and asked if the impact would be different if all six lots were not developed and if an assessment could be made on the impact of the six lots collectively. E. Davison asked if the question is if there is a cumulative impact that is different than the impact that would be seen

from the individual lots. He thinks the answer is generally no though he believes the largest impact is the significant development around a wetland that did not take into account how to design roads around wetlands or reduce impacts to wildlife habitat. He thinks here the water quality impacts can be mitigated and he does not think that there is a cumulative impact if you can make every lot no increase in total volume and infiltrate the groundwater into rain gardens. The most significant part of this wetland is that this is a headwater wetland that has flood flow attenuation function and it feeds downstream to a brook that leads to a significant river. To him, the water quality impacts are key. Vice Chair Sacks asked about 7 Saddle Ridge Drive – he thinks that the small piece of wetland which is like a basin flowing into the wetland makes that wetland very important because it feeds into a significant headwater. E. Davison replied that any development on 7 Saddle Ridge Drive should preserve the canopy over the wetland and should be modeled in a way that the runoff is all infiltrated back into the ground. Vice Chair Sacks thinks there is insufficient information for 7 Saddle Ridge Drive. E. Kyle suggested that the different mitigation strategies that are lot specific should be shown on the plans for the IWC to continue forward. D. Whitney said that we can continue the Application and he can add more detail including the design of stormwater infiltration measures. R. Breckinridge said that the IWC typically would get a vernal pool survey when properties might have an effect on a vernal pool. E. Davison said that he would do an egg mass survey beginning in the second week of March because then he could observe all the species that would be present, see what species are breeding, and get a gage on productivity because the egg masses can be translated to an approximate population size. E. Davison said that we know it is a vernal pool and he can provide more detailed limits and add it to the mapping information already done. R. Breckinridge said that 250 and 256 Northington Drive are the most related to effects on that vernal pool. E. Davison said that the 100 foot upland review area is also called the vernal pool envelope which is the critical zone that allows the adults to migrate to and from the pool. It protects the pool water quality and shading and it provides the juvenile staging area. He said that the 100 foot zone is critical for separate reasons like the water quality protection and also for breeding and emergence of the young. The road also impacts a bit of it and you can see pools and lawns in that 100 foot zone that have had an impact to the vernal pool. R. Breckinridge asked if E. Davison if it is his opinion that a vernal pool survey was not needed at this point. E. Davison said that he has the ability to map the boundary of the pool and that is what is needed for planning purposes. He thinks that this is a functional pool with one indicator species and he expects that the other common indicator species, the spotted salamander, would be present somewhere in this pool.

Vice Chair Sacks asked about the trees – how many will be taken down, how close to the house will trees be taken down, and how far out is the impact of the trees that are taken down on trees that are further away. He would also like to know what happens when you clear trees from an area so close to the wetlands. On each of these lots, there are very large tree canopies that would have to be cleared. Chair Feldman asked E. Davison to confirm that he can come up with effective mitigation measures with respect to water runoff and some of the other issues, however the habitat that you have in these wetlands and buffer areas are going to be disturbed and there is not a way to mitigate that. E. Davison said that with respect to vernal pool species, if you take down the forest around the pool, you will impact the available habitat. It is difficult to protect wildlife habitat when you develop in the upland review area. The only way to do that is to reduce the limits of clearing and protect as much forest as you can around the vernal pool. Water quality impact, pollutant loads, increase in runoff and the impacts associated with water quality and

increased volume can be mitigated with design. The difficulty on this site with the vernal pool is that there has been significant impact already with the road and this development, so the population is under some level of stress already. Chair Feldman asked if that was not more of a reason to protect this area. E. Davison answered that if he did the existing conditions analysis on this pool using the Best Development Practices Manual for Vernal Pool guidelines, this would probably be an impaired pool, or what is called a tier three pool – the lowest quality - because of the existing development and roads within the 100 foot zone and a high level of development in the 750 foot zone. Even if you protected these two lots in their entirely, you are still looking at an impaired pool. Chair Feldman said that the IWC has spoken in the past about circumstances that would justify the Town designating an independent wetland specialist to do a review of the Application and he thinks this may be the right case for that given the significant wetlands, the functions and qualities of the wetlands, and the size of the development. Vice Chair Sacks agreed. E. Kyle said that it is appropriate to pursue an independent consultant if the IWC is in disagreement with the data that has been presented to them by the soil scientist. She understands that the IWC wants to receive more information before making any conclusions, but they can declare that development on these lots constitutes a significant impact activity and if so, there is a series of criteria that would need to be followed such as a public hearing, etc. Chair Feldman asked if we should wait for a public hearing process to request an independent consultant and E. Kyle agreed. She stated the seven criteria that the Town of Avon and the DEEP regulations list as contributing to a signification impact activity. #1 is any activity involving deposition or removal of material directly in or from a wetland or watercourse and any other activity involving direct disturbance of a wetland or watercourse. #2 is any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system. #3 is any activity that substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreational open space or perform other functions that may be more pertinent. #4 is any activity that has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse. #5 is any activity that causes substantial diminution of flow of a natural watercourse or of groundwater levels of a regulated area. #6 is any activity that has substantial potential to cause pollution of wetland or watercourse. #7 is any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstratable scientific or educational value. E. Kyle said that we may already have enough criteria from this list for the IWC at this time to declare that they believe this proposal poses a significant impact activity. If the IWC decides to do that, they can require an Applicant to potentially provide more engineering reports and analyses and additional drawings to fully describe the proposed activity, more site plans with more specificity, mapping of soil types consistent with the categories established by the National Cooperative Soil Survey, description of how the Applicant will change, diminish or enhance the ecological communities and functions of the wetlands and watercourses, analysis of chemical or physical characteristics of any fill material, and management practices and other measures designed to mitigate the impact of the proposed activity. D. Whitney commented that the biggest concern of the IWC seems to be 250 and 256 Northington Drive and he suggested that they provide additional information regarding all six lots at the next meeting and make a decision at that point. Chair Feldman and E. Kyle agreed though the deadline for the next regular IWC meeting is tomorrow so the IWC may need to schedule another special meeting. The IWC agreed to schedule a special meeting on Thursday,

July 28, 2022, at 6:30 p.m. Vice Chair Sacks made a Motion to Table Application #781 until the special meeting on July 28. M. Beauchamp seconded. The Motion passed unanimously.

II. COMMUNICATIONS FROM THE PUBLIC: None.

III. STAFF AND COMMISSIONER COMMENTS:

E. Kyle asked the IWC if they would be open to hearing a new Application at the July 28 Special Meeting. The Town Engineer is working to propose roadway modifications to Old Farms Road which has been in process a long time. It is a grant funded project and they are hoping to get the Application submitted before September so they are not delayed. Chair Feldman agreed that the Town project can be put on the Agenda for the July 28 Special Meeting.

R. Breckinridge asked if the IWC can deny an Application or if they always have to mediate. E. Kyle answered that first you would have to determine whether or not there is a significant impact to the wetlands or watercourses by evidence of the experts or the IWC's opinion of the experts. The impact on the wetlands would meet the criteria that she stated prior and then it would trigger the significant activity review which would include a requirement to demonstrate to the IWC that the Applicant has evaluated feasible and prudent alternatives. One case where the IWC is able to deny is if the Applicant has a feasible and prudent alternative but the Applicant refuses that alternative. E. Kyle said that everything is on a case by case basis. She said that the IWC must be reasonable with property owners that may have wetlands on their property and wetlands and upland review areas are evaluated critically differently per the statute so if the lot is totally encompassed by the upland review area yet does not have any wetlands on the site, the IWC has the burden of determining, through experts, that the wetlands that are not on the site are negatively impacted. It is not about disturbance to the upland review area, it is about disturbance to the wetlands. We cannot make a determination on the impact of an upland review area, it must be a negative wetlands or watercourses impact.

IV. APPROVAL OF MINUTES:

G. Gianini would like to revisit the discussion regarding pools in Westport at a future meeting. s. G. Gianini made a Motion to Approve the Minutes from the April 5, 2022 Regular Meeting. C. Hauss seconded. The Motion passed unanimously. R. Breckinridge made a Motion to Approve the Minutes from the April 26, 2022 Special Meeting. M. Beauchamp seconded. The Motion passed unanimously.

V. NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled meeting is Tuesday, July 5, 2022.

M. Beauchamp made a Motion to Adjourn. Vice Chair Sacks seconded. The Motion passed unanimously.

There being no further business, the meeting adjourned at 9:33 p.m.

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