

**EAST LYME INLAND WETLANDS AGENCY  
SPECIAL MEETING MINUTES  
JUNE 25, 2018**

**MINUTES**

**Members Present:**

Gary Upton, Chairman  
Ann Cicchiello, Vice Chairman  
Phyllis Berger, Secretary  
Peter DeRosa  
Theodore Koch, Alternate

**Members Absent:**

Jack Chomicz  
Harry Clarke  
Jessie Baldwin  
Todd Bellucci, Alternate  
Don Phimister, Alternate

**Also Present:**

Gary Goeschel, Director of Planning/Inland Wetlands Agent  
Paul Dagle, Board of Selectman  
Mark S. Zamarka, Town Attorney

**CALL TO ORDER:**

Chairman Gary Upton called the Inland Wetlands Agency meeting of June 25, 2018 to order at 7:11 pm.

**PLEDGE OF ALLEGIANCE:** Observed

Chairman Upton welcomed the audience and agency members to the meeting, and thanked them for attending.

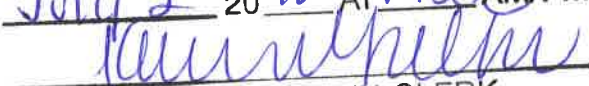
Theodore Koch was seated as an alternate. Chairman Upton then introduced the Agency members.

**Ann Cicchiello moved to change the order of the Agenda to allow the Ex-Officio to speak prior to the opening of the public hearing. Second by Theodore Koch. Motion passed 5-0-0.**

**III EX-OFFICIO REPORT – Selectman Paul Dagle**

Selectman Dagle stated that the Board of Selectman was adopted an ordinance for tax abatement for EMS personnel; and to change name of Smith Harris House Commission to the Brookside Farm Commission. They tabled a vote on parking regulations in the town. At the Town meeting several capital improvement items were passed and approved for the Town.

FILED

July 2 20 18 AT 10:30 AM/PM  
  
EAST LYME TOWN CLERK

## I. PUBLIC HEARINGS

Chairman Upton spoke regarding ground rules and the prior application;

Before we open the public hearing, this evening for the Twin Valley 23-Lot Re-subdivision, I would like to inform the audience and the Commission of the Ground Rules we will be following this evening to conduct the public hearing.

The purpose of a public hearing is an opportunity for the Agency to gather evidence and testimony, including public comment, regarding the pending application. The Wetlands Agency encourages all in attendance to offer comments and ask questions. However, a successful public hearing requires some simple rules be followed. These ground rules will ensure that all in attendance are treated in a respectful and courteous manner, and that all who desire to speak will have the opportunity to be heard. As such, the rules are as follows:

1. The applicant or his representative will make a formal presentation to the Agency stating the proposed regulated activities, the wetland and watercourse impacts, and any alternatives which were considered by the applicant. The Agency may, during the presentation, ask questions of the applicant for clarification.
2. After the applicant's presentation is completed, the Chair will ask for members of the public who wish to speak in favor of or in opposition to the application to address their comments to the Agency from the podium.
3. We ask that no one speak unless recognized by the Chair for that purpose. This is necessary to ensure that only one person at a time speaks on any issue, making it easier for everyone to understand as well as for clearer legal transcription. Upon recognition by the Chair, the individual addressing the Agency must identify themselves by clearly stating their name and address for the record. If necessary, an individual may be asked to spell their name for the record.
4. Anyone choosing to speak must address their remarks to the Wetlands Agency and not to other members of the public or the applicant. Any debate between those in favor and those opposed the proposal must be strictly avoided.
5. Oral comments can generally be delivered in 5-minutes. If there are a large number of individuals who wish to speak, the Chair reserves the right, in its sole discretion, to enforce a 5-minute rule in order that all who wish to speak may have an opportunity to do so. Individuals who wish to be heard multiple times may return to the podium but, only after everyone who wants to speak has spoken. To assist us in reducing lengthy public hearings, please be mindful to avoid repetitive comments. If you are in favor, simply tell us and give us your reasons why; and likewise, if you are opposed.
6. As the Wetlands Agency is here to listen to the public's comments about the subject of the hearing, the Agency is NOT here to express its own views or opinions thereon. The Agency will NOT participate in a debate of the issues. No person has the right to demand an answer to a specific question from a member of the Agency. As noted earlier, questions should seek clarification and information. Questions should not lead to a debate of the issues.

7. All questions are to be directed to the Chair, who may either answer them or refer them to a Commission member, the Town Attorney, Town staff, or the applicant. The answer may be deferred and subject to further review or study and answered at a later date.
8. No member of the public shall engage in any demonstration, booing, handclapping, or otherwise disruptive behavior.
9. The Chair will be responsible for ensuring that these rules are followed. Anyone violating these guidelines will be asked to refrain from doing so, and may, in the sole discretion of the chairperson, be asked to leave the public hearing.
10. The Wetlands Agency has 35-days from the date the public hearing commences to complete the public hearing. During that time, if the commission requires additional information beyond that which has been or will be submitted, the Agency may ask the applicant for an extension of the public hearing period.
11. Upon the close of the public hearing, the Inland Wetlands Agency has 35 days from said date to render its decision. If the Agency requires additional time to render its decision, it may ask the applicant for an extension of the time in which to render a decision.
12. The extensions mentioned above are granted by the applicant and can not to exceed a total of 65 days.

We would like to acknowledge that this is a second application brought before the Inland Wetlands Agency for a proposed subdivision road on the subject site. The first application was submitted last year, 2017. At that time, the Agency which was comprised of several different members than those currently serving, held extensive public hearings on the prior application and granted a petition for an intervenor. After the close of the public hearing, the Agency deliberated and considered all the evidence and testimony submitted into the record and moved to deny the application.

Following the denial, the applicant filed an appeal to the Superior Court, and a Motion to Intervene was also filed. While the appeal was pending, the applicant submitted revised plans to the Agency in an effort to resolve the appeal. The revised plans were considered in executive session. However, the Agency took no action regarding those plans.

Thereafter, the applicant submitted the current application dated May 1, 2018. We want to make clear that the Agency has not in any way determined or made a decision regarding this application. Accordingly, the Agency will consider all of the evidence and testimony submitted into the record over the course of this public hearing and will again, base our decision on that evidence and testimony.

**Twin Valley 23-Lot CDD Re-subdivision, Green Valley Lakes Road and Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc., c/o Bob Fusari, Jr., Applicant;** Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a road.

I now hereby open the public hearing for the Twin Valley 23-Lot CDD Re-Subdivision, Green Valley Lakes Road, and Spring Rock Road; subdivision, Green Valley Lakes Road and Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Services of CT, Inc., c/o Bob Fusari, Jr., Applicant; Application to conduct regulated activities within the 100-foot

upland review area from wetlands and watercourses associated with the construction of a road.

Chairman Upton noted the members who were present at the site walk; himself, Ann Cicchiello, Peter DeRosa, Todd Bellucci and Theodore Koch, and asked if any of the commission members have observations to note for the record? None were made.

Chairman Upton noted the site walk was about 2 hours. There were several members of the public present at the site walk; Elizabeth Farrugia, Gary Bowlakowski and Nancy, Bob, Alex Moch, Matt Berger, Mr. Lepkowski and Mr. Lepkowski's father. He stated the directive was to walk the middle line of the road, and identify where the wetlands were with the map. The agency wanted to make sure map correlated with what they saw in person.

Gary Goeschel, Inland Wetland Agent, noted the Exhibits for the record, A through O. Mr. Goeschel read the legal ad into the record as it was published.

Attorney Matt Ranelli, of Shipman & Goodwin presented on behalf of the applicant, Rea Estate Services of Connecticut, Inc. With him are Bob Fusari, Jr., Joe Wren from Indigo Land Design who will speak regarding layout and storm water changes since the prior application and Bob Russo, from CLA Engineers regarding the wetlands and the lack of adverse impact.

Attorney Ranelli submitted the abutter notice letter, a copy of the list of abutters and the Certificate of Mailing as Exhibit P.

A copy of the 2017 denial resolution from the Agency was submitted as Exhibit Q.

Attorney Ranelli requested that the entire record of the prior application be incorporated into this application/public hearing as Exhibit R.

Attorney Ranelli spoke to the Agency to clarify that while the petition for intervention was accepted by the Agency in the 2017 application; at the conclusion of the hearing the commission actually denied the application for intervention.

He stated that this is a 97 acre parcel on Green Valley Lake and Spring Rock Road. The applicant previously appeared before this Agency for regulated activities for a road for a 25 lot CDD subdivision. This application was denied but made the applicant has made responsive changes to the 3 reasons for denial. The Agency will hear from the pros as to what the changes were. The applicant will address storm water, the lots of concern, etc.

Joe Wren, Indigo Land Design, will narrate the power point presentation of the changes to the plan. Mr. Wren stated he is a licensed professional engineer representing Bob Fusari, Jr.; there were many hours of testimony last year. There were over 80 exhibits. They have made all of those exhibits part of this record.

Mr. Wren stated that the layout is similar because it is the best feasible and prudent alternative. The property lies to the south and east of Spring Rock Road, and behind three existing lots. The upland of the property is where the majority of the project is. To the south is a privately owned property and I-95.

Sheet #1, 2 and 3, are the survey sheets. The main portion of the property is on survey sheet 1. Mr. Wren continued to review and identify the location of the property and the project.

On the next three sheets identify the soil testing, topography, and the 100-ft upland review area. This is generally where all of the development is. The dots with numbers are soil test locations. Wetlands have the grass marsh symbol. Sheet 2 of that, drawing 5, you can see there is land trust property to the North East of the property. The proposed open space would marry up to that. The shaded area is currently a conservation easement on the subject property to the land trust for access. This will become part of the projects open space.

The property is 97.3 acres according to the A-2 Survey. The proposed open space is 70.9 acres. This percentage exceeds the required amount in the CDD subdivision regulations as approximately 73% of the land would be permanent open space; within that about 97% of the wetlands area is contained within that open space. The other .003% of wetlands is on lots 3, 4 and 5 on the eastern side, and similar to the prior application all are protected in a 25' wide conservation easement. There is not one square foot of direct wetland impact. They have proposed activity within 100-foot of the review area. There is no direct wetland impact on whole project.

In response to a question from Ann Cicchiello, Mr. Wren stated that the proposed work results in under an acre of clearing and grading within the upland review area for the road and 2 drainage basins.

Mr. Wren went on to review Sheet 21 of 41 which shows the proposed road, houses, grading, and clearing limits. This project will divide the property, re-subdividing the older subdivision to create 23 building lots; construction of the road and associated improvements with the road, utilities, grading, 2 detention basins, and paving. The prior application also had two detention basins. However, the agency wanted storm water management at the beginning of the road. The storm water was going into the existing system present there today, and had the approval of the town engineer. This plan improves the quality of that. What was once lot 24 with a house is no longer a residential housing lot but will now have a water quality basin. This is a change from last year's plan.

The rest of the lots on the sheet are similar to last year's application; it shows houses, driveways, and the oblongs are rain gardens for the roof leaders from the houses. The road centerline is the top of the ridge. The land slopes to the east and west, that is where the areas of wetlands are. The road was designed to go along the approximate center of that ridge with gentle grades to the east and west. The front of the lots and driveways drain toward the street. The back half of the roof and yards would drain toward the wetlands areas. That is why some roof water goes to the rain garden, prior to extending to the wetland area.

The 100-foot regulated area is delineated on the map. The houses were kept out of that line. Some of the septic systems are within the 100 ft. review area, many are outside it.

Ann Cicchiello asked which ones are in the regulated area. Mr. Wren responded lot 23 is partially in it, lots 3 and 4 are definitely in, however lot 3 is the closest a septic goes to a wetland area. Mr. Wren noted that there was a request for a nitrogen analysis last year and it was submitted for the record, showing there were no problems. All of the systems were analyzed last year and approved, and they were all analyzed and approved this year. Mr. Koch asked if that item is an Exhibit in the record, Mr. Goeschel indicated it is in the prior record and will be provided to the Agency.

Mr. Wren continued that different from last, the gray shaded area is 25' conservation easements proposed. Last year this was only on three lots, however in response to the denial, this application has an easement area on the rear of every lot.

Mr. Wren continued his review of the new plan, on Sheet 22 of 41, the center portion of the road which hasn't changed much, because it works now, and it worked then.

They are showing the areas that are suitable, according to public health code, for septic systems. Lot 5 shows an area just within the 100' review area; lot 6, 7, and 8 are partially in the review area, and 9 is outside of it. Lot 14 is outside, lot 15 is half in and out of the review area, lot 17 mostly outside of the review area, and lot 18 is completely out of the review area.

He reminded everyone that the only thing proposed here is the roadway, not the houses. This is potential house locations, it demonstrates the lot is suitable and meets town regulations. There is .92 acres of clearing, for the 2 drainage basins, the roadway and some Erosion and Sedimentation Control which is necessary as well.

Sheet 23 shows the end of the cul-de-sac. These are all the same as the last application; however the storm water basin is outside of the review area, at the end of the cul-de-sac. Discharge is also outside of the review area.

All three septic systems for these lots are outside of the review area. A nitrogen analysis was requested, but it was not required. The applicant did it anyway, and they meet the drinking water standards; they meet the criteria by public health. These were submitted to the town with the application and were a response to last year's denial. All of these systems are outside of the review area. They are clearly allowed. The applicant went a step beyond with the nitrogen analysis.

The applicant has extended the 25' conservation easement to these lots as well. Lot 13 has two rear line easements, lots 12 and 11 have 25' conservation easements, and lot 10 is the water quality basin.

There is a conceptual tree line indicated on the plan. The conceptual tree line can move, but cannot go into the review area unless there is an application and approval from Wetlands as a separate application; and it cannot encroach onto the conservation easement. Approving this application is not the houses and driveways; those are separate applications to staff or this agency.

At the end of the cul-de-sac, sheet 19, there are wetlands to the south and north. The upland review line intersects a small part of the cul-de-sac, in the upland review area. Other wetland extends to part of the road. A portion of the road and cul-de-sac infringe on the review area, not the wetland itself.

Sheet 20 shows the calculation of how much wetland are on each lot; only lots 3, 4 and 5 have very small portions of the wetlands on them. All of the lots are less than a 2/10 of an acre of disturbance.

The Public Health code has changed and allows smaller tanks for larger homes. All systems are now sized for up to 5 bedroom homes, although it doesn't mean they will build 5 bedroom homes.

Sheet 32 of 41 shows the effective leaching area for all septic systems. This is already reviewed and approved. DEEP Test Pits on the property are shown on Sheet 33, there are upward of 70 test pits. The perk test data is shown on sheet 34. During the wet season, the ground water monitoring was done weekly, and the maximum groundwater elevation data was tabulated.

Sheet 35 shows the .92 acres of proposed disturbance. The Erosion and Sedimentation plan shows the grades are very gentle along the roadway. The Roadway is the main purpose for the clearing, and to install drainage, utilities and basins.

Former lot 24 indicates clearing limits for the detention basin. There will be a silt fence with a wood chip berm for erosion and sedimentation control. The wood chip berm will be created from onsite clearing. Should the silt fence fall down this will prevent silt downstream. Lot 24 shows the grading required for the detention basin

Also on lot 24 the grading required for the detention basin installation is identified, which was put in as a response to last year's denial. In order to build on the gentle grades the applicant does not need to clear much; the stockpile areas are very flat, and are furthest from wetland areas and upland review areas. These are actual plans, as if it was approved, and is included in the .92.

There is a 12' wide crushed stone emergency access required by the regulations as a secondary means of egress. This access would be a gated strip of property that is 25' wide. It is not paved, so there is still infiltration for storm water. This egress has to be completed at the same time as the road in order to have the road accepted by the Town of East Lyme.

Ann Cicchiello asked where the .92 acres of disturbance is. Mr. Wren responded it is the .92 acres of disturbance, the Erosion and Sedimentation controls which are at the outer edge of the .92 acres, and the roadway and stockpile areas.

Sheet 36 demonstrates the eastern side coming down to the road line, then the stockpile location, so don't have to use the cul-de-sac for stockpile. They are using lots 7 and 8 which are further away from wetland area.

Sheet 37 identified clearing around the detention basin, but it is outside of the upland review area as well as the Erosion and Sedimentation control. Cul-de-sac grading and drainage are in the upland review area.

Lots 10 and 24 were removed as building lots. Lot 25 is west of the Four Mile River; this is the 23<sup>rd</sup> building lot, with direct access to Green Valley Lakes Road. The proposed house is outside of the review area, the septic is along the edge of review area, and the driveway in the review area.

Last year there was a question on the storm water quality basins. Sheet 41, top left corner is out of the book, Connecticut DEEP Storm water Quality Manual.

Mr. Wren explained the design of the basin per the drawing and how and where storm water would flow. He stated this is straight out of the book, and that they have used it before, as it works extremely well. Bob Russo is the wetland scientist on this project and will speak about the wetlands. They implemented this at the new Orthopedic Center by Bob's Furniture here in East Lyme. Photos of it were submitted last year. He noted that there will be water in them after a storm. These look beautiful and work really well.

Mr. Wren went over the rest of the drainage basin features and how they work in each scenario of various different storms. Sheet 41 has more details of the drainage basin flow features and mechanisms.

Maintenance schedules are on the plan on page 40 and were reviewed by the Town Engineer. The last detail of the basin is that it is seeded with a conservation seed mixture to thrive in this environment. The applicant may supplement the seed mixture with plugs so there is immediate growth in the bottom of the basin. Plants uptake the nutrients of the storm water, cleansing as it goes along. There are literally hundreds of these plugs in each basin.

There is a water quality feature on each lot, a rain garden detail for the roof run off. This is a planted area for the homeowner, with a small retaining wall or a small depression in those areas. If it fills up with water, it will flow over gentle slopes, toward the wetlands areas. It is not a direct discharge or direct impact to the Wetlands

Other water quality features of the project include two foot sumps in all of the catch basins, which will be maintained by the Town of East Lyme, as it will be a Town road. Last catch basin has been increased to a four foot sump, before getting into the sediment forebay. Last year and this year the developer has included outlet hoods, plastic hoods over the outlet pipes, where the bottom extends below the pipe so any floating debris does not exit out into pipe; when maintained this would be removed.

They have provided a drainage report which was approved by the Town Engineer who provided a letter for the record. There are some conditions however there are no open items and the Town Engineer was satisfied.

The Ledge Light Health Department issued a new letter with the new 2018 code, stating the 23 lots are suitable as proposed.

A letter from Connecticut DEEP was submitted last year regarding the Natural Diversity Database. There was one item found, which is shown on the survey map, which grows on rocky ledges. It is identified along the edge of the Niantic Sportsman's Club property, however there is no work proposed in that area. The item specified is actually protected as it is in the open space area.

Mr. Wren stated that as there is 0 direct wetland impact there is not a feasible and prudent alternative. The developers chose to design the road along ridgeline so the road is as far away from the wetlands as possible. None of the road runoff is overland; it is all collected and treated prior to reaching the wetland area. As to the entrance of the road, this location was chosen because there is a 50' paved apron here; as this location was part of the original subdivision. It was labeled as a future road on various subdivision maps. The road at the northeast corner is also labeled as a future road.

They chose this specific location for the road because it is further from the wetlands than the other "future" road. If you slide the intersection down it is closer to the wetlands, and there is some elevation change there, which would make the road steeper to get to the ridge alignment.

This application is a Conservation Design Development to meet the requirements of the Subdivision Regulations. A Conventional Layout was provided and submitted last year. The road was in a similar location. It came into the open space, closer to the wetlands area. So it would have two road intersections. This design has less impact. They believe



it is the best feasible and prudent alternative. The developer met with public works and town engineers regarding the best location of the road before making this application.

Mr. Wren summarized that the denial last year was due to some conditions such as storm water, the type of water quality basins, which are designed to be dry basins, not wet basins so there is no permanent pool of water, and with proper maintenance they will be dry. A nitrogen analysis was completed but was not required. The length of the road and number of lots were mentioned in the denial, and in response the number of lots have been reduced. The Conservation Easements were added, and detention basins were added at the beginning and end of the road. Water quality basins were also added in response to last year's denial.

Mr. Wren stated that they have been responsive to the Agency's denial last year, and this plan should be considered and approved.

Ann Cicchiello asked if lot 25 was included in the .92 acres of disturbance. Mr. Wren responded no, as there would not be anything there until there was a driveway, as there are no public improvements there, so lot 25 is not part of the .92 acres of disturbance.

Gary Goeschel, Wetlands Agent advised the commission that one of the differences in the area of disturbance is because lot 24 and lot 10 previously were proposed for single family dwellings. The areas of disturbance as it pertains to homes are the water quality basins.

Mr. Wren noted that on sheet 28, lot 24, part of the basin was where the house would be located for grading and the septic system. He noted that lot 10 on sheet 30 is the detention basin, and while it is now partially in the upland review area, a house and septic were originally proposed for that location in the upland review area. There is now less impact on this lot.

In addition, there were test pits located north of the cul-de-sac for a detention basin that was partly in the upland review area, as there was some grading and clearing for that basin. The area is now part of the open space. The open space is about 73% of the acreage. The majority of the wetlands are in the open space. On sheet 7 all of the gray shaded area that is all open space, it is all protected as proposed. The area south of the cul-de-sac is an easement to the homeowners, to maintain the water basin; it is up to homeowners association. The wetlands to the south of the cul-de-sac are encompassed in open space.

Robert C. Russo, C.S.S., Soil Scientist/Environmental Scientist for CLA Engineers, Inc., of Norwich introduced himself to the Agency. He stated that he delineated the wetlands on site, and those on the plan. He classified and logged the test pits looking for site suitability for septic. The Ledge Light Health Department confirmed site suitability for septic. During the last application it was indicated that there were some salamander and wood frog eggs found west of the middle part of the road. There was discussion of a potential vernal pool, however this was not conclusive. There were a few egg masses, in the conservation area, behind lots 6 and 7, to the west, within the wetlands in open space. During his field work, there were very few egg masses. When he went out this spring, in the appropriate time, there were no egg masses at that time. He would not classify it as a vernal pool. It could be a "decoy" where it appears to the wood frogs and salamanders to be good hydrology. But in this case, they don't survive. Mr. Russo has

documented this in prior locations around the state. It is a strategy the organisms have to determine what areas work. Unfortunately for the animals this didn't.

The rest of the wetlands on site, are wooded wetlands; such as swamp, red maple, birch, etc.

There is an isolated wetlands, wooded swamp, with slow moving water, a good habitat for snakes. That entire area is going to be preserved. On the other side by the Niantic Sportsmen's Club there is very little wetland on that part of the site; however will be protected.

There no direct wetlands impact proposed; there is no filling, no cutting, and no removal of vegetation. The concern becomes what happens during construction, during Erosion and Sedimentation Control, and what happens after construction; the storm water detention basins which provide high quality water to reach the wetlands.

This application covers both of those issues with the Erosion and Sedimentation plan consistent with Connecticut DEEP Storm water Quality Manual. The road construction is along the ridge, with gentle slopes, no steep slopes to concern us with Erosion and Sedimentation Control, nevertheless the applicant has provided an Erosion and Sedimentation Control plan to prevent erosion. The storm water quality design is in conformance with, Connecticut DEEP Storm water Quality Manual, which hinges on a specific volume of water being handled. Connecticut DEEP Storm water Quality Manual provides the manual to protect the water quality going into the wetlands. The design of the micro pool basins has a lot of surface area with plants that will take up nutrients; there are beneficial bacteria present to break down pollutants. Soils at the basins have permeability to prevent the water from sitting in the basins. This will infiltrate the basin. They are expecting long term water. There is a significant amount of open space that incorporates the site wetlands. This plan provides upland habitat to users of wetlands and surrounding upland.

The plans follow 2002/2004, Connecticut DEEP Storm water Quality Manual to prevent impact to wetlands. There is very limited activity in the wetlands review zone. The developer's plans meet the regulations of this agency and there are no adverse impacts to wetlands on the site.

Attorney Ranelli stated that is there presentation. He concluded that there are no activities in the wetlands themselves, only in the upland review area. These are NOT regulated activities unless they adversely affect the wetlands. Based on Mr. Russo's testimony and site testing and the changes to the plan based on last year's denial, there is no adverse wetlands impact. 100% of the wetlands will either be dedicated in Open Space or in a conservation easement. This is an extremely positive application for the Agency.

Attorney Ranelli further stated that the statutory requirements allow them to consider a feasible and prudent alternative, however as there is no adverse impact there cannot be less than none, so there is no need for a feasible improvement analysis. There is not an alternative with less impact, because there is no impact.

He stated for the record that if an Intervention Petition is received, his client reserves the opportunity to object on content and the merits of it at the appropriate time.

Gary Goeschel, Wetlands Agent, entered Exhibit S in the record, the Planning Commission referral of the Subdivision Application to the Wetlands Agency.

Chairman Upton called for a ten minute recess at 8:55 p.m.

Chairman Upton called the meeting to order at 9:15 pm

Chairman Upton invited anyone from the public who might not be able to attend the meeting next week, to speak at this time, whether for or against.

Kristen Chantrell of 13 Green Valley Lake Rd stated she is a land abutter to the proposed development. She has a BS in Environmental Engineering, has an EIT license in Connecticut and Rhode Island and used to work as an Environmental Engineer for the Department of Environmental Management Water Resources Department. She stated she has a lot of concerns about the proposed development. The property is unique, and is mostly made up of wetlands with a small strip of land in the middle. The distribution of the wetlands in the space is the key as the length of the road is too long and it divides two wetlands and comes close to a vernal pool in the area. This new application didn't change the length of the road or the cul-de-sac. In her opinion, lots 10, 11, 12 and 13, should be eliminated, and the road and cul-de-sac shorted. The wetlands speak to each other and the species go back and forth, if you place a road between them it will disrupt the cycle of the wetland area. The Agency had found specific information regarding the western building area of lots 10-13 having limited ability to hydrate nitrogen, meaning it will not adequately filter effluent. These soils meet the criteria to be an area of special concern; septic and homeowner activity will impact the wetlands. These wetlands are valuable flood storage areas. With this proposed development the wetlands will not protect her home from flooding along the Four Mile River, which has impacted her home in the past with basement flooding from the culvert next to her property. She continued to discuss the various soil qualities and the location of the storm water as well as the responsibilities of the agency. Ms. Chantrell stated that changing the face of the wetlands can cause permanent damage to their homes. Did the developer consider the distance between the surface water and groundwater; and the importance not to flood the wetlands? How was the information collected on the septic, based on a calculation or in site? She asked that the developer reduce the road length and eliminate lots, thereby reducing the burden to the wetlands and reducing the need for emergency access.

Matthew G. Berger, Attorney is here at the request of Brian Lepkowski. He has also served on the Stonington Wetlands Commission for a number of years. He introduced as Exhibit T a Petition for Intervention under Connecticut General Statutes Section 22z-19(a) on behalf of Brian Lepkowski.

The agency took a few minutes to read the petition.

Attorney Berger stated that under the Connecticut Environmental Protection Act (CEPA) of 1971, any individual can intervene. CEPA lets anyone be the enforcer of the law, they get to come forward and introduce things on behalf of the public trust. They must raise environmental issues, and verify those. There have to be some details. He noted in Section 3 of the Petition there is evidence that has not been provided in this application that needs to be provided. In Section 4 he identified some specific factual allegations as to why his client wished to intervene under CEPA. He asked that the

Agency grant intervention at this time, as they have evidence to present to help the Agency make a decision regarding intervention.

Chairman Upton asked to hear from our Town Attorney.

Mark S. Zamarka, Town Attorney, Waller Smith and Palmer indicated that Attorney Berger was correct regarding the 22a-19(a), that it is a verified pleading under the statute, and does set forth specific allegations; claiming there is a reasonable likelihood of unreasonable pollution. You aren't here to decide the merits, just whether the basic requirements to intervene have been met. He believes the statute has been complied with and the petition should be allowed.

Chairman Upton asked to hear from Attorney Ranelli.

Attorney Ranelli stated that while there are elements of the petition that assert certain facts, he is not sure if it is anything more than a recitation of the standard for intervention with some topics attached but he would like to reserve commenting on the merits of that, though the commission is within rights to allow the petitioner to go forward and hear testimony on the evidence. In allowing the Intervener to go forward, not acting on the petition or granting it, just receiving it and hearing evidence, will make a determination later as to whether petitioner has met the threshold.

**Ann Cicchiello moved to allow the Petition for Intervention under Connecticut General Statutes Section 22z-19(a) and allow the presentation of evidence before being granted Intervener status. Phyllis Berger second. Motion passed 5-0-0.**

Attorney Berger provided Exhibit U, Environmental Comments Twin Valley Re-Subdivision, East Lyme, CT dated June 24, 2018 by Steven Danzer, PhD & Associates, LLC. He testified at the last hearing; however he is not able to be there.

Attorney Berger introduced Aleksandra Moch, Soil Scientist, Wetland Scientist and Wetlands Agent who works with Dr. Danzer; and provided her resume as Exhibit V.

Ms. Moch stated she attended the site walk and was impressed with the pristine environment and condition of the site. She stated it is the Wetland Agencies responsibility to make sure the property is properly presented. The Wetlands to the east is not delineated by a soil scientist or verified in the field. The developer may sell the parcel and the new owner would find out there are more wetlands there; commission is obligated to identify that and correct.

She reviewed the aerial photographs, and noted three wetlands corridors; the Eastern which is high quality Red Maple Swamp, the middle corridor, which is also Red Maple swamp, which is fragmented, then the Western Corridor. These corridors all merged to the South, we do not have the southern wetlands boundary, and don't know if the upland review area encroaches on the lots. All of the wetlands should be delineated properly. There is also no biological study. This is very disappointing.

There should have been studies of the vernal pools. They found a Four-toed Salamander during the site walk; spotted salamander found there, it should be studied. Mr. Russo stated he didn't find any egg masses, but how did he do it? This should have been provided in writing. He should be studying it in the spring, not just going there randomly.

If you look at the definition of a vernal pool they may not have egg masses every year. So it is not uncommon to find no egg masses. Some years are skipped. Can find fairy shrimp. Also the huge Red maple system to the east, she is sure of vernal pool potential there, but don't know what is there.

Ann Cicchiello asked for clarification of the other organism she said to look for. Ms. Moch responded that if there are no egg masses, there may be fairy shrimp, but you have to be there often not to miss them. Evaluating a vernal pool is not easy, it is time consuming.

Ms. Moch stated she was there to review Dr. Danzer's report for the Agency and add her own comments. She is concerned about the cul-de-sac, and the vernal pool documented, it is obviously going to be impacted. Not sure what is the definition of direct impact. If you lit the vernal pool with the lights of your car is that direct or indirect impact or no impact? Our definition and approach to the severity of it is far apart.

Where the cul-de-sac is going to be developed there are some situations that will impact. The clearing that will be done; there are no invasive species; there are beautiful fern carpets which maintain moisture. The salamander and wood frogs need the forest floor to be preserved. When they need to hide, or are disturbed need somewhere to go. Clearing allows sunlight to infiltrate, making the water warmer, will evaporate faster, the water will be there less. For the developing eggs, very important the period of water is long enough, if less than a week can impact the entire population. When we clear trees, we create edge, will not be shaded, microclimate is going to change, vegetation will grow trees earlier. This is important because the trees will have leaves, will support evaporation, lowering the water table.

Heavy equipment and fill will cover the micro cavities in the soil areas that the salamander and wood frog use for cover. Warmer water means less oxygen for species egg development.

What is the physical impact of the salamander and wood frog on the wetlands? The egg masses and juveniles are part of the food chain in the vernal pool. The other species in the vernal pool will not have a food source. Insect are eaten and controlled. This will disturb the entire balance in the vernal pool. Very important impact to the wetland, it is going to lose its function as a vernal pool.

Wetland Hydrology; as to the basin across the cul-de-sac, it will be taking water and draining water from a portion of the road and cul-de-sac, a portion of which is within the 100' upland review area. If you have read Best Practices by Dr. Clemons, he has studied the amphibians and the impact to vernal pools. He recommends the first 100' from vernal pool is very important and should remain without impact. The detention basin is situated lower than the vernal pool. Not going to be hydrating the vernal pool but will take some of the drainage water away from the vernal pool, this will dehydrate the vernal pool. Another mechanism to dehydrate the vernal pool. Storm water management working against the vernal pool.

When clearing edges of woodland, they are usually then populated by invasive species. Seeds will come with the fill, access road, deer wander, seeds on them; invasive species will penetrate the wetlands areas. Once invasive take off they will penetrate areas.

Road infrastructure is discussed in the Best Management practices book. Very happy to hear going to use the Cape Code Style curbs which will be helpful. However still have a large paved cul-de-sac maintaining heat of the day. The salamander and wood frogs will have trouble crossing between the wetlands. Has a huge impact on this species.

With the road will come maintenance; chemicals are a problem for vernal pools. Using salt on the road you will have salt runoff to the vernal pool. It is recognized by DEEP that salt does have an impact on a vernal pool. Also herbicide along the road used for invasive species growing there, will also impact the vernal pool.

Light and noise pollution from the cars during breeding season will impact the salamander and frog trying to get to the vernal pool will need a crossing or they will cross and be killed.

In summary the Best Practices book recommends maintaining the existing habitat within 100' of the vernal pool. There are going to be a lot of encroachments; the cul-de-sac will approach the 20' mark from vernal pool, there are barriers to amphibian's movement between areas, the road chemicals will impact hydrology as will the pesticides.

The applicant is doing a great job offering so much of the wetlands as open space. It is a good approach, if looks closer, all of the areas being given away are already protected. Whether we need more protection is a good question. I disagree that those two basins are now going to be protected as conservation areas, why protect basins that will collect storm water and clean I think should be excluded from Open Space area.

The first storm water basin at the entrance of the subdivision will need a lot of grading. In her opinion it is one of the worst locations for the basin, because the grading approaches too close to the wetland, not sure about slope stability, will be difficult to maintain vegetation, there is a lot of disturbance.

The septic systems are being pushed to the limit; makes you think the clearing will be too. The applicant is offering a buffer, while health requires 50' for the septic system it is unfair for these high quality wetlands as the 50' buffer is not adequate, not when dealing with slopes from every lot.

The last lot, where the cul-de-sac is leading to is the worst; the salamander and wood frog need an upland area to survive, Dr. Clemons is recommending up to 7500' buffer for their habitat. Not realistic, but if we look at the plan, we have no upland habitat and forest, we are going to lose it, vernal pool will cease functioning as a vernal pool.

It is important to remove the last 3 lots, remove 11, 12 and 13, and have the cul-de-sac end at lot 9 and 14, based on the quality of the wetland system on site. Chairman Upton asked for evidence of the vernal pool, such as photographs of the area of the claimed vernal pool. Ms. Moch stated she believed those were already submitted but then stated she would supply them.

**Exhibit W** was submitted showing the CT DEEP Four-toed Salamander.

Theodore Koch asked about the connectivity issue; Ms. Moch indicated the cul-de-sac causes too much fraction of the large wetlands system.

Chairman Upton stated that prior lot 24 which was suggested for a basin, you wouldn't suggest for a basin, where would you suggest it go? Ms. Moch stated she struggled with the cul-de-sac being diverted; it is going to take hydration away from the vernal pool.

The closest area of encatchment is precious to the vernal pool. The basin will take the hydration away from the vernal pool.

Chairman Upton asked, with lots 14, 15 and 16 having rain gardens would that not compensate the loss? The grade runs to the wetlands/vernal pool will that supplement the vernal pool. No, because we don't know the calculations about the size of the rain gardens. Also evaporation would be a disadvantage to the vernal pool.

Theodore Koch asked if a biological study would put to rest the questions about a vernal pool? Ms. Moch said it is too late for that in the season, it's not just the vernal pool, we know there is one there, but because of the finding of the salamander in the location of the existing property there may be more vernal pools.

Ann Cicchiello asked if there was a study with the last application as to whether there were vernal pools at this location? Gary Goeschel, Wetlands Agent said he would defer to applicant, he would have to go through the record, and there were many reports and discussions. Applicant held it was not a vernal pool.

Gary Goeschel, Wetlands Agent, asked the Agency if vernal pools were regulated differently than inland wetlands or watercourses are currently regulated? Chairman Upton responded no. While they are important they are regulated just like wetlands and watercourses.

Ms. Moch commented that Dr. Danzer's report refers to the soil report from applicant's expert dated May 28, 2017 (submitted in the prior application) on page 2, last paragraph under vernal pool, which identified the findings of the expert in the wetlands area being discussed; five spotted salamander egg masses and four wood frog masses.

Ann Cicchiello stated so eggs were found in 3-13 and 3-30, in that area of the wetlands.

Attorney Berger returned and stated that for CEPA they have addressed some of the biological issues. They would now like to address the engineering issues. Steven Trinkaus is here to speak regarding his report that is being handed out.

Chairman Upton noted it was 10:05 p.m., and they should remember the need to close before 10:30 p.m.

Steven D. Trinkaus, PE, of Trinkaus Engineering LLC reviewed his report. He is a licensed professional engineer, licensed in Maryland as a PE as well, his CV was entered as Exhibit X, and his report as Exhibit Y. He has expertise in land development, and is an expert in low impact development focusing on water quality issues and runoff problems. We don't have an environmental assessment on the site. The applicant is only asking for regulated activities on the road which is basically the emergency access and ponds.

He stated the applicant has to ask for and obtain permitting for all proposed regulated activities on the property. Because when go to planning, they need to know the approval is for all activities. If sell a lot and the new owner goes before Gary to get approval agency denies regulated activity permit, lot is invalid. While things may change on the lot, you must get approval for all regulated activities. Page 2 of his report shows all of the regulated activities. All in upland review agrees no direct impact. Several have adverse impact on the land source which is the wetlands. Focus of review is on storm water and erosion and sedimentation. These are micro pool extension ponds.

In DEEP manual there is a whole section on these. In of manual discusses micro pool extension ponds must have bottom at or below seasonal ground water. These pools do not dry out these ponds have a permanent pool. The dry pools are a different design. The forebay is full of water. You have a saturated zone. The water will not infiltrate into a saturated zone. Do not infiltrate to saturated zone. Poned surface has no infiltration so no reduction in run off volume which regulations require. Contrary to Town Engineers letter, cannot have reduction from saturated pond. He is reviewing what the applicant submitted which is wrong.

To address water quality, DEEP manual is guidance manual. The ponds have to have the components to the basin for it to work. The bays are too shallow. The length to width ratio is wrong. Permanent pool sediment settles. If let pond dry out, as new water comes in it stirs up the sediment and flows into the discharge. Depth is critical. Pond has to have a 3:1 length ratio. Not below seasonal high ground water depth.

The berm proposed at lot 24 is basically a dam, it is more than 4' above grade, the pond doesn't belong there, and it is being forced to go there. There is no assessment of the pollutant loads about how much they will be reduced or by how much in both of the ponds. The perform outlet scour is being used, want water to spread out, rip rap apron is what you want. When discharge to upland you want water to spread, not appropriate to use scour hole, it will erode soil, which will be deposited in wetlands, adverse impact created putting fill in a wetland area.

The rain gardens and septic, the health letter says suitable, not approved. Table 1 in the health code, 2015 revision, and states must have a 50' setback from rain garden or any other infiltration to septic system. Health is ignoring commenting on this altogether. Only a few meet the 50' setback, could be reduced to 25' if system is laterally set back. If you put water in ground uphill of septic, compromise ability of septic system to disburse effluent.

While the soil meets minimum suitability, the rain gardens in proximity to the septic are in violation of the technical standards of the health code.

Looking at the storm water management report, it is a storm water summary and is inadequate for a project of this magnitude. Would generally have areas delineated and calculations. Analysis are not submitted. The applicant is playing fast with the rules on water quality. Post development runoff calculations are not met.

Water quality volume must be captured and treated. Have to have a permanent pool. As the water sits in a wet pond, gets attenuated with the soil, vegetation, new water pushes the water that sat out the other end. Rain gardens have no sizing, it is generic, no way to know they would work.

Increased pollutant loads will be discharged from the two ponds, basins don't meet the standards so will have increased runoff volume.

As to feasible and prudent alternatives, the access road on east side of Anderson was left when the old subdivision approved, and was clearly intended by the Planning Commission to be the access to this part of the subdivision.

I agree with Aleksandra that the road should be pulled back and those last three lots eliminated. This project as proposed will impact the wetlands.



The Erosion and Sedimentation plan, the applicant is only doing the road, however this project will require a state permit from DEEP, you will need an erosion and sedimentation plan for the entire site not just the road. The applicants plan is inadequate.

Chairman Upton asked for clarification of Mr. Trinkaus suggestion, that the road be moved to the extension of the Spring Rock entry, despite it being closer to the Eastern wetlands. He suggest move the road to the eastern entrance, put a basin there, the grades are more suitable, hydrology there for a wet bottom basin. If had to provide the emergency access, use the gravel access path that is already there. This would be a limited disturbance because there is already a gravel path there.

The agency asked Mr. Trinkaus to return and identify where he was suggesting the road go. He would come in at the emergency entrance, connect through lot 2 to the road, lot 23 and 24 would be combined, allowing the buffer as required by Planning, and reconfigure the five lots to accommodate the road alignment, and would still pull the last three lots and move the cul-de-sac back. Would leave all as open space and not fragment the area of upland. Wetlands don't act in isolation. They operate as a system. They use the upland area around them. The cul-de-sac and last lots fragment them. If you move the road it doesn't increase regulated activities, allows shallow detention system in that area, which will discharge into the wetlands, and have a safer intersection, it is a T intersection which is good planning. Basin at lot 24 would go away. Combine 23 and 24. He will send Gary the sketch he did.

Peter DeRosa asked if lots 1 and 2 remain with access different. Mr. Trinkaus responded the lots remain but the lots are reconfigured.

Phyllis Berger asked about reducing the size of the lots. Mr. Trinkaus said no they are marginal size now. They need the space for the septic systems. He would not recommend narrower or smaller. Nitrogen from septic systems needs the area that drains across the system to disburse.

Attorney Berger stated that the Lepkowski's would like to speak but due to the lateness of the hour will wait until next week on Monday. Mrs. Lepkowski has photographs to submit. Chairman Upton asked that they submit the photographs with dates. Attorney Berger responded they would need to do that through testimony.

Gary Goeschel, Wetland Agent reminded the Agent specify a date and time to reconvene the public hearing.

Attorney Ranelli asked the photos be submitted in advance so they can review them. Attorney Berger will email them to Attorney Ranelli.

**Phyllis Berger moved to continue the public hearing for the Twin Valley 23-Lot CDD Re-Subdivision, Green Valley Lakes Road, and Spring Rock Road; subdivision, Green Valley Lakes Road and Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Services of CT, Inc., c/o Bob Fusari, Jr., Applicant; Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a road to July 2, 2017 at 7:00 p.m. at the East Lyme Town Hall. Peter DeRosa Second. Motion passed 5-0-0.**

**II. ADJOURNMENT**

**Ann Cicchiello moved to adjourn the East Lyme Inland Wetlands Agency meeting at 10:39 p.m. Theodore Koch second. Motion passed 5-0-0.**

Respectfully Submitted

Jennifer Lindo Dashnaw  
Recording Secretary

**\*\*These minutes are subject to approval at the next monthly meeting**

Twin Valley - 23 Lot Re-Sub  
Inland Wetlands as of June 25, 2018

Exhibit	Description	Date
A	Application of Real Estate of Services of CT Inc., c/o Bob Fusari Jr. fo construction of a road within 100 feet of a wetland or watercourse.	4/30/2018
B	Abutters List	4/30/2018
C	State Inland Wetlands & Watercourses Activity Reporting Form	4/30/2018
D	Phase Ia Archaeological Assessment Survey Interim Report for Real Estate Services of CT, by ACS of February 2017	4/30/2018
E	DEEP Letter to Joe Wren, Indigo Land Design dated March 13, 2017 re: Natural Diversity Data Base	4/30/2018
F	Indigo Land Design Report of March 31, 2017	4/30/2018
G	Petition for Public Hearing	5/7/2018
H	Referral to Old Lyme Town Clerk dated 5/10/2018	5/10/2018
I	Notice of Public Hearing Certified to Applicant dated 5/29/2018	5/29/2018
J	Notice of Public Hearing posted in the Town Clerk's Office May 29, 2018	5/29/2018
K	Notice of Public Hearing to be published in the Day Newspaper on 6/13 and 6/21/2018	5/29/2018
L	Review Response by Town Engineer Victor Benni, P.E., dated June 5 2018	6/5/2018
M	Letter from LLHD to Joe Wren regarding site suitability	6/19/2018
N	Letters of Concern from Various Neighbors received June 19 through June 22, 2018	6/22/2018
O	Drainage Report of 3/6/2018 prepared by Indigo Land Design LLC	6/22/2018
P	Certificate of Mailings 6/14/2018	6/25/2018
Q	Denial of Application to conduct regulated activities within 100' upland review area dated August 28, 2017	6/25/2018
R	Application of March 31, 2017 for regulated activities within 100' upland review area - construction of a road for a 25-lot re-subdivision	6/25/2018
S	May 7 2018 Planning referral to Wetlands	6/25/2018
T	Petition for Intervention under CT GS Section 22a-19(a)	6/25/2018
U	Environmental Comments of Steven Danzer 6/24/2018	6/25/2018
V	Aleksandra Moch CV	6/25/2018
W	CTDEEP Four Toed Salamander	6/25/2018



Twin Valley - 23 Lot Re-Sub  
Inland Wetlands as of June 25, 2018

X	Steven Trinkaus, PE CV	6/25/2018
Y	Planning and Wetlands Report from Steven Trinkaus, PE	6/25/2018

